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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

RIN 3206–AN16

Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its proposed rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities. This rule is necessary to ensure that the tables conform to the economic and demographic assumptions adopted by the Board of Actuaries and published in the **Federal Register** on March 20, 2015.

DATES: Effective October 1, 2015.

FOR FURTHER INFORMATION CONTACT: Roxann Johnson, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On March 20, 2015, OPM published at 80 FR 15036, a notice in the **Federal Register** to revise the normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, 100 Stat. 514, as amended, based on economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. Under 5 U.S.C. 8461(i), the demographic factors and economic assumptions require corresponding changes in factors used to produce actuarially equivalence when required by the FERS Act. As a result, on April 3, 2015, at 80 FR 18159, OPM published a proposed rule in the **Federal Register** to revise the table of reduction factors in Appendix A to subpart C of part 843, Code of Federal Regulations, for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities. OPM received no written comments on the proposed rule.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order (E.O.) 12866, as amended by E.O. 13258 and E.O. 13422.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect retirement payments to surviving current and former spouses of former employees and Members who separated from Federal service with title to a deferred annuity.

List of Subjects in 5 CFR Part 843

Air traffic controllers, Disability benefits, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR part 843 as follows:

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

■ 1. The authority citation for part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; §§ 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; § 843.309 also issued under 5 U.S.C. 8442; § 843.406 also issued under 5 U.S.C. 8441.

Subpart C—Current and Former Spouse Benefits

■ 2. Revise Appendix A to subpart C of part 843 to read as follows:

APPENDIX A TO SUPART C OF PART 843—PRESENT VALUE CONVERSION FACTORS FOR EARLIER COMENCING DATE OF ANNUITIES OF CURRENT AND FORMER SPOUSES OF DISEASED SEPARATED EMPLOYEES

With at least 10 but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26	.0726
27	.0792
28	.0859
29	.0930
30	.1002
31	.1081
32	.1165
33	.1252
34	.1343
35	.1443
36	.1550
37	.1664
38	.1786
39	.1914
40	.2053
41	.2200
42	.2358
43	.2528
44	.2710
45	.2905
46	.3114
47	.3337
48	.3580
49	.3839
50	.4118
51	.4419
52	.4745
53	.5097
54	.5477
55	.5889
56	.6336
57	.6822
58	.7350
59	.7926
60	.8556
61	.9244

With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36	.1810
37	.1943
38	.2086
39	.2236
40	.2398
41	.2570
42	.2754
43	.2953
44	.3166
45	.3394
46	.3638
47	.3899
48	.4182

Age of separated employee at birthday before death	Multiplier
49	.4485
50	.4812
51	.5164
52	.5545
53	.5955
54	.6400
55	.6881
56	.7404
57	.7972
58	.8590
59	.9264

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth	
	After 1966	From 1950 through 1966
46	.4561	.4910
47	.4889	.5264
48	.5244	.5646
49	.5624	.6055
50	.6035	.6497
51	.6476	.6973
52	.6954	.7487
53	.7469	.8042
54	.8027	.8643
55	.8631	.9294
56	.9287	1.0000

[FR Doc. 2015–15992 Filed 6–29–15; 8:45 am]

BILLING CODE 6325–38–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[Docket No. EERE–2012–BT–TP–0032]

RIN 1904–AD19

Energy Conservation Program: Test Procedures for Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps

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

ACTION: Final rule.

SUMMARY: On March 13, 2014, the U.S. Department of Energy (DOE) issued a notice of proposed rulemaking (NOPR) to amend the test procedures for packaged terminal air conditioners (PTACs) and packaged terminal heat pumps (PTHPs). That NOPR serves as the basis for this final rule regarding the test method for PTACs and PTHPs. The amendments adopted here do not affect measured energy use. These changes incorporate by reference certain sections of the latest versions of industry test procedures AHRI Standard 310/380–2014, ANSI/ASHRAE Standard 16–1983 (RA 2014), ANSI/ASHRAE Standard 37–2009, and ANSI/ASHRAE Standard 58–1986 (RA 2014), and specify additional testing provisions that must be followed including an optional break-in period, require that cooling capacity tests be conducted using electricity measuring instruments accurate to +/− 0.5% of reading, explicitly require that wall sleeves be sealed, allow for the pre-filling of the condensate drain pan, and require testing with 14-inch deep wall sleeves and the filter option most representative of a typical installation.

DATES: The effective date of this rule is July 30, 2015. The final rule changes will be mandatory for representations starting June 24, 2016. The incorporation by reference of certain publications listed in this rule was approved by the Director of the Federal Register as of July 30, 2015.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov*. All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2012-BT-TP-0032*. This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7935. Email: *PTACs@ee.doe.gov*.

Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference into Part 431 the following industry standards:

(1) AHRI Standard 310/380–2014 (''AHRI 310/380–2014''), (Supersedes ANSI/AHRI 310/380–2004), ''Standard for Packaged Terminal Air-Conditioners and Heat Pumps,'' published February 2014.

(2) ANSI/ASHRAE Standard 16–1983 (RA 2014), (''ANSI/ASHRAE 16''), ''Method of Testing for Rating Room Air Conditioners and Packaged Terminal Air Conditioners,'' ASHRAE reaffirmed July 3, 2014.

(3) ANSI/ASHRAE Standard 58–1986 (RA 2014), (''ANSI/ASHRAE 58''), ''Method of Testing for Rating Room Air-Conditioner and Packaged Terminal Air-Conditioner Heating Capacity,'' ASHRAE reaffirmed July 3, 2014.

(4) ANSI/ASHRAE Standard 37–2009, (''ANSI/ASHRAE 37'') (Supersedes ANSI/ASHRAE Standard 37–2005), ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment,'' ASHRAE approved June 20, 2009; ANSI approved June 25, 2009.

You can obtain copies of AHRI standards from the Air-Conditioning, Heating, and Refrigeration Institute, 2111 Wilson Boulevard, Suite 500, Arlington, VA 22201, 703–524–8800, or *www.ahrinet.org*. You can obtain copies of ASHRAE standards from the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, NE. Atlanta, GA 30329, 404–636–8400, or *www.ashrae.org*.

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I. Authority and Background

Title III, Part C [1] of the Energy Policy and Conservation Act of 1975 (EPCA or ''the Act''), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment.[2] This equipment includes packaged terminal air conditioners (PTACs) and packaged terminal heat pumps (PTHPs), the subjects of this document.

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

A. General Test Procedure Rulemaking Process

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment. EPCA provides that any test procedure prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of industrial equipment (or class thereof) during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish a proposed test procedure and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6314(b)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of any covered equipment as determined under the existing test procedure. (42 U.S.C. 6314(a)(4))

B. DOE PTAC and PTHP Test Procedures

DOE's test procedures for PTACs and PTHPs are codified at Title 10 of the Code of Federal Regulations (CFR) section 431.96. The test procedures were established on December 8, 2006, in a final rule that incorporated by reference the American National Standards Institute's (ANSI) and Air-Conditioning, Heating, and Refrigeration Institute's (AHRI) Standard 310/380–2004, ''Standard for Packaged Terminal Air-Conditioners and Heat Pumps'' (''ANSI/AHRI 310/380–2004''). 71 FR 71340, 71371. ANSI/AHRI 310/380–2004 is incorporated by reference at 10 CFR 431.95(a)(3) and it references (1) the ANSI and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 16–1983 (RA 99), ''Method of Testing for Rating Room Air Conditioners and Packaged Terminal Air Conditioners'' (''ANSI/ASHRAE 16''); (2) ANSI/ASHRAE Standard 58–1986 (RA 99), ''Method of Testing for Rating Room Air-Conditioner and Packaged Terminal Air-Conditioner Heating Capacity'' (''ANSI/ASHRAE 58''); and (3) ANSI/ASHRAE Standard 37–1988, ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment'' (''ANSI/ASHRAE 37'').

On May 16, 2012, DOE published a final rule for commercial heating, air-conditioning, and water-heating equipment (''ASHRAE equipment''), which included amendments to the test procedures for PTACs and PTHPs. These amendments incorporated a number of sections of ANSI/AHRI 310/380–2004 by reference. 77 FR 28928, 28990.

On February 22, 2013, DOE published a notice of public meeting and availability of framework document to consider potential amendment of energy conservation standards for PTACs and PTHPs (''February 2013 Framework Document''). 78 FR 12252. In the February 2013 Framework Document, DOE sought comments on issues pertaining to the test procedures for PTACs and PTHPs, including equipment break-in, wall sleeve sealing, pre-filling the condensate drain pan, barometric pressure correction, and differences between the test methods of ANSI/ASHRAE 16 and ANSI/ASHRAE 37. In response to the February 2013 Framework Document, interested parties provided comments responding to the requests for comment regarding test procedure issues.

On February 26, 2013, members of the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) unanimously decided to form a working group to engage in a negotiated rulemaking effort on the certification of commercial heating, ventilation, and air conditioning (HVAC) equipment (10 CFR part 431, subparts D, E and F), water heating (WH) equipment (10 CFR part 431, subpart G), and refrigeration equipment (10 CFR part 431, subpart C). A notice of intent to form the Commercial Certification Working Group (''Working Group'') was published in the **Federal Register** on March 12, 2013. DOE received 35 nominations for the Working Group. 78 FR 15653. On April 16, 2013, the Department published a notice of open meeting that announced the first meeting and listed the 22 nominees DOE selected to serve as members of the Working Group along with two members from ASRAC and one DOE representative. 78 FR 22431. Following a series of open meetings, the Working Group published a set of recommendations, and DOE issued the Certification of Commercial HVAC, WH, and Refrigeration Equipment NOPR (''Certification of Commercial Equipment NOPR'') on February 14, 2014 summarizing the Working Group's recommendations for certification requirements. 79 FR 8886. The group recommended a number of test procedure items related to PTACs and PTHPs that were not proposed in the Certification of Commercial Equipment NOPR, including 1) a proposal for a standardized wall sleeve to be used during testing, and 2) a proposal for a standardized filter for testing, both of which are discussed in this final rule.

In February 2014, AHRI published AHRI Standard 310/380–2014, ''Standard for Packaged Terminal Air-Conditioners and Heat Pumps,'' (''AHRI 310/380–2014''), which updates and supersedes the ANSI/AHRI 310/380–2004 referenced by the current test procedure.

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

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

On March 13, 2014, DOE published a NOPR (''March 2014 NOPR'') proposing amendments to the DOE PTAC and PTHP test procedures (10 CFR 431, Subpart F), specifically to specify an optional break-in period, explicitly require that wall sleeves be sealed, allow for the pre-filling of the condensate drain pan, require that the cooling capacity for PTACs and PTHPs be determined by testing pursuant to ANSI/ASHRAE 16, and require testing with 14-inch deep wall sleeves and the filter option most representative of a typical installation. 79 FR 14186. DOE held a public meeting on April 28, 2014, to hear oral comments on and solicit information relevant to the March 2014 NOPR.

On July 3, 2014, ASHRAE reaffirmed ANSI/ASHRAE 16 and ANSI/ASHRAE 58 and republished the standards to correct errata that existed in previous versions. These errata corrections do not change the procedures. The reaffirmed 2014 versions of ANSI/ASHRAE 16 and ANSI/ASHRAE 58 are not referenced by the updated AHRI Standard 310/380–2014 test procedure published in February 2014.

With respect to this rulemaking, DOE determined that none of the adopted amendments change the measured energy use of PTACs and PTHPs when compared to the current test procedures. (42 U.S.C. 6314(a)(4); 10 CFR 431.96)

This final rule fulfills DOE's obligation to periodically review its test procedures for all covered equipment, including PTACs and PTHPs, at least once every 7 years and either amend the applicable test procedures or publish a determination in the **Federal Register** not to amend them. (42 U.S.C. 6314(a)(1))

II. Summary of the Final Rule

In this final rule, DOE amends the test procedures for PTACs and PTHPs in 10 CFR 431, Subpart F, to reference certain sections of the industry test procedures AHRI 310/380–2014, ANSI/ASHRAE Standard 16–1983 (RA 2014), ANSI/ASHRAE 37–2009, and ANSI/ASHRAE 58–1986 (RA 2014), and to specify an optional break-in period, explicitly require that wall sleeves be sealed, allow for the pre-filling of the condensate drain pan, require that measurements of cooling capacity be conducted using electrical instruments accurate to +/−0.5% of reading, and require testing with 14-inch deep wall sleeves and the filter option most representative of a typical installation.

The amendments explicitly allow PTAC and PTHP manufacturers the option of using a break-in period (up to 20 hours) before conducting the test procedures. In this regard, DOE adds AHRI 310/380–2014 to the list of commercial air-conditioner standards at 10 CFR 431.96(c), which currently provides an optional break-in period of up to 20 hours for other commercial air-conditioner equipment types. Any PTAC or PTHP manufacturer that elects to use a break-in period must certify the duration of the break-in period it used for each basic model in the certification report for such basic models. DOE will use the same break-in period for any DOE-initiated testing as the manufacturer used in its certified ratings. In the case an alternate efficiency determination method (AEDM) is used to develop the certified ratings, DOE will use the maximum 20-hour break-in period, which will provide the unit sufficient time to stabilize and achieve optimal performance.

The amended test method requires that, as part of the set-up for testing, testers seal gaps between wall sleeves and the test facility dividing wall. This requires the PTAC or PTHP wall sleeve to be sealed per manufacturer specifications as provided in the installation manual or, if none, by using a standard sealing method.

The amended test method allows pre-filling of the condensate drain pan with water before running the DOE test procedures. This amendment allows the unit to reach steady state more quickly, which may decrease the burden and cost of testing.

In the March 2014 NOPR, DOE proposed to modify the test procedures to require ANSI/ASHRAE 16 as the test method for measuring the cooling capacity of PTACs and PTHPs. 79 FR at 14190–91 (March 13, 2014). The proposal would have disallowed testing to determine cooling capacity by psychrometric testing in accordance with ANSI/ASHRAE 37, which is currently allowed by the DOE test procedures. Interested parties commented that the differences in test results between ANSI/ASHRAE 16 and ANSI/ASHRAE 37 are small, and provided data to support their claims. Interested parties also commented that the requirement of a calorimetric test using ANSI/ASHRAE 16 places additional burdens on manufacturers in the form of significant capital expenditures to construct test facilities compliant with ANSI/ASHRAE 16. Based on these comments, DOE determined that disallowing psychrometric testing (such as that conducted using ANSI/ASHRAE 37) would place additional burden on manufacturers. As a result, in this final rule, DOE does not require the use of ANSI/ASHRAE 16 as the sole test method acceptable for measuring the cooling capacity of PTACs and PTHPs.

The amended test method requires that measurements of cooling capacity be conducted using electricity measuring instruments accurate to +/− 0.5% of reading. DOE believes this tighter requirement for electricity measurement accuracy will help to ensure consistency between tests conducted using ANSI/ASHRAE 16 and ANSI/ASHRAE 37, which have differing requirements for electrical instrumentation accuracy. Section 5.4.2 of ANSI/ASHRAE 16 requires that instruments for measuring electrical inputs be accurate to +/− 0.5% of the quantity measured, while section 5.4.2 of ANSI/ASHRAE 37 requires accuracy to +/− 2.0% of the quantity measured, which represents allowing up to 1.5% greater uncertainty in measurements of input power and efficiency. The amendment requiring +/− 0.5% accuracy is consistent with the March 2014 NOPR proposal to require use of ANSI/ASHRAE 16 as the sole test method acceptable for measuring the cooling capacity of equipment.

The amended test method requires testing using a 14-inch deep wall sleeve and the air filter that is shipped with the tested unit. If no filter is supplied with the unit, the amended test procedures require testing using an off-the-shelf filter rated at Minimum Efficiency Reporting Value (MERV)-1. These amendments remove testing variability resulting from the use of non-standard accessories.

DOE prefers to reference the most recent industry standards, where possible. Therefore, this final rule updates the DOE test procedures for PTACs and PTHPs to reference AHRI 310/380–2014 instead of the superseded ANSI/AHRI 310/380–2004. DOE also incorporates by reference the recently updated ANSI/ASHRAE 16–1983 (RA 2014) and ANSI/ASHRAE 58–1986 (RA 2014), as well as the 2009 version of ANSI/ASHRAE 37. The amended test procedure directly incorporates by reference these three ASHRAE standards, allowing use of ANSI/ASHRAE 16–2014 or ANSI–ASHRAE 37–2009 for determination of cooling mode ratings and ANSI/ASHRAE 58–2014 for determination of heating mode ratings.

DOE determined that these changes to the PTAC and PTHP test procedures do not result in any additional burden to manufacturers or result in any changes to the current measured energy efficiency of covered equipment. Rather, the changes provide additional

clarification regarding how to conduct the DOE test procedures.

III. Discussion

A. Break-In Duration

Break-in, also called run-in, refers to the operation of equipment prior to testing to cause preliminary wear in the compressor, which may improve measured performance. DOE understands that many labs commonly incorporate a break-in period before the start of efficiency tests for air conditioning equipment. DOE's May 16, 2012 final rule for ASHRAE equipment added a specification in the test procedures for several types of commercial air conditioning and heating equipment that allows an optional break-in period of up to 20 hours and requires that manufacturers record the duration of the break-in period. The May 16, 2012 final rule included amendments to the test procedures for PTACs and PTHPs. However, DOE did not apply this optional break-in period provision to PTACs or PTHPs in the May 16, 2012 final rule. 77 FR 28928, 28991.

In the March 2014 NOPR, DOE proposed to allow an optional break-in period of up to 20 hours applicable to testing of PTACs and PTHPs. DOE also proposed to add a certification reporting requirement to indicate the duration of the break-in period for tests used to support certification. DOE requested comments on these proposals and, if commenters supported longer break-in periods, data demonstrating that longer break-in periods make a significant impact on efficiency measurements for this equipment. 79 FR at 14188–89 (March 13, 2014).

In response, AHRI commented that a break-in period is necessary, but recommended that the break-in period be a minimum of 24 hours and a maximum of 72 hours to provide for more consistent and accurate efficiency measurements. (AHRI, No. 8 at p. 1) [3] The California Investor Owned Utilities [4] (CA IOUs) supported DOE's proposal to amend the DOE test procedures to include an optional break-in period. (CA IOUs, No. 9 at p. 3) The CA IOUs indicated that they would support AHRI in using a longer break in period if it would provide a better indication of equipment's steady state performance. (CA IOUs, Public Meeting Transcript, No. 5 at p. 17) [5] Goodman Manufacturing Company (Goodman) requested that DOE allow a break-in time of up to 72 hours (instead of up to 20 hours, as DOE proposed) and cited two research papers describing the break-in behavior of scroll compressors in support of its request.[6] [7] DOE examined these papers and observed that the conclusions presented in the papers comparing the changes in unit efficiency (as measured by the energy efficiency ratio, or EER) to break-in time are based on analytical models of compressor wear rather than actual test data. DOE notes that the conference paper authored by H.E. Khalifa [7] provides a caveat alongside its data, stating that it is not advisable to apply the data to compare different families of compressors (*e.g.,* scroll compressors versus rotary compressors) or different designs of equipment.[8] As Goodman noted in its comment presenting these studies, the data in this conference paper pertain to scroll compressors, which are not used in PTAC and PTHP applications. As such, DOE does not view the papers as evidence that break-in periods exceeding 20 hours provide additional efficiency improvements for PTAC or PTHP equipment. DOE has not found evidence that break-in periods exceeding 20 hours increase the tested efficiency measurements for a PTAC or PTHP. A maximum break-in period of 20 hours will align the break-in provision for PTAC and PTHP equipment with other commercial air conditioners and heat pumps. DOE does not believe that the request for a 72-hour break-in period has been adequately justified with data showing the effect of a longer break-in period on PTAC and PTHP equipment.

Therefore, in this final rule, DOE adds PTACs and PTHPs to the list of commercial air-conditioning and heating equipment for which a break-in period of up to 20 hours prior to testing is allowed.

DOE did not receive any comments on its related proposal to add a certification reporting requirement to indicate the duration of the break-in period. Thus, DOE requires manufacturers to provide the duration of the break-in period used during testing to support the development of the certified ratings in the certification report. As such, DOE modifies the certification requirements for PTACs and PTHPs that were proposed on February 14, 2014 (79 FR 8886, 8900) to require the manufacturer to include the break-in period in the certification report. DOE notes that manufacturers must maintain records underlying their certified rating, which must reflect this optional break-in period duration pursuant to 10 CFR 429.71.

B. Wall Sleeve Sealing

PTACs and PTHPs are tested in a testing facility incorporating a room simulating indoor conditions and a room simulating outdoor ambient conditions. The rooms are separated by a dividing wall with an opening through which a wall sleeve is mounted to hold the test sample. In most cases, the wall sleeve and test sample are placed in the opening, and any remaining gaps between the dividing wall and the wall sleeve around the unit are filled with insulating material. Under the current test procedures, the gaps between the wall sleeve and the dividing wall may also be sealed with duct tape. Regarding sealing for air leakage, ANSI/ASHRAE 16 states, ''Interior surfaces of the calorimeter compartments shall be of nonporous material with all joints sealed against air and moisture leakage.'' (Section 4.2.8). This statement does not explicitly require that gaps between the wall and the test sample's wall sleeve be sealed.

ANSI/ASHRAE 16 also states, ''The air conditioner shall be installed in a manner similar to its normal installation'' (Section 4.2.2). In normal practice, PTACs and PTHPs are installed within wall sleeves that are permanently installed and sealed to the external wall of a building. However, the set-up of the DOE test procedures does not allow for the permanent installation of wall sleeves in the partition cavity. Thus, during testing, the wall sleeve is not necessarily air-sealed to the wall as it would be in a

[3] A notation in the form ''AHRI, No. 8 at p. 1'' identifies a written comment that DOE received and has included in the docket of DOE's ''Energy Conservation Test Procedures for Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps'' (Docket No. EERE–2012–BT–TP–0032), which is maintained at *www.regulations.gov.* This particular notation refers to a comment: (1) Submitted by AHRI; (2) filed as document number 8 of the docket, and (3) appearing on page 1 of that document.

[4] The CA IOUs are comprised of Pacific Gas and Electric Company, Southern California Gas Company, Southern California Edison, and San Diego Gas and Electric Company.

[5] A notation in the form ''CA IOUs, Public Meeting Transcript, No. 5 at p. 17'' identifies a comment that DOE received during a public meeting and has included in the docket of DOE's ''Energy Conservation Test Procedures for Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps'' (Docket No. EERE–2012–BT–TP–0032). This particular notation refers to a comment: (1) Submitted by the CA IOUs; (2) transcribed from the public meeting in document number 5 of the docket, and (3) appearing on page 17 of that document.

[6] Sundaresan, S. G., ''Evaluation of Lubricants for R410A/R407C Applications in Scroll Compressor'' (1998). *International Compressor Engineering Conference.* Paper 1210. Available at: *http://docs.lib.purdue.edu/icec/1210.*

[7] Khalifa, H. E., ''Break-in Behavior of Scroll Compressors'' (1996). *International Compressor Engineering Conference.* Paper 1145. Available at: *http://docs.lib.purdue.edu/icec/1145.*

[8] *Ibid.* p. 444.

normal installation in the field. Air leakage between the outdoor and indoor rooms through gaps between the wall sleeve and the dividing wall can reduce the measured capacity and efficiency, contributing to test results unrepresentative of field operation.

In the March 2014 NOPR, DOE proposed to require that test facilities, when installing PTACs and PTHPs in the test chamber, seal all potential leakage gaps between the wall sleeve and the dividing wall. DOE sought comments on the sealing of PTAC and PTHP wall sleeves to the test facility dividing wall, including whether the type or method of sealing (*e.g.,* duct tape) should be specified, and whether a test could be developed that, with reasonably low test burden, could be performed to verify an adequate seal. 79 FR at 14189 (March 13, 2014)

In response, Goodman agreed with the proposed clarification that any gaps or area between wall sleeves and walls should be sealed, and stated that the method of sealing should not be specified. (Goodman, No. 7 at p. 2) AHRI recommended that the wall sleeve be sealed to the test facility dividing wall in accordance with the manufacturer's installation instructions and, if not possible to seal in accordance with the provided instructions, the test procedures should specify that adhesive tape, such as duct tape or brown packaging tape, be used to seal the entire perimeter of the wall sleeve to the test facility diving wall. (AHRI, No. 8 at p. 2) The CA IOUs commented that sealing the test chamber is good practice, but that it is not important to prescribe how sealing is accomplished. (CA IOUs, No. 5 at p. 21) DOE notes that field instructions for sealing the sleeve to the building are inconsistent with equipment testing, because field installation involves permanently sealing the sleeve to the building penetration, whereas the tested unit and its sleeve are intended to be removed after testing. Furthermore, DOE did not propose a particular sealing method such as adhesive tape, since methods other than use of adhesive tape may be just as effective for providing a temporary seal.

In this final rule, DOE requires that any area(s) between the wall sleeve and the insulated partition between the indoor and outdoor rooms must be sealed to eliminate all air leakage through this area, but DOE does not specify the method used to achieve the seal.

C. Pre-Filling Condensate Drain Pan

Most PTACs and PTHPs transfer the condensate that forms on the evaporator to a condensate pan in the unit's outdoor-side where a water slinger integrated with the outdoor fan distributes the water over the air-inlet side of the condenser. This process results in evaporative cooling that enhances the cooling of the outdoor coil in air-conditioning mode. At the beginning of a test, there may be no water in the condensate pan. As the test progresses and the unit approaches an equilibrium state of operation, the condensate level in the drip pan will rise and stabilize at a constant level. It can take several hours to reach this steady state.

To accelerate the testing process, test facilities typically add water to the condensate pan at the beginning of the test rather than wait for the unit to generate sufficient condensate to stabilize. The current test procedures do not indicate whether this practice is allowed during efficiency testing.

In the March 2014 NOPR, DOE proposed to add a provision in its test procedures at 10 CFR 431.96 to allow manufacturers the option of pre-filling the condensate drain pan before starting the efficiency test. The proposed provision did not specify requirements regarding the water purity or the water temperature that is to be used. DOE sought comments on pre-filling the condensate drain pan, including whether the type and/or temperature of the water used should be specified in the test procedures and/or recorded in the test data underlying the results. 79 FR at 14189–14190 (March 13, 2014).

In response, the CA IOUs and Goodman supported DOE's proposal to adopt test procedure amendments that allow pre-filling of the condensate pan. (CA IOUs, No. 9 at p. 3; Goodman, No. 7 at p. 2)

AHRI recommended that DOE specify in the test procedures that the condensate pan be filled with distilled water between 70 °F and 85 °F and that the condensate pan water temperature at steady state operation be documented in the test reports underlying the certification. However, AHRI also stated in their comment that the mineral content of the water is not a concern because the short test period would not allow for scaling to build up. (AHRI, No. 8 at p. 2) AHRI did not provide data showing that the temperature of the water used to prefill the pan will impact the test results. Also, if, as AHRI acknowledges, the mineral content of the water used to initially fill the pan is not a concern, it is unclear why using distilled water as opposed to tap water would make any difference to the measurement.

Private citizen Mike Haag commented that assisting the unit with achieving steady state might mask issues with the cooling of the system. (Mike Haag, No. 2 at p. 1) DOE notes that the DOE test procedures measure cooling efficiency at steady state conditions, and test reports do not record the amount of time taken to achieve steady state. Thus, pre-filling the condensate pan with water to accelerate the achievement of steady state conditions would not mask any issues that would otherwise be identified by the test procedures.

In this final rule, DOE adds the proposed provision in its test procedures at 10 CFR 431.96 to allow manufacturers the option of pre-filling the condensate drain pan before starting the efficiency test. This provision does not include requirements regarding the purity or temperature of the water used to fill the pan.

D. ANSI/ASHRAE 16 vs. ANSI/ASHRAE 37

In February 2014, AHRI published AHRI 310/380–2014 superseding ANSI/AHRI 310/380–2004, which is referenced by the current DOE test procedure. ANSI/AHRI 310/380–2004 and AHRI 310/380–2014 both indicate that either ANSI/ASHRAE 16 or ANSI/ASHRAE 37 may be used to determine cooling capacity.

ANSI/ASHRAE 16 specifies a calorimetric test method involving measurement of the electric resistance heater power input needed to exactly balance a test sample's cooling capacity. ANSI/ASHRAE 37 specifies a psychrometric test method which calculates capacity based on the air flow rate and the air inlet and outlet conditions on the indoor side of the test sample. The two test methods have differences that could influence test results, particularly for units for which outgoing evaporator air can recirculate back to the evaporator air inlet. When using ANSI/ASHRAE 37, the air leaving the evaporator section is collected in a duct that transfers the air to instrumentation for measuring its temperature, moisture content, and flow rate (see, *e.g.,* Figure 1 of ANSI/ASHRAE 37). Such collection of the air can prevent recirculation to the air inlet, thus potentially eliminating an equipment inefficiency and resulting in a measurement indicating higher efficiency.

Another difference between ANSI/ASHRAE 16 and ANSI/ASHRAE 37 is that the two methods have different requirements for electrical instrumentation accuracy. Section 5.4.2 of ANSI/ASHRAE 16 requires that instruments for measuring electrical

inputs be accurate to +/− 0.5% of the quantity measured. Section 5.4.2 of ANSI/ASHRAE 37 requires that instruments for measuring electrical inputs be accurate to +/ − 2.0% of the quantity measured. The consistency of PTAC and PTHP testing may be improved by requiring all efficiency tests to be conducted using only one of the two ASHRAE standards. On the other hand, such an approach may increase test burden, particularly for those manufacturers that currently use one particular test method.

In the March 2014 NOPR, DOE described experimental testing conducted using three PTAC units. DOE tested all three units at a third-party testing lab under both ANSI/ASHRAE 16 and ANSI/ASHRAE 37. The test results showed that differences in the calculated EER between ANSI/ASHRAE 16 and ANSI/ASHRAE 37 ranged from 0.4 to 1.0 Btu/h-W, depending on the unit. These values represent differences in the calculated EER between ANSI/ASHRAE 16 and ANSI/ASHRAE 37 ranging from 4.1 percent to 9.7 percent of the lower EER value calculated by the two test methods. DOE stated in the March 2014 NOPR that these results did not support a conclusion that the two methods of test generate consistent results. 79 FR at 14190 (March 13, 2014). Based in part on these results, DOE proposed in the March 2014 NOPR to require that only ANSI/ASHRAE 16 be used when conducting a cooling mode test for PTACs and PTHPs. DOE sought comment on its proposal to designate ANSI/ASHRAE 16 as the sole test method for determining cooling capacity. Specifically, DOE was interested in the potential test burden on manufacturers. DOE also sought information on whether there are PTAC or PTHP manufacturers that conduct a significant number of tests using ANSI/ASHRAE 37. 79 FR at 14190–91 (March 13, 2014).

In response, neither AHRI nor Goodman supported the removal of ANSI/ASHRAE 37 from the DOE test procedures. Both AHRI and Goodman disagreed with DOE's assessment of the differences between test results achieved using ANSI/ASHRAE 16 and ANSI/ASHRAE 37. (AHRI, No. 8 at p. 3; Goodman, Public Meeting Transcript, No. 5 at p. 27) AHRI stated that it has observed good correlation in testing between calorimetric and psychrometric rooms for the purposes of rating PTAC and PTHP equipment. (AHRI, No. 8 at p. 3) Goodman stated that it has not observed large differences in test results between ANSI/ASHRAE 16 and ANSI/ASHRAE 37. (Goodman, Public Meeting Transcript, No. 5 at p. 27) Goodman presented data from trial tests comparing (1) three units tested in Goodman's calorimetric chamber and then tested in Goodman's psychrometric chamber, and (2) five units tested in a third party calorimetric test chamber and then tested in Goodman's psychrometric test facility. For these eight units, the maximum variation in measured EER between the calorimetric test and the psychrometric test was 2.5%. (Goodman, No. 7 at p. 3–6). These data provided by Goodman suggest that the potential discrepancies between calorimetric and psychrometric tests are much smaller than suggested by the NOPR-stage DOE testing described above. DOE agrees that Goodman's test results provide an indication that calorimetric and psychrometric tests can provide consistent results. DOE notes that Goodman used a larger sample size of eight units in its experimentation compared to the sample size of three units that DOE used in its NOPR-stage experiments described above.

Both AHRI and Goodman commented that the requirement of a calorimetric test places additional burdens on manufacturers. AHRI commented that it is an additional burden to build a calorimeter room and to re-test units that were previously tested psychrometrically. (AHRI, Public Meeting Transcript, No. 5 at p. 34) Goodman believes the elimination of psychrometric testing would place an additional burden on manufacturers in the form of significant capital expenditure requirements, as well as a significant testing burden increase. Goodman commented that new test facilities often cost up to $750,000 and have construction lead times of a year or more, and that calorimetric tests may take 2.5 times as long as psychrometric tests. (Goodman, No. 7 at p. 6)

DOE acknowledges that it underestimated the burden that would be imposed on manufacturers by eliminating psychrometric testing from the PTAC and PTHP test procedures. In response to the comments above, DOE accepts that it would be burdensome to manufacturers if DOE required use of ANSI/ASHRAE 16 for all PTAC and PTHP testing. Further, the additional data provided by Goodman show that discrepancies between the calorimetric and psychrometric test methods are less pronounced than DOE's NOPR-stage test data suggested. Hence, this final rule does not eliminate the optional use of ANSI/ASHRAE 37 to determine cooling capacity.

As noted above, ANSI/ASHRAE 16 and ANSI/ASHRAE 37 have different requirements for electrical instrumentation accuracy. A single requirement for electricity measurement accuracy is necessary to maintain consistency between tests conducted using ANSI/ASHRAE 16 and ANSI/ASHRAE 37. In the March 2014 NOPR, DOE proposed to require ANSI/ASHRAE 16 as the sole test method acceptable for measuring the cooling capacity of equipment. If this proposal were adopted, it would have imposed a requirement that electricity measurement instrumentation used in cooling capacity tests be accurate to +/ − 0.5% of reading, since +/− 0.5% of reading is the requirement specified in ANSI/ASHRAE 16. As described above, stakeholders opposed the proposed requirement of ANSI/ASHRAE 16 as the sole test method for cooling capacity tests based on the burden of constructing calorimetric test chambers. None of the stakeholder comments raised concerns regarding the more stringent electrical measurement accuracy requirements of ANSI/ASHRAE 16. In this final rule, DOE does not eliminate testing using ANSI/ASHRAE 37, but DOE retains the more stringent electrical measurement accuracy requirement. Specifically, the final rule adds this requirement in the DOE regulatory language, indicating that tests be conducted using electricity measuring instruments accurate to +/− 0.5% of reading in spite of the incorporation by reference of other portions of ANSI/ASHRAE 37. DOE does not expect this requirement to pose additional test burden since electrical meters that achieve this level of accuracy are readily available and are already in use at many test facilities. This requirement does not represent a change that would alter the measurements as compared with the current DOE test procedure; rather, it ensures the accuracy of measurements.

E. AHRI Standard 310/380–2014 and Reaffirmed ASHRAE Standards

In the NOPR, DOE proposed to adopt only those parts of ANSI/AHRI 310/380–2004 relevant for the DOE test procedure, specifically sections 3, 4.1, 4.2, 4.3, and 4.4. Additionally, DOE proposed to directly incorporate by reference those industry test methods that were previously incorporated via ANSI/AHRI 310/380–2004, such as ANSI/ASHRAE 16–1999 and ASHRAE 58–1999.

In response to the NOPR, Goodman commented that DOE should consider updated versions of ANSI/ASHRAE 16 and ANSI/ASHRAE 37. Goodman conceded that it was unlikely ANSI/ASHRAE 37 would be updated in time to be incorporated in this Final Rule, but encouraged DOE to accommodate

ANSI/ASHRAE 16 which Goodman expected would be finalized in 2014. (Goodman, No. 7 at p. 7) DOE agrees that, when possible, it should include the most up to date version of industry test methods.

In July 2014, ASHRAE reaffirmed both ANSI/ASHRAE 16, a test method for measuring cooling performance of PTACs and PTHPs, and ANSI/ASHRAE 58, a test method for measuring heating performance of PTHPs. While Goodman commented that it expected some changes in ANSI/ASHRAE 16 (Goodman, No. 7 at p. 7), DOE reviewed the reaffirmed standard and did not discern substantive differences between the 2009 and 2014 versions. The test methods described in the 2014 reaffirmations of both ANSI/ASHRAE 16 and ANSI/ASHRAE 58 are identical to their 1999 and 2009 versions—the later reaffirmed versions correct errata that existed in previous versions of ANSI/ASHRAE 16 and ANSI/ASHRAE 58. These corrections do not change the test procedures.

Further, in February 2014 AHRI published AHRI 310/380–2014, which supersedes ANSI/AHRI 310/380–2004. In an effort stay current with industry testing methodologies, DOE is updating its referenced industry standard. In alignment with the NOPR, DOE is only adopting the sections of AHRI 310/380–2014 relevant for the DOE test procedure. For cooling performance, this includes sections 3, 4.1, 4.2, 4.3, and 4.4. For measurement of heating performance, DOE is adopting section 3, 4.1, 4.2, 4.3, and 4.4 except for subsection 4.2.1.2(b), which allows ANSI/ASHRAE 37 as an optional method for verifying the standard heating rating of equipment. The March 2014 NOPR did not propose the use of ANSI/ASHRAE 37 as a method for verifying the standard heating rating of equipment and thus, DOE is excluding this provision in this final rule. Where this final rule refers to the sections of AHRI 310/380–2014 to be used for measurement of heating performance, it omits section 4.2.1.2(b) so as not to allow the use of ANSI/ASHRAE 37 for verifying the standard heating rating of equipment.

Finally, AHRI 310/380–2014 references the 2009 versions of ANSI/ASHRAE 16, ANSI/ASHRAE 58, and ANSI/ASHRAE 37. As previously stated, DOE is directly incorporating by reference those industry test methods that were previously referenced in ANSI/AHRI 310/380—ANSI/ASHRAE 16, ANSI/ASHRAE 58, and ANSI/ASHRAE 37 . Therefore, in this final rule, DOE is incorporating by reference ANSI/ASHRAE 37–2009, which is referenced in AHRI 310/380–2014 for measuring cooling performance. Although DOE's previous test method, ANSI/AHRI 310/380–2004, incorporated ANSI/ASHRAE 37–1988, DOE's review of the two editions of ANSI/ASHRAE 37 confirmed that, for the purposes of measuring cooling performance for PTACs and PTHPs, the test methods are essentially identical. Also, rather than incorporating by reference the 1999 reaffirmations of ANSI/ASHRAE 16 and ANSI/ASHRAE 58, this final rule amends the test procedure to incorporate by reference ANSI/ASHRAE 16–1983 (RA 2014) and ANSI/ASHRAE 58–1986 (RA 2014)—as mentioned above, these more recent versions of ANSI/ASHRAE 16 and ANSI/ASHRAE 58 prescribe test procedures identical to the older 2009 and 1999 versions.

F. Wall Sleeve Size and Filter Requirements for Testing

Wall Sleeve Size

The DOE test procedures provide limited guidance on the type of wall sleeve that should be used during testing. The wall sleeve is technically part of the PTAC or PTHP (see, *e.g.,* the definition of PTAC in 10 CFR 431.92), and it provides an outer case for the main refrigeration and air-moving components. In the field, the wall sleeves are often installed in the building, and the cooling/heating assembly slides into and out of this case. For standard size PTACs and PTHPs, the wall sleeve measures 42 inches wide and 16 inches high; however, wall sleeves come in a range of depths.

Some manufacturers offer extended wall sleeves up to 31 inches deep that can be used with any of their standard size PTACs or PTHPs. DOE believes that the use of varying test sleeve depths can affect measured test results, due to the effect the sleeve depth has on airflow and fan performance. DOE's test procedures, in section 4.3 of ANSI/AHRI 310/380–2004, provide some limited guidance about the wall sleeve that should be used during testing; section 4.3 of ANSI/AHRI 310/380–2004 states that ''standard equipment shall be in place during all tests, unless otherwise specified in the manufacturer's instructions to the user.'' Section 4.3 of the updated AHRI 310/380–2014 provides the same limited guidance. However, there currently is no guidance for units for which installation instructions allow sleeves of different depths.

DOE's survey of wall sleeve sizes on the market showed that the most common wall sleeve depth is 14 inches. While DOE has no data indicating the impact of testing with a maximum-depth sleeve as opposed to a standard-depth sleeve, DOE expects that there may be an incremental reduction in efficiency associated with use of a sleeve as deep as 31 inches. The Working Group discussed the issue of varying wall sleeve sizes and voted to adopt the position that units should be tested using a standard 14 inch sleeve. (ASRAC to Negotiate Certification Requirements for Commercial HVAC, WH, and Refrigeration Equipment, Docket No. EERE–2013–BT–NOC–0023, No. 53 at pg. 17)

In the March 2014 NOPR, DOE proposed to add a provision to 10 CFR 431.96 to require testing using a wall sleeve with a depth of 14 inches (or the wall sleeve option that is closest to 14 inches in depth that is available for the basic model being tested). 79 FR at 14191 (March 13, 2014). This final rule adopts the Working Group recommendation. DOE sought comment on whether there are any PTACs or PTHPs that cannot be tested using a 14 inch deep wall sleeve. Id. AHRI and Goodman supported the proposal to require testing using 14-inch deep wall sleeves. (AHRI, No. 8 at p. 2; Goodman, No. 7 at p. 3) DOE did not receive any comments describing units that cannot be tested with 14-inch deep wall sleeves.

In this final rule, DOE adopts its proposal to add a provision to 10 CFR 431.96 to require testing using a wall sleeve with a depth of 14 inches (or the wall sleeve option that is closest to 14 inches in depth that is available for the basic model being tested).

Filter Requirements

The DOE test procedures provide limited guidance on the type of air filter that should be used during testing. PTACs or PTHPs generally ship with an air filter to remove particulates from the indoor airstream. There is currently no description in the DOE test procedures of the type of filter to be used during testing. While some PTACs and PTHPs only have one filter option, some PTACs and PTHPs are shipped with either a standard filter or a high efficiency filter. A high efficiency filter will impose more air flow restriction, which can incrementally decrease air flow and thus the capacity and/or efficiency of the unit.

DOE considered whether to specify filters with a particular MERV rating for use with the test, such as MERV–2 or MERV–3 levels of filtration. However, DOE noted that the filter efficiencies offered in PTACs and PTHPs generally are not specified using a standard

metric. Furthermore, some PTACs are sold with higher-efficiency ''standard-option'' filters than others. Moreover, verification that the filter used in the test complies with any such requirement would not be possible without implementation of standardized requirements for labeling of filters and reporting of filter efficiencies and/or adopting a filter efficiency test as part of the test procedures, all of which would impose additional burden. The Working Group was also aware of this issue, and also discussed the issue of varying air filter efficiency. The Working Group voted to adopt the position that units should be tested ''as shipped'' with respect to selecting a filter option (Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) to Negotiate Certification Requirements for Commercial HVAC, WH, and Refrigeration Equipment, Docket No. EERE–2013–BT–NOC–0023, No. 53 at p. 16).

In the March 2014 NOPR, DOE proposed to add a provision to 10 CFR 431.96 to require testing using the standard or default filter option that is packaged and shipped with the PTAC or PTHP unit being tested. 79 FR at 14191 (March 13, 2014). This proposal was consistent with the Working Group's recommendations. For those models that are not shipped with a filter, DOE proposed to require the use of an off-the-shelf MERV–3 filter for testing. DOE sought comment on whether a MERV–3 filter is appropriate for testing PTACs and PTHPs that do not ship with filters. 79 FR at 14191 (March 13, 2014).

In response, Goodman recommended that DOE specify a MERV rating lower than MERV–3 because MERV–3 filters may significantly reduce airflow. (Goodman, No. 7 at p. 3) AHRI commented that MERV–1 filters, which are electrostatic, self-charging woven panel filters, may be more representative of filters found in PTACs or PTHPs. (AHRI, No. 8 at p. 2) DOE accepts this feedback and will reduce the MERV rating for filters to be used when testing units shipped without a filter.

In this final rule, DOE adds a provision to 10 CFR 431.96 to require testing using the standard or default filter option that is shipped with most units of a given basic model. For those models that are not shipped with a filter, DOE requires the use of an off-the-shelf MERV–1 filter for testing.

G. Barometric Pressure Correction

The DOE test procedures, in Section 6.1.3 of referenced ANSI/ASHRAE 16, allows for adjustment of the capacity measurement based on the tested barometric pressure: ''The capacity may be increased 0.8% for each in. Hg below 29.92 in. Hg.'' Theoretically, air is less dense when barometric pressure is lower, such as at higher altitudes. As a result, air mass flow generated by fans and blowers may be less at higher altitudes, which may affect the measured cooling performance. However, there are other competing effects that may negate this decrease and DOE has not seen data that definitively demonstrate the impact of barometric pressure on measurements of the cooling performance of PTACs or PTHPs.

In the March 2014 NOPR, DOE did not propose to amend or remove the barometric pressure provision. DOE sought comments or data on the barometric pressure correction specifically used for PTACs and PTHPs. 79 FR at 14191 (March 13, 2014). Goodman and AHRI responded in support of DOE's position to retain the barometric pressure correction. (Goodman, No.7 at p. 3; AHRI, No. 8 at p. 2) DOE received no comments providing data that either supported or refuted the validity of the barometric pressure correction.

In this final rule, DOE does not amend or remove the provision allowing for adjustment of the capacity measurement based on the tested barometric pressure.

H. Part-Load Efficiency Metric and Varying Ambient Conditions

The current DOE test procedures for PTACs and PTHPs measure cooling efficiency and heating efficiency in terms of EER and coefficient of performance (COP), respectively. Both of these metrics measure the efficiency of the unit running steadily at maximum cooling or heating output settings.

In the March 2014 NOPR, DOE did not propose to adopt either a part-load or seasonal efficiency metric for the cooling mode that considers part-load performance, or a seasonal efficiency metric for the heating mode that considers electric resistance heating for PTACs or PTHPs. DOE sought comments regarding this proposal, including any information regarding seasonal load patterns for PTACs and PTHPs in both cooling and heating modes. 79 FR at 14192 (March 13, 2014).

In response, Goodman and AHRI supported DOE's proposal to not develop seasonal efficiency metrics. (Goodman, No. 7 at p. 6; AHRI, No. 8 at p. 3) AHRI commented that a part-load performance metric would not be representative of PTAC and PTHP equipment operating cycles. (AHRI, Public Meeting Transcript, No. 5 at p. 46) The CA IOUs commented that they would like the test procedures to characterize performance at full-load and part-load. (CA IOUs, Public Meeting Transcript, No. 5 at p. 7) The CA IOUs commented that they are content with using a single metric for the purposes of rating equipment, but that they would like additional test conditions to be measured and reported according to a standard test procedure. The CA IOUs commented that this additional information would help them to distinguish new equipment models with good low-temperature performance that are becoming available. (CA IOUs, Public Meeting Transcript, No. 5 at p. 43)

DOE believes that the existing EER and COP metrics, both for full-load operation, provide an adequate indication of PTAC and PTHP efficiency. DOE does not currently have information indicating the magnitude of energy that might be saved if part-load or full-season metrics were developed. ASAP and ACEEE encouraged DOE to begin a collaboration with AHRI to develop a test method to measure the part-load performance of PTACs and PTHPs. (ASAP & ACEEE, No. 6 at p. 1) DOE may consider support and/or development of such test methods in the future.

In this final rule, DOE has not adopted seasonal efficiency metrics for cooling or heating performance for PTACs or PTHPs.

I. Cooling Capacity Verification

The Federal energy conservation standard levels for PTAC and PTHP equipment are calculated based on the certified cooling capacity of the equipment. (10 CFR 431.97(c)) The DOE test procedures for PTACs and PTHPs specifies the methods that may be used to determine the cooling capacity and energy efficiency of PTACs and PTHPs. (10 CFR 431.96(b)) Testing conducted for assessment and enforcement measures the cooling capacity of test units pursuant to the test requirements of 10 CFR part 431, and uses the measured cooling capacity as the basis for calculation of EER for the test units. The minimum allowed EER (and the minimum allowed COP for PTHP units) of a test unit is calculated using the certified cooling capacity of the test unit as the basis for calculation. For various reasons, the measured cooling capacity of equipment may deviate from the certified cooling capacity of the equipment. Small deviations of the measured cooling capacity from the certified cooling capacity are expected due to variability in manufacturing conditions. However, large deviations

from the certified cooling capacity indicate that the certified cooling capacity and, by extension, the minimum allowed efficiency that is calculated based on the certified cooling capacity, do not accurately represent the unit being tested. In cases where the measured cooling capacity of a test unit deviates outside of an acceptable tolerance, it is appropriate to recalculate the minimum efficiency for the test unit based on the measured cooling capacity of the test unit (or the average of the measured cooling capacities of the samples tested, if more than one is tested).

In the March 2014 NOPR, DOE proposed regulatory text amendments describing how DOE will select the cooling capacity values that are used to calculate the minimum allowable EER for a basic model. The proposed amendments to 10 CFR 429.134 would establish a provision requiring use of the certified cooling capacity as the basis for calculation of minimum allowed EER if the average measured cooling capacity is within five percent of the certified cooling capacity. The proposed amendments would require use of the average measured cooling capacity as the basis for calculation of minimum allowed EER if the average measured cooling capacity is not within five percent of the certified cooling capacity. 79 FR at 14197 (March 13, 2014).

In response to the proposed amendments, AHRI questioned whether the five percent allowance between tested and rated values is a two-sided tolerance. (AHRI, Public Meeting Transcript, No. 5 at p. 54) Goodman agreed in concept with the proposed requirement that measured cooling capacity be within five percent of the certified cooling capacity, but Goodman suggested that the requirement be one-sided, such that the certified cooling capacity would be used to determine the minimum efficiency unless the measured cooling capacity is less than 95% of the certified cooling capacity, in which event the measured cooling capacity would be used to determine the minimum efficiency level. (Goodman, No. 7 at p. 6)

DOE clarifies that the proposed five percent allowance between tested and rated values is a two-sided tolerance. This means that units with average measured cooling capacity below 95% or above 105% of the certified cooling capacity would require use of the average measured cooling capacity as the basis for calculation of minimum allowed EER.

DOE notes that if the proposed provision used a one-sided tolerance as Goodman suggested, then units with a measured cooling capacity above their certified cooling capacity would be held to an efficiency standard determined by their certified cooling capacity. With a one-sided tolerance, units having a measured cooling capacity that is above 105% of their certified cooling capacity would be held to a calculated minimum EER that is more stringent than the minimum EER calculated using a two-sided tolerance as DOE proposed. DOE does not seek to impose more stringent standards on units that exceed their certified cooling capacity.

In this final rule, DOE adopts its proposal to add a provision to 10 CFR 429.134 that requires assessment and enforcement testing to measure the total cooling capacity of the basic model pursuant to the test requirements of 10 CFR part 431 for each unit tested. The provision requires that results of the measurement(s) be averaged and compared to the value of cooling capacity certified by the manufacturer. The adopted provision considers the certified cooling capacity to be valid only if the measurement is within five percent of the certified cooling capacity. If the certified cooling capacity is valid, that cooling capacity will be used as the basis for calculation of minimum allowed EER for the basic model. If the certified cooling capacity is not valid, the average measured cooling capacity will be used as the basis for calculation of minimum allowed EER for the basic model.

J. Additional Comments

DOE received additional comments that are not classified in the discussion sections above. Responses to these additional comments are provided below.

The CA IOUs recommended that DOE require the reporting of power factor [9] for all operating modes (*i.e.,* active, standby, and off) at every temperature point for which EER and COP are rated. (CA IOUs, No. 9 at p. 2–3) The DOE test procedures do not address the measurement of performance during standby mode and off mode. The DOE test procedures also do not describe the measurement of the power factor of PTAC and PTHP equipment. Therefore, DOE is not adopting this reporting requirement.

[9] The power factor of an alternating current (AC) electrical power system is defined as the ratio of the real power flowing to the load, to the apparent power in the circuit. A load with a low power factor draws more electrical current than a load with a high power factor for the same amount of useful power transferred. The higher currents associated with low power factor loads increase the amount of energy lost in the electricity distribution system.

The CA IOUs commented that they would like DOE to explore adding test procedure specifications for units containing gas-fired components, since ANSI/AHRI 310/380–2004 excludes such units. (CA IOUs, No. 9 at p. 1–2) DOE notes that EPCA defines a ''packaged terminal air conditioner'' as ''a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability by builder's choice of hot water, steam, or electricity.'' (42 U.S.C. 6311(10)(A)) EPCA defines a ''packaged terminal heat pump'' as ''a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heat source available to builders with the choice of hot water, steam, or electric resistant heat.'' (42 U.S.C. 6311(10)(B)) These definitions include units with heating provided by hot water, steam, or electric resistant heat, but they do not include units containing gas-fired components. As such, DOE does not have the authority to regulate units with gas-fired components.

K. Compliance Date of the Test Procedure Amendments

In amending a test procedure, EPCA directs DOE to determine to what extent, if any, the test procedure would alter the measured energy efficiency or measured energy use of a covered product. (42 U.S.C. 6314(a)(4)) The test procedure amendments for PTACs and PTHPs incorporated by this final rule do not contain changes that will materially alter the measured energy efficiency of equipment. DOE did not receive any comments suggesting that the test procedure amendments will alter the measured energy efficiency of equipment. Rather, most of the proposed changes represent clarifications that will improve the uniform application of the test procedures for this equipment. Any change in the rated efficiency associated with these clarifications, if any, is expected to be *de minimis.*

DOE's test procedure amendments incorporated by this final rule are effective 30 days after publication of the final rule in the **Federal Register**. Consistent with 42 U.S.C. 6314(d), any representations of energy consumption of PTACs and PTHPs must be based on any final amended test procedures 360 days after the publication of the test procedures final rule.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment and a final regulatory flexibility analysis (FRFA) for any rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative effects. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel.*

DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This rule prescribes test procedures that will be used to test compliance with energy conservation standards for the products that are the subject of this rulemaking. DOE has concluded that the rule will not have a significant impact on a substantial number of small entities.

The Small Business Administration (SBA) considers an entity to be a small business if, together with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121, which relies on size standards and codes established by the North American Industry Classification System (NAICS). The threshold number for NAICS classification for 333415, which applies to air conditioning and warm air heating equipment and commercial and industrial refrigeration equipment, is 750. Searches of the SBA Web site [10] to identify manufacturers within these NAICS codes that manufacture PTACs and/or PTHPs did not identify any small entities that could be affected by the test procedure modifications adopted in the final rule.

For the reasons explained below, DOE has concluded that the test procedure amendments contained in this final will not have a significant economic impact on any manufacturer, including small manufacturers. The rule amends DOE's test procedures to specify an optional break-in period, explicitly require that wall sleeves be sealed to prevent air leakage, allow for the pre-filling of the condensate drain pan, and require testing with 14-inch deep wall sleeves and the filter option most representative of a typical installation. These tests can be conducted in the same facilities used for the current energy testing of these products and do not require testing in addition to what is currently required. The break-in period is optional and may result in improved energy efficiency of the unit; the break-in typically is conducted outside of the balanced-ambient calorimeter facility. DOE expects that manufacturers will require minimal time to set the PTACs and PTHPs up for break-in, which requires that the units simply be plugged in and powered on. Further, manufacturers will only incur the additional time for the break-in step if it is beneficial to testing. In this case, the cost will be minimal due to the nature of the break-in procedure and the fact that it is not typically conducted within the test chamber.

Material costs associated with the test procedure amendments adopted in this final rule are expected to be negligible, as air sealing the wall sleeves can be accomplished with typically available lab materials. Further, DOE expects that manufacturers typically seal the wall sleeves in their current testing, because not doing so could result in measurements indicating a lower efficiency. Also, there are no additional costs associated with the requirement to use a 14-inch wall sleeve and/or the standard filter that typically comes with the unit. In addition, pre-filling of the condensate pan is expected to reduce test time by 2–4 hours, which would reduce testing costs by approximately $375–750 per test. Thus, DOE determined that the test procedure amendments adopted by this final rule will not impose a significant economic impact on manufacturers.

This notice adds one additional item to the certification report requirements for PTACs and PTHPs: The duration of the break-in period. However, providing this additional item in certification reports is not expected to impose a significant economic impact.

For these reasons, DOE concludes and certifies that this final rule will not have a significant economic impact on a substantial number of small entities, so DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE has provided its certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of PTACs and PTHPs must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for PTACs and PTHPs, including any amendments adopted for those test procedures on the date that compliance is required. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including PTACs and PTHPs. See 10 CFR part 429. The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE amends its test procedures for PTACs and PTHPs. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of

[10] A searchable database of certified small businesses is available online at: *http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm.*

1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this rule amends an existing rule without affecting the amount, quality or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2)

is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action to amend the test procedures for measuring the energy efficiency of PTACs and PTHPs is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The modifications to the test procedures addressed by this action incorporate testing methods contained in the following commercial standards: AHRI 310/380–2014, ANSI/ASHRAE Standard 16–1983 (RA 2014), ANSI/ASHRAE Standard 37–2009, and ANSI/ASHRAE Standard 58–1986 (RA 2014). DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.,* whether they were developed in a manner that fully provides for public participation, comment, and review.) DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Description of Materials Incorporated by Reference

In this final rule, DOE is incorporating by reference four industry standards related to the testing of packaged terminal air conditioners and heat pumps. These industry standards include AHRI Standard 310/380–2014, ''Standard for Packaged Terminal Air-Conditioners and Heat Pumps;'' ANSI/ASHRAE Standard 16–1983 (RA 2014), ''Method of Testing for Rating Room Air Conditioners and Packaged Terminal Air Conditioners;'' ANSI/ASHRAE Standard 37–2009, ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment;'' and ANSI/ASHRAE Standard 58–1986 (RA 2014) ''Method of Testing for Rating Room Air-Conditioner and Packaged Terminal Air-Conditioner Heating Capacity.''

AHRI Standard 310/380–2014 is an industry accepted test standard that specifies definitions and general testing requirements for packaged terminal air conditioners and heat pumps. AHRI Standard 310/380–2014 references ANSI/ASHRAE Standard 16, ANSI/ASHRAE Standard 37, and ANSI/ASHRAE Standard 58 for the detailed testing methodologies. AHRI Standard 310/380–2014 is readily available on AHRI's Web site at *http://www.ahrinet.org/App_Content/ahri/files/standards%20pdfs/ANSI%20standards%20pdfs/AHRI_310_380-2014-CSA_C744-4.PDF.*

ANSI/ASHRAE Standard 16–1983 (RA 2014) and ANSI/ASHRAE Standard 37–2009 specify methods for determining the cooling performance of packaged terminal air conditioners. ANSI/ASHRAE Standard 16–1983 (RA 2014) specifies a calorimetric test method involving measurement of the electric resistance heater power input needed to exactly balance a test sample's cooling capacity. ANSI/ASHRAE Standard 37–2009 specifies a psychrometric test method which calculates capacity based on the air flow rate and the air inlet and outlet conditions on the indoor side of the test sample. ANSI/ASHRAE Standard 16–1983 (RA 2014) is readily available at ASHRAE's Web site at: *http://www.techstreet.com/ashrae/products/1881836.* ANSI/ASHRAE Standard 37–2009 is also readily available on ASHRAE's Web site at: *http://www.techstreet.com/ashrae/products/1650947.*

ANSI/ASHRAE Standard 58–1986 (RA 2014) specifies a test method for measuring heating performance of packaged terminal heat pumps. ANSI/ASHRAE Standard 58–1986 (RA 2014) is readily available on ASHRAE's Web site at: *http://www.techstreet.com/ashrae/products/1650947.*

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this final rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

O. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Energy conservation, Imports, Measurement standards, Reporting and recordkeeping requirements.

10 CFR Part 431

Energy conservation, Imports, Incorporation by reference, Measurement standards, Reporting and recordkeeping requirements.

Issued in Washington, DC, on June 8, 2015.

Kathleen B. Hogan,

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

For the reasons stated in the preamble, DOE amends parts 429 and 431 of Chapter II, Subchapter D, of Title 10 the Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Amend § 429.43 by adding paragraph (a)(1)(iii) and revising paragraphs (b)(2)(v) and (vi) to read as follows:

§ 429.43 Commercial heating, ventilating, air conditioning (HVAC) equipment.

(a) * * *

(1) * * *

(iii) For packaged terminal air conditioners and packaged terminal heat pumps, the represented value of cooling capacity shall be the average of the capacities measured for the sample selected as described in (a)(1)(ii) of this section, rounded to the nearest 100 Btu/h.

* * * * *

(b) * * *

(2) * * *

(v) Packaged terminal air conditioners: The energy efficiency ratio (EER in British thermal units per Watt-hour (Btu/Wh)), the rated cooling capacity in British thermal units per hour (Btu/h), the wall sleeve dimensions in inches (in), and the duration of the break-in period (hours).

(vi) Packaged terminal heat pumps: The energy efficiency ratio (EER in British thermal units per Watt-hour (Btu/W-h)), the coefficient of performance (COP), the rated cooling capacity in British thermal units per hour (Btu/h), the wall sleeve dimensions in inches (in), and the duration of the break-in period (hours).

* * * * *

■ 3. Amend § 429.134 by revising paragraph (a) and adding paragraph (e) to read as follows:

§ 429.134 Product-specific enforcement provisions.

(a) *General.* The following provisions apply to assessment and enforcement testing of the relevant products and equipment.

* * * * *

(e) *Packaged terminal air conditioners and packaged terminal heat pumps*—(1) *Verification of cooling capacity.* The total cooling capacity of the basic model will be measured pursuant to the test requirements of 10 CFR part 431 for each unit tested. The results of the measurement(s) will be averaged and compared to the value of cooling capacity certified by the manufacturer. The certified cooling capacity will be considered valid only if the average measured cooling capacity is within five percent of the certified cooling capacity.

(i) If the certified cooling capacity is found to be valid, that cooling capacity will be used as the basis for calculation of minimum allowed EER (and minimum allowed COP for PTHP models) for the basic model.

(ii) If the certified cooling capacity is found to be invalid, the average measured cooling capacity will serve as the basis for calculation of minimum allowed EER (and minimum allowed COP for PTHP models) for the tested basic model.

(2) [Reserved].

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 4. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 5. Amend § 431.95 by revising paragraph (b)(3), redesignating paragraph (c)(1) as (c)(4), and adding paragraphs (c)(1) through (c)(3) to read as follows:

§ 431.95 Materials incorporated by reference.

* * * * *

(b) * * *

(3) AHRI Standard 310/380–2014, (''AHRI 310/380–2014''), ''Standard for Packaged Terminal Air-Conditioners and Heat Pumps,'' February 2014, IBR approved for § 431.96.

(c) * * *

(1) ANSI/ASHRAE Standard 16–1983 (RA 2014), (''ANSI/ASHRAE 16''), ''Method of Testing for Rating Room Air Conditioners and Packaged Terminal Air Conditioners,'' ASHRAE reaffirmed July 3, 2014, IBR approved for § 431.96.

(2) ANSI/ASHRAE Standard 37–2009, (''ANSI/ASHRAE 37''), ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment,'' ASHRAE approved June 24, 2009, IBR approved for § 431.96.

(3) ANSI/ASHRAE Standard 58–1986 (RA 2014), (''ANSI/ASHRAE 58''), ''Method of Testing for Rating Room Air-Conditioner and Packaged Terminal Air-Conditioner Heating Capacity,'' ASHRAE reaffirmed July 3, 2014, IBR approved for § 431.96.

* * * * *

■ 6. Amend § 431.96 by revising paragraphs (b) and (c) and adding paragraph (g) to read as follows:

§ 431.96 Uniform test method for the measurement of energy efficiency of commercial air conditioners and heat pumps.

* * * * *

(b) *Testing and calculations.* (1) Determine the energy efficiency of each type of covered equipment by conducting the test procedure(s) listed in the fifth column of Table 1 of this section along with any additional testing provisions set forth in paragraphs (c) through (g) of this section, that apply to the energy efficiency descriptor for that equipment, category, and cooling capacity. The omitted sections of the test procedures listed in the fifth column of Table 1 of this section shall not be used.

(2) After June 24, 2016, any representations made with respect to the energy use or efficiency of packaged terminal air conditioners and heat pumps (PTACs and PTHPs) must be made in accordance with the results of testing pursuant to this section. Manufacturers conducting tests of PTACs and PTHPs after July 30, 2015 and prior to June 24, 2016, must conduct such test in accordance with either table 1 to this section or § 431.96 as it appeared at 10 CFR part 431, subpart F, in the 10 CFR parts 200 to 499 edition revised as of January 1, 2014. Any representations made with respect to the energy use or efficiency of such packaged terminal air conditioners and heat pumps must be in accordance with whichever version is selected.

TABLE 1 TO § 431.96—TEST PROCEDURES FOR COMMERCIAL AIR CONDITIONERS AND HEAT PUMPS

Equipment type	Category	Cooling capacity	Energy efficiency descriptor	Use tests, conditions, and procedures [1] in	Additional test procedure provisions as indicated in the listed paragraphs of this section
Small Commercial Packaged Air-Conditioning and Heating Equipment.	Air-Cooled, 3-Phase, AC and HP.	<65,000 Btu/h	SEER and HSPF	AHRI 210/240–2008 (omit section 6.5).	Paragraphs (c) and (e).
	Air-Cooled AC and HP.	≥65,000 Btu/h and <135,000 Btu/h.	EER and COP	AHRI 340/360–2007 (omit section 6.3).	Paragraphs (c) and (e).
	Water-Cooled and Evaporatively-Cooled AC.	<65,000 Btu/h	EER	AHRI 210/240–2008 (omit section 6.5).	Paragraphs (c) and (e).
		≥65,000 Btu/h and <135,000 Btu/h.	EER	AHRI 340/360–2007 (omit section 6.3).	Paragraphs (c) and (e).
	Water-Source HP	<135,000 Btu/h	EER and COP	ISO Standard 13256–1 (1998).	Paragraph (e).
Large Commercial Packaged Air-Conditioning and Heating Equipment.	Air-Cooled AC and HP.	≥135,000 Btu/h and <240,000 Btu/h.	EER and COP	AHRI 340/360–2007 (omit section 6.3).	Paragraphs (c) and (e).

TABLE 1 TO § 431.96—TEST PROCEDURES FOR COMMERCIAL AIR CONDITIONERS AND HEAT PUMPS—Continued

Equipment type	Category	Cooling capacity	Energy efficiency descriptor	Use tests, conditions, and procedures [1] in	Additional test procedure provisions as indicated in the listed paragraphs of this section
	Water-Cooled and Evaporatively-Cooled AC.	≥135,000 Btu/h and <240,000 Btu/h.	EER	AHRI 340/360–2007 (omit section 6.3).	Paragraphs (c) and (e).
Very Large Commercial Packaged Air-Conditioning and Heating Equipment.	Air-Cooled AC and HP.	≥240,000 Btu/h and <760,000 Btu/h.	EER and COP	AHRI 340/360–2007 (omit section 6.3).	Paragraphs (c) and (e).
	Water-Cooled and Evaporatively-Cooled AC.	≥240,000 Btu/h and <760,000 Btu/h.	EER	AHRI 340/360–2007 (omit section 6.3)..	Paragraphs (c) and (e).
Packaged Terminal Air Conditioners and Heat Pumps.	AC and HP	<760,000 Btu/h	EER and COP	See paragraph (g) of this section.	Paragraphs (c), (e), and (g).
Computer Room Air Conditioners.	AC	<65,000 Btu/h	SCOP	ASHRAE 127–2007 (omit section 5.11).	Paragraphs (c) and (e).
		≥65,000 Btu/h and <760,000 Btu/h.	SCOP	ASHRAE 127–2007 (omit section 5.11).	Paragraphs (c) and (e).
Variable Refrigerant Flow Multi-split Systems.	AC	<760,000 Btu/h	EER and COP	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).	Paragraphs (c), (d), (e), and (f).
Variable Refrigerant Flow Multi-split Systems, Air-cooled.	HP	<760,000 Btu/h	EER and COP	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).	Paragraphs (c), (d), (e), and (f).
Variable Refrigerant Flow Multi-split Systems, Water-source.	HP	<17,000 Btu/h	EER and COP	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).	Paragraphs (c), (d), (e), and (f).
Variable Refrigerant Flow Multi-split Systems, Water-source.	HP	≥17,000 Btu/h and <760,000 Btu/h.	EER and COP	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).	Paragraphs (c), (d), (e), and (f).
Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps.	AC and HP	<760,000 Btu/h	EER and COP	AHRI 390–2003 (omit section 6.4).	Paragraphs (c) and (e).

[1] Incorporated by reference, see § 431.95.

(c) *Optional break-in period.* Manufacturers may optionally specify a ''break-in'' period, not to exceed 20 hours, to operate the equipment under test prior to conducting the test method specified by AHRI 210/240–2008, AHRI 310/380–2014, AHRI 340/360–2007, AHRI 390–2003, AHRI 1230–2010, or ASHRAE 127–2007 (incorporated by reference, see § 431.95). A manufacturer who elects to use an optional break-in period in its certification testing should record this information (including the duration) in the test data underlying the certified ratings that is required to be maintained under 10 CFR 429.71.

* * * * *

(g) *Test Procedures for Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps*—(1) *Cooling mode testing.* The test method for testing packaged terminal air conditioners and packaged terminal heat pumps in cooling mode shall consist of application of the methods and conditions in AHRI 310/380–2014 sections 3, 4.1, 4.2, 4.3, and 4.4 (incorporated by reference; see § 431.95), and in ANSI/ASHRAE 16 (incorporated by reference; see § 431.95) or ANSI/ASHRAE 37 (incorporated by reference; see § 431.95), except that instruments used for measuring electricity input shall be accurate to within ±0.5 percent of the quantity measured. Where definitions provided in AHRI 310/380–2014, ANSI/ASHRAE 16, and/or ANSI/ASHRAE 37 conflict with the definitions provided in 10 CFR 431.92, the 10 CFR 431.92 definitions shall be used. Where AHRI 310/380–2014 makes reference to ANSI/ASHRAE 16, it is interpreted as reference to ANSI/ASHRAE 16–1983 (RA 2014).

(2) *Heating mode testing.* The test method for testing packaged terminal heat pumps in heating mode shall consist of application of the methods and conditions in AHRI 310/380–2014 sections 3, 4.1, 4.2 (except the section 4.2.1.2(b) reference to ANSI/ASHRAE 37), 4.3, and 4.4 (incorporated by reference; see § 431.95), and in ANSI/ASHRAE 58 (incorporated by reference; see § 431.95). Where definitions provided in AHRI 310/380–2014 or ANSI/ASHRAE 58 conflict with the definitions provided in 10 CFR 431.92, the 10 CFR 431.92 definitions shall be used. Where AHRI 310/380–2014 makes reference to ANSI/ASHRAE 58, it is interpreted as reference to ANSI/ASHRAE 58–1986 (RA 2014).

(3) *Wall sleeves.* For packaged terminal air conditioners and packaged terminal heat pumps, the unit must be installed in a wall sleeve with a 14 inch depth if available. If a 14 inch deep wall sleeve is not available, use the available wall sleeve option closest to 14 inches in depth. The area(s) between the wall sleeve and the insulated partition between the indoor and outdoor rooms must be sealed to eliminate all air leakage through this area.

(4) *Optional pre-filling of the condensate drain pan.* For packaged terminal air conditioners and packaged terminal heat pumps, test facilities may add water to the condensate drain pan of the equipment under test (until the water drains out due to overflow devices or until the pan is full) prior to conducting the test method specified by AHRI 310/380–2014 (incorporated by reference, see § 431.95). No specific level of water mineral content or water temperature is required for the water added to the condensate drain pan.

(5) *Filter selection.* For packaged terminal air conditioners and packaged terminal heat pumps, the indoor filter used during testing shall be the standard or default filter option shipped with the model. If a particular model is shipped without a filter, the unit must be tested with a MERV–1 filter sized appropriately for the filter slot.

[FR Doc. 2015–15885 Filed 6–29–15; 8:45 a.m.]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1988; Directorate Identifier 2015–NM–085–AD; Amendment 39–18195; AD 2015–13–08]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 2000EX airplanes. This AD requires revising the airplane flight manual to include a procedure for addressing minimum fan speed rotation (N1) values during stand-alone engine anti-ice system operation for engines equipped with certain air inlets. This AD was prompted by a quality review of recently delivered airplanes which identified a manufacturing deficiency of some engine air inlet anti-ice piccolo tubes. We are issuing this AD to detect and correct reduced performance of the engine anti-ice protection system, leading to ice accretion and ingestion into the engines, which could result in dual engine power loss and consequent reduced controllability of the airplane.

DATES: This AD becomes effective June 30, 2015.

We must receive comments on this AD by August 14, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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–2015–1988; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency Airworthiness Directive 2015–0102–E, dated June 8, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Dassault Aviation Model FALCON 2000EX airplanes. The MCAI states:

> A quality review of recently delivered aeroplanes identified a manufacturing deficiency of some engine air inlet anti ice piccolo tubes.
>
> This condition, if not detected and corrected, could lead to reduced performance of the engine anti-ice protection system, with consequent ice accretion and ingestion, possibly resulting in dual engine power loss and reduced control of an aeroplane.
>
> The Falcon 2000EX Aircraft Flight Manual (AFM) contains a procedure 4–200–05, ''Operations in Icing Conditions'', addressing minimum fan speed rotation (N1) during combined operation of wing anti-ice and engine anti-ice systems. However, the AFM does not specify minimum N1 values for stand-alone engine anti-ice system operation. The subsequent investigation demonstrated that the operation of an engine at or above the minimum N1 value applicable for combined wing and engine anti-ice operations, provides efficient engine anti ice performance during stand-alone engine anti-ice operation, for engines equipped with an air inlet affected by the manufacturing deficiency.
>
> For the reasons described above, this [EASA] AD requires amendment of the applicable AFM which can be removed (or is not applicable) for aeroplanes having both engine air inlet[s] marked ''NRK'' on the associated data plate.
>
> This [EASA] AD is considered to be an interim measure and further AD action may follow.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1988.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the identified unsafe condition could result in engine inlet ice accretion with possible ice separation in volumes beyond engine ingestion capability. These conditions could lead to engine damage or engine shutdown. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–1988; Directorate Identifier 2015–NM–085–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

We estimate that this AD affects 120 airplanes of U.S. registry.

We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $10,200, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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

2. Is not a ''significant rule'' under 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–13–08 Dassault Aviation: Amendment 39–18195. Docket No. FAA–2015–1988; Directorate Identifier 2015–NM–085–AD.

(a) Effective Date

This AD becomes effective June 30, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Dassault Aviation Model FALCON 2000EX airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Reason

This AD was prompted by a quality review of recently delivered airplanes which identified a manufacturing deficiency of some engine air inlet anti-ice piccolo tubes. We are issuing this AD to detect and correct reduced performance of the engine anti-ice protection system, leading to ice accretion and ingestion into the engines, which could result in dual engine power loss and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Airplane Flight Manual (AFM) Revision

(1) Within 10 flight cycles after the effective date of this AD: Revise the Limitations Section of the Dassault Falcon 2000EX AFM to include the statement in figure 1 to this paragraph. This may be done by inserting a copy of this AD in the AFM. When a statement identical to that in figure 1 to this paragraph has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Figure 1 to Paragraph (g) of this AD—*New AFM Language*

Amendment to AFM sections 4-200-05, 4-200-05A, OPERATION IN ICING CONDITIONS. This amendment comes in addition to existing AFM procedures.

Engine Anti-Ice System Operation

During in-flight operation of an engine anti-ice system (ENG ANTI-ICE) maintain the N1 of both engines equal to or more than the values defined below, as applicable to atmospheric condition.

Minimum N1 values required during in-flight operation of an engine anti-ice system

	TAT			
Z	**-30° C**	**-15° C**	**0° C**	**+10° C**
31,000 ft	72.6	65.6	50.8	50.8
22,000 ft	70.4	61.7	50.8	50.1
3,000 ft	55.3	52.9	47.4	46.8
0 ft	52.9	52.9	47.4	46.8

TAT – Total air temperature, Z – Altitude

Note 1: Maintaining the N1 above the minimum anti-ice N1 on both engines may lead to exceedance of approach speed. Early approach or landing configuration of an airplane and/or application of airbrakes may be used to control the excessive airspeed. If the airspeed remains higher than required, it is authorized to reduce the thrust by reducing the N1 below the values indicated in the table in this figure for **the last 3 minutes before touchdown**. In this case, disengage Autothrottle if previously engaged. This 3 minutes operation below the minimum N1 does not apply to any other in-flight icing situation.

Note 2: During ground operations before takeoff, the engine anti-ice system remains efficient when engine power levers are at idle.

(2) Airplanes on which the air engine inlet on both engines has a mark ''NRK'' on the associated data plate are not affected by the requirements in paragraph (g)(1) of this AD.

Note 1 to paragraph (g)(2) of this AD: Engine air inlets which have been refurbished and comply with the design standard are marked as ''NRK'' on the air inlet data plate.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(i) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Emergency Airworthiness Directive 2015–0102–E, dated June 8, 2015, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1988.

(j) Material Incorporated by Reference

None.

Issued in Renton, Washington, on June 19, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–15860 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–1069; Airspace Docket No. 14–ANM–11]

Amendment of Class D and Class E Airspace, Revocation of Class E Airspace; Salem, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace, Class E surface area airspace, Class E airspace extending upward from 700 feet above the surface, and removes Class E surface area airspace designated as an extension at McNary Field, Salem, OR. After reviewing the airspace, the FAA found it necessary to increase the airspace areas for the safety and management of Instrument Flight Rules (IFR) operations during Standard Instrument Approach Procedures (SIAPs) at the airport.

DATES: Effective 0901 UTC, August 20, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/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 ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA, 98057; telephone (425) 203–4563.

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 establishes controlled airspace at McNary Field, Salem, OR.

History

On May 1, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class D airspace, Class E surface area airspace, Class E airspace extending upward from 700 feet above the surface, and remove Class E surface area airspace designated as an extension at McNary Field, Salem, OR (80 FR 24858). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and Class E airspace designations are published in paragraph 5000, 6002, 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 Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends 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 final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class D airspace, Class E surface area airspace, Class E airspace extending upward from 700 feet above the surface, and removes Class E surface area airspace as an extension at McNary Field, Salem, OR. A review of the airspace revealed an increase and reconfiguration of the airspace is needed for IFR operations due to cancellation of the Turno non-directional radio beacon (NDB) and cancellation of the NDB approach. Class D airspace and Class E surface area airspace extends upward from the surface to and including 2,700 feet within a 4-mile radius northeast of McNary Field, within a 6.2-mile radius southeast of the airport, and within an 8.1-mile radius southeast to northwest of the airport, excluding airspace within 1.2 miles of Independence State Airport, OR. Class E airspace extending upward from 700 feet above the surface is amended to within a 6.5-mile radius northeast of McNary Field, within an 8.2-mile radius southeast of the airport, and within a 9.1-mile radius southeast to northwest of the airport, excluding airspace within 1.2 miles of Independence State Airport, OR. This action enhances the safety and management of controlled airspace within the NAS.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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.

* * * * *

ANM OR D Salem, OR [Modified]

Salem, McNary Field, OR
(Lat. 44°54′34″ N., long. 123°00′09″ W.)
Independence, Independence State Airport, OR
(Lat. 44°52′01″ N., long. 123°11′54″ W.)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4-mile radius of McNary Field from the 330° bearing from the airport clockwise to the 074° bearing, and that airspace within a 6.2-mile radius of McNary Field from the 074° bearing from the airport clockwise to the 150° bearing, and that airspace within a 8.1-mile radius of McNary Field from the 150° bearing from the airport clockwise to the 330° bearing, excluding that airspace within 1.2 miles of Independence State Airport, OR. 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.

* * * * *

ANM OR E2 Salem, OR [Modified]

Salem, McNary Field, OR
(Lat. 44°54′34″ N., long. 123°00′09″ W.)
Independence, Independence State Airport, OR
(Lat. 44°52′01″ N., long. 123°11′54″ W.)

That airspace extending upward from the surface within a 4-mile radius of McNary Field from the 330° bearing from the airport clockwise to the 074° bearing, and that airspace within a 6.2-mile radius of McNary Field from the 074° bearing from the airport clockwise to the 150° bearing, and that airspace within a 8.1-mile radius of McNary Field from the 150° bearing from the airport clockwise to the 330° bearing, excluding that airspace within 1.2 miles of Independence State Airport, OR. This Class E 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 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ANM OR E4 Salem, OR [Removed]

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

* * * * *

ANM OR E5 Salem, OR [Modified]

Salem, McNary Field, OR
(Lat. 44°54′34″ N., long. 123°00′09″ W.)
Independence, Independence State Airport, OR
(Lat. 44°52′01″ N., long. 123°11′54″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of McNary Field from the 330° bearing from the airport clockwise to the 074° bearing, and that airspace within a 8.2-mile radius of McNary Field from the 074° bearing from the airport clockwise to the 150° bearing, and that airspace within a 9.1-mile radius of McNary Field from the 150° bearing from the airport clockwise to the 330° bearing, excluding that airspace within 1.2 miles of Independence State Airport, OR.

Issued in Seattle, Washington, on June 22, 2015.

Christopher Ramirez,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2015–15951 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

RIN 1625–AA00

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Gary Air and Water Show

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Gary Air and Water Show on a portion of Lake Michigan, on July 9, 2015 through July 14, 2015. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the air and water show. During the enforcement period listed below, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (e)(33), Table 165.929, on July 9, 2015 until July 14, 2015, from 8:30 a.m. until 5:00 p.m. on each day.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email LT Lindsay Cook, Waterways Management Division, Marine Safety Unit Chicago, at 630–986–2155, email address *D09-DG-MSUChicago-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone; Gary Air and Water Show listed as item (e)(33) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone encompasses all waters of Lake Michigan bounded by a line drawn from 41°37.250′ N., 087°16.763′ W.; then east to 41°37.440′ N., 087°13.822′ W.; then north to 41°38.017′ N., 087°13.877′ W.; then southwest to 41°37.805′ N., 087°16.767′ W.; then south returning to the point of origin. This zone will be enforced on July 9, 2015 until July 14, 2015, from 8:30 a.m. until 5:00 p.m. on each day.

All vessels must obtain permission from the Captain of the Port Lake Michigan, or a designated on-scene representative to enter, move within, or exit this safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan, or a

designated on-scene representative may be contacted via VHF Channel 16 during the event.

Dated: June 16, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–16117 Filed 6–29–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

RIN 1625–AA00

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Start of the Chicago to Mackinac Race

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Start of the Chicago to Mackinac Race Safety Zone on a portion of Lake Michigan, on July 10, 2015 and July 11, 2015. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the start of each race. During the enforcement period listed below, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (e)(45), Table 33 CFR 165.929, on July 10, 2015 from 2 p.m. until 4:30 p.m. and on July 11, 2015 from 9 a.m. until 3 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST1 John Ng, Waterways Management Division, Marine Safety Unit Chicago, at 630–986–2122, email address *john.h.ng@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone; Start of the Chicago to Mackinac Race listed as item (e)(45) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone encompasses all waters of Lake Michigan in the vicinity of Navy Pier at Chicago IL, within a rectangle that is approximately 1500 by 900 yards. The rectangle is bounded by the coordinates beginning at 41°53′15.1″ N., 087°35′25.8″ W.; then south to 41°52′48.7″ N., 087°35′25.8″ W.; then east to 41°52′49.0″ N., 087°34′26.0″ W.; then north to 41°53′15″ N., 087°34′26″ W.; then west, back to point of origin. This zone will be enforced on July 10, 2015 from 2 p.m. until 4:30 p.m. and on July 11, 2015 from 9 a.m. until 3 p.m.

All vessels must obtain permission from the Captain of the Port Lake Michigan, or a designated on-scene representative to enter, move within, or exit this safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan, or a designated on-scene representative may be contacted via VHF Channel 16 during the event.

Dated: June 16, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–16113 Filed 6–29–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

RIN 1625–AA00

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Michigan City Summerfest Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Michigan City Summerfest Fireworks Safety Zone on a portion of Lake Michigan, on July 4, 2015. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and immediately after the air and water show. During the enforcement period listed below, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (e)(35), Table 33 CFR 165.929, on July 4, 2015, from 8:45 p.m. until 9:45 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST1 John Ng, Waterways Management Division, Marine Safety Unit Chicago, at 630–986–2155, email address *john.h.ng@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone; Michigan City Summerfest Fireworks listed as item (e)(35) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone encompasses all waters of Michigan City Harbor and Lake Michigan within the arc of a circle with a 800-foot radius from the fireworks launch site located in position 41°43.700′ N., 086°54.617′ W. This zone will be enforced on July 4, 2015, from 8:45 p.m. until 9:45 p.m.

All vessels must obtain permission from the Captain of the Port Lake Michigan, or a designated on-scene representative to enter, move within, or exit this safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan, or a designated on-scene representative may

be contacted via VHF Channel 16 during the event.

Dated: June 16, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–16114 Filed 6–29–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0524]

Safety Zones; Fireworks Events in Captain of the Port New York Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various safety zones within the Captain of the Port New York Zone on the specified dates and times. This action is necessary to ensure the safety of vessels and spectators from hazards associated with fireworks displays. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port (COTP).

DATES: The regulation for the safety zones described in 33 CFR 165.160 will be enforced on the dates and times listed in the table below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST1 Daniel Vazquez, Coast Guard; telephone 718–354–4197, email *daniel.vazquez@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.160 on the specified dates and times as indicated in Table 1 below. This regulation was published in the **Federal Register** on November 9, 2011 (76 FR 69614).

TABLE 1

2.1 The IPSoft Inc. Liberty Island Safety Zone 33 CFR 165.160(2.1) ..	• Launch site: A barge located in approximate position 40°41′16.5″ N. 074°02′23″ W. (NAD 1983), located in Federal Anchorage 20–C, about 360 yards east of Liberty Island. This Safety Zone is a 360-yard radius from the barge. • Date: June 25, 2015. • Time: 8:50 p.m.–10:00 p.m.
5.1 Hamilton LLC Pier 60 Safety Zone 33 CFR 165.160(5.1)	• Launch site: A barge located in approximate position 40°44′49″ N. 074°01′02″ W. (NAD 1983), approximately 500 yards west of Pier 60, Manhattan, New York. This Safety Zone is a 360-yard radius from the barge. • Date: August 06, 2015. • Time: 10:00 p.m.–11:15 p.m.

Under the provisions of 33 CFR 165.160, vessels may not enter the safety zones unless given permission from the COTP or a designated representative. Spectator vessels may transit outside the safety zones but may not anchor, block, loiter in, or impede the transit of other vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.160(a) and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide mariners with advanced notification of enforcement periods via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that a safety zone need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the safety zone.

Dated: June 12, 2015.

G. Loebl,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2015–16106 Filed 6–29–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0530]

RIN 1625–AA00

Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Celebration Freedom Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on Lake Macatawa in Holland, MI for the Celebration Freedom Fireworks. This zone will be enforced from 10 p.m. until 11:50 p.m. on July 4, 2015. Should inclement weather force a cancellation of the fireworks on July 4, 2015, this zone will be enforced from 10 p.m. until 11:50 p.m. on July 6, 2015. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and immediately after the fireworks display. During the aforementioned periods, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan or a designated representative.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (e)(13), Table 165.929, from 10 p.m. until 11:50 p.m. on July 4, 2015. Should inclement weather force a cancellation of the fireworks on July 4, 2015, this zone will be enforced from 10 p.m. until 11:50 p.m. on July 6, 2015.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *joseph.p.mccollum@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Celebration Freedom Fireworks safety zone listed as item (e)(13) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in

the Captain of the Port Lake Michigan zone. This safety zone will encompass all waters of Lake Macatawa in the vicinity of Kollen Park within the arc of a circle with a 1600-foot radius of a center launch position at 42°47.440′ N., 086°07.621′ W. (NAD 83). This zone will be enforced from 10 p.m. until 11:50 p.m. on July 4, 2015. Should inclement weather force a cancellation of the fireworks on July 4, 2015, this zone will be enforced from 10 p.m. until 11:50 p.m. on July 6, 2015.

All vessels must obtain permission from the Captain of the Port Lake Michigan, or the on-scene representative to enter, move within, or exit the safety zone. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or an on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: June 16, 2015.

A.B. Cocanour,

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

[FR Doc. 2015–16118 Filed 6–29–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2015–0026; FRL–9928–81–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Alternative Monitoring Plan for Milton R. Young Station

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the State of North Dakota. On April 8, 2013, the Governor of North Dakota submitted to EPA an alternative monitoring plan for Milton R. Young Station (MRYS). The plan relates to continuous opacity monitoring for Unit 1 at MRYS. The intended effect of this action is to approve a state plan established to address minimum emission monitoring requirements. The EPA is taking this action under section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on August 31, 2015 without further notice, unless EPA receives adverse comment by July 30, 2015. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2015–0026, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: Fallon.Gail@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2015–0026. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I, General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information 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 *http://www.regulations.gov* or in hard copy at the Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Gail Fallon, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado, 80202–1129, (303) 312–6218, *Fallon.Gail@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. General Information

A. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. Background

Sections 110(a)(2) and 110(l) of the CAA require that a state provide reasonable notice and public hearing before adopting a SIP revision and submitting it to us. To provide for public comment, the North Dakota Department of Health (NDDH), after providing notice, offered to hold a public hearing for the alternative monitoring plan for MRYS Unit 1. No one requested a public hearing so a hearing was not conducted. No one provided comments on the plan. Following the comment period and legal review by the North Dakota Attorney General's Office, NDDH adopted the alternative monitoring plan for MRYS Unit 1 as a SIP revision on March 1, 2013. The Governor submitted the SIP revision to EPA on April 8, 2013. EPA acted separately on a portion of the April 8, 2013 submittal that revised Chapter 2, Section 2.15, Respecting Boards. 78 FR 45866, July 30, 2013.

III. Revision in the April 8, 2013 Submittal That Is the Subject of This Document

Minnkota Power Cooperative, Inc. (Minnkota) currently operates MRYS Unit 1, a coal-fired electric generating unit located near Center, North Dakota. Unit 1 was constructed in the late 1960's and began operating in 1970. Minnkota is required to continuously monitor the opacity of emissions from Unit 1 according to 40 CFR part 51, appendix P, and North Dakota SIP Chapter 8, Source Surveillance.

The revision in the April 8, 2013 submittal to be addressed in this document included a revision to SIP Chapter 8, Source Surveillance, to provide an alternative monitoring plan for MRYS Unit 1. In May 1977, NDDH modified the permit to operate for Unit 1 requiring the installation and operation of continuous opacity monitoring (COM) equipment for emissions at Unit 1, and the opacity has been continuously monitored since the compliance date of August 30, 1978.

In 2006, Minnkota entered into a consent decree with NDDH and EPA to settle allegations of noncompliance under the Prevention of Significant Deterioration Program. As part of this settlement, Minnkota was required to control sulfur dioxide emissions from Unit 1. Minnkota has installed a wet scrubber which treats all of the flue gas from Unit 1 and achieves 95% reduction of the inlet sulfur dioxide. However, the large amount of moisture from the scrubber has made monitoring of the opacity in accordance with the requirements of 40 CFR part 51, appendix P, section 3.1.1 infeasible. Specifically, water droplets contained in the flue gas could potentially result in the existing continuous opacity monitor's overstating the true opacity.

Because of this change in circumstances, Minnkota requested alternative monitoring requirements for MRYS Unit 1 under 40 CFR part 51, appendix P, sections 6.0 and 6.1. NDDH agreed with Minnkota that such alternative monitoring procedures and requirements were warranted given that the excess moisture in the stack from the wet scrubber interferes with the COM and makes the COM data inaccurate. As a result, NDDH revised SIP Chapter 8, ''Source Surveillance,'' Section 8.3, ''Continuous Emission Monitoring Requirements for Existing Stationary Sources, including amendments to Permits to Operate and Department Order.'' The revision provided for a new Section 8.3.2, ''Continuous Opacity Monitoring for M.R. Young Station Unit 1 Main Boiler.'' This new section provides alternative monitoring procedures and requirements for MRYS Unit 1.

Under North Dakota Administrative Code (NDAC) 33–15–03–01.2, MRYS Unit 1 is subject to a 20% opacity limit, except for one 6-minute period per hour in which up to 40% opacity is allowed. Without the scrubber, Minnkota was able to comply with the 20% opacity limit with limited exceedances. We obtained monthly exceedance report data from the State which indicate that opacity readings greater than the 20% standard occurred only 0.30 percent of the time for the 2008 through 2010 three-year average.[1] The State has indicated that the addition of the wet scrubber would be expected to reduce visible emissions further.

Under the alternative monitoring plan, Minnkota will ensure compliance with the opacity limit through the use of a continuous emissions monitoring system (CEMS) for particulate matter (PM) as well as periodic visible emissions reading using test method 9 from 40 CFR part 60, appendix A. Minnkota must comply with specific monitoring, recordkeeping, and reporting requirements of 40 CFR 60 as listed in the alternative monitoring plan in Section 8.3.2 for both the PM CEMS and the visible emissions testing. Among these requirements are:

1. Minnkota must conduct weekly Method 9 tests for six consecutive weeks during regular source operation. If compliance with opacity is demonstrated from the weekly tests, Minnkota can begin conducting monthly tests. If excess emissions are identified, the tests revert to a weekly frequency.

2. Minnkota must monitor the filterable PM emission rate with PM CEMS. The PM emission rate may not exceed 0.052 lb/MMBtu (pounds per one million British Thermal Units) (3-hour average).

3. Minnkota must keep records of all PM and visible emissions readings and

[1] The State created a spreadsheet entitled, ''Unit 1 Opacity Exceedances.xlsx,'' with the exceedance report data and this is included in the docket.

must keep these records for at least five years.

4. Minnkota must submit quarterly excess emissions reports for both the PM CEMS and visible emissions readings. The reports must also list any time periodic monitoring is not conducted as outlined in Section 8.3.2. Minnkota must also submit annual certifications indicating compliance with the visible emission limit.

Minnkota has developed a Compliance Assurance Monitoring (CAM) plan for PM in accordance with 40 CFR 64. The CAM plan indicates that 20% opacity occurs with a filterable PM emission rate of 0.062 lb/MMBtu. The alternative monitoring plan sets the filterable PM emission limit at 0.052 lb/MMBtu (3-hour average) with a 20% visible emission limit (6-minute average). The PM emission limit thus allows for a modest safety margin when compared to the 0.062 lb/MMBtu emission rate. For the purposes of this SIP revision, the PM CEMS is used only for demonstrating compliance with the visible emissions standard. This SIP revision does not cover monitoring for demonstrating compliance with the particulate matter emission limit for this unit.[2]

Once the SIP revision is approved by EPA, NDDH will begin the procedures required under NDAC 33–15–14–06(6)(e) to modify the source's Title V permit by incorporating the alternative monitoring requirements into the permit. NDDH will then have the authority to enforce the SIP revision like any other permit condition.

IV. EPA's Analysis of SIP Revision

We agree that the addition of the wet scrubber at MRYS Unit 1 necessitates an alternate means of demonstrating opacity compliance, and that the wet scrubber will further reduce visible emissions from this unit. We have evaluated the SIP revision that North Dakota submitted for this purpose and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. On October 8, 2013, by operation of law under CAA section 110(k)(1)(B), the SIP revision was deemed to have met the minimum ''completeness'' criteria found in 40 CFR part 51, appendix V.

We are also satisfied that this SIP revision will ensure that Minnkota complies with the requirements of 40 CFR 51.214 and 40 CFR part 51, appendix P, to continuously monitor opacity emissions, and that it will be adequate to ensure that Minnkota complies with the SIP opacity limits for MRYS Unit 1. We reviewed the alternative monitoring plan—in particular, the PM emission limit of 0.052 lb/MMBtu (3-hour average)—in conjunction with the CAM plan, and we agree that this limit will ensure equivalency of monitoring methods and compliance with the opacity limit as required by our regulations. Furthermore, it is unlikely that the opacity limits will be exceeded, as the consent decree PM emission limit of 0.03 lb/MMBtu would be triggered first.[3]

V. Consideration of Section 110(l) of the Clean Air Act

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the CAA. There are no nonattainment areas in North Dakota. The revision to SIP Chapter 8 regarding the alternative monitoring plan for MRYS Unit 1 adequately details monitoring parameters, frequency of monitoring, the PM emission limit, recordkeeping, and reporting requirements to ensure that the source can comply with requirements to continuously monitor opacity emissions, and the revision will be adequate to ensure that Minnkota complies with the SIP opacity limits for MRYS Unit 1. Therefore, this revision does not interfere with attainment or maintenance of the NAAQS or other applicable requirements of the CAA.

VI. Final Action

EPA is approving a revision to the North Dakota SIP that the Governor of North Dakota submitted on April 8, 2013. Specifically, EPA is approving an alternative monitoring plan for MRYS. The plan relates to continuous opacity monitoring for Unit 1 at MRYS. EPA acted previously on a portion of the April 8, 2013 submittal that revised Chapter 2, Section 2.15, Respecting Boards. 78 FR 45866, July 30, 2013.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. However, in the Proposed Rules section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective August 31, 2015 without further notice unless the Agency receives adverse comments by July 30, 2015. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must 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.

VII. 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 the North Dakota Department of Health rules 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).

VIII. 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

[2] For purposes of demonstrating compliance with PM emissions, Minnkota is required to demonstrate compliance with an emission limit of 0.03 lb/MMBtu for MRYS Unit 1 based on annual stack testing under a consent decree between EPA, the State of North Dakota, Minnkota, and Square Butte Electric Cooperative (Civil Action No. 1:06–CV–034).

[3] *Id.*

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).

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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 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 31, 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 today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: June 9, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

40 CFR part 52 is amended to read 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 JJ—North Dakota

■ 2. In § 52.1820, the table in paragraph (d) is amended by revising the second entry under ''Milton R. Young Station Unit 1'' and adding a new entry for ''Milton R. Young Station Unit 1'' to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(d) * * *

Name of source	Nature of requirement	State effective date	EPA approval date and citation [3]	Explanations
*	* * *	*	*	*
Milton R. Young Station Unit 1.	Air pollution control permit to construct for best available retrofit technology (BART), PTC10007.	2/23/10	4/6/12, 77 FR 20894.	
Milton R. Young Station Unit 1.	SIP Chapter 8, Section 8.3.2, Continuous Opacity Monitoring for M.R. Young Station Unit 1 Main Boiler.	3/1/13	6/30/15, [Insert *Federal Register* citation..	
*	* * *	*	*	*

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

[FR Doc. 2015–15533 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0079; FRL–9929–69–Region 6]

Approval and Promulgation of Implementation Plans; Texas; Revision To Control Volatile Organic Compound Emissions From Storage Tanks and Transport Vessels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is withdrawing a direct final rule published on May 13, 2015 because relevant adverse comments were received. The rule pertained to EPA approval of a Texas State Implementation Plan (SIP) revision for control of volatile organic compound (VOC) emissions from degassing of storage tanks, transport vessels and marine vessels. In a separate subsequent final rulemaking EPA will address the comments received.

DATES: The direct final rule published at 80 FR 27251 on May 13, 2015, is withdrawn effective June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Todd, (214) 665–2156, *todd.robert@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. On May 13, 2015 we published a direct final rule approving a Texas State Implementation Plan (SIP) revision for control of volatile organic compound (VOC) emissions from degassing of storage tanks, transport vessels and marine vessels (80 FR 27251). The direct final rule was published without prior proposal because we anticipated no adverse comments. We stated in the direct final rule that if we received relevant adverse comments by June 12, 2015 we would publish a timely withdrawal in the **Federal Register**. We received relevant adverse comments and accordingly are withdrawing the direct final rule. In a separate subsequent final rulemaking we will address the comments received.

List of Subjects in 40 CFR Part 52

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

Dated: June 18, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–15910 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2014–0649; FRL–9928–93]

RIN 2070–AB27

Modification of Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 21 chemical substances which were the subject of premanufacture notices (PMNs). This action amends the SNURs to allow certain uses without requiring a significant new use notice (SNUN), and extends SNUN requirements to certain additional uses. EPA is amending these SNURs based on review of new data for each chemical substance. This action requires persons who intend to manufacture (including import) or process any of these 21 chemical substances for an activity that is designated as a significant new use by this proposed rule to notify EPA at least 90 days before commencing that activity. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This final rule is effective August 31, 2015.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0649, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Alwood, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 202–564–8974; email address: *alwood.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a modified SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export the chemical substance that is the subject of a final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

II. Background

A. What action is the Agency taking?

In the **Federal Register** of April 9, 2015 (80 FR 19037) (FRL–9924–10), EPA proposed amendments to the SNURs for 24 chemical substances in 40 CFR part 721 subpart E. This action

would require persons who intend to manufacture or process these chemical substances for an activity that is designated as a significant new use by these amended rules to notify EPA at least 90 days before commencing that activity. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. The proposed rule included 23 chemical substances where EPA determined, based on new information, there is no need to require additional notice from persons who propose to engage in identical or similar activities, or a rational basis no longer exists for the findings that activities involving the substance may present an unreasonable risk of injury to human health or the environment required under section 5(e)(1)(A) of the Act. The proposed rule also included a chemical substance, P–01–781, where EPA is modifying the chemical identity information. EPA is issuing a final SNUR amendment for 21 of the 24 chemical substances. For 20 of those chemical substances, EPA received no public comments and is issuing the SNURs as proposed. For the chemical substance subject to the SNUR at 40 CFR 721.10182, EPA received three public comments supporting the proposed SNUR amendments. One of those comments also asked EPA to clarify if the final modified rule would allow uses of the chemical substance either alone or as a component in a blend in retail food, cold storage, transport and industrial refrigeration units; commercial refrigeration, ice machines, and refrigerated vending machines produced by original equipment manufacturers; and servicing, repair, and recharging refrigeration units at grocery stores, convenience stores, transport, and cold storage facilities. As described in the proposed rule, EPA had already evaluated stationary refrigeration uses in a previous SNUN, S–14–11 and did not determine that those uses caused significant adverse health effects. After publication of the proposed rule, EPA reached decision on an additional SNUN, S–15–5, for this chemical substance for stationary and transport refrigeration uses currently not allowed in the SNUR. Because the Agency expects transport refrigeration uses will have similar exposures to those for stationary uses and the hazard findings have not changed, EPA did not determine that those uses caused significant adverse health effects. Therefore the final SNUR amendment will allow the transport refrigeration uses described in S–15–5 and the stationery refrigeration uses described in S–15–5 and S–14–11, which includes the uses described by the commenter. As described in the proposed rule EPA is now amending the SNURs pursuant to 40 CFR 721.185.

EPA received public comments for the proposed SNUR amendments for the remaining three chemical substances of the 24 included in the proposed rule subject to SNURs at 40 CFR 721.5575, 721.9675, and 721.10515. EPA will address these three proposed SNUR amendments in a separate action.

B. What is the Agency's authority for taking this action?

Upon conclusion of the review of the 21 chemical substances in this SNUR amendment, EPA designated certain activities as significant new uses. Under § 721.185, EPA may at any time amend a SNUR for a chemical substance which has been added to subpart E of 40 CFR part 721 if EPA makes one of the determinations set forth in § 721.185. Amendments may occur on EPA's initiative or in response to a written request. Under § 721.185(b)(3), if EPA concludes that a SNUR should be amended, the Agency will propose the changes in the **Federal Register**, briefly describe the grounds for the action, and provide interested parties an opportunity to comment. Pursuant to § 721.185 and as described in Unit IV of the proposed rule for the 20 chemical substances EPA determined, based on new information, there is no need to require additional notice from persons who propose to engage in identical or similar activities, or a rational basis no longer exists for the findings that activities involving the substance may present an unreasonable risk of injury to human health or the environment required under section 5(e)(1)(A) of the Act. This rule also includes a chemical substance, P–01–781, where EPA is modifying the chemical identity information.

III. Applicability of the Rule to Uses Occurring Before Effective Date of the Final Rule

If uses begun after the proposed rule was published were considered ongoing rather than new, any person could defeat the SNUR by initiating the significant new use before the final rule was issued. Therefore EPA has designated the date of publication of the proposed rule as the cutoff date for determining whether the new use is ongoing. Consult the **Federal Register** Notice of April 24, 1990 (55 FR 17376) for a more detailed discussion of the cutoff date for ongoing uses.

Any person who began commercial manufacture or processing activities of the chemical substances in this rule for any of the significant new uses designated in the proposed SNUR after the date of publication of the proposed SNUR, must stop that activity before the effective date of the final rule. Persons who ceased those activities will have to first comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions, expires, before engaging in any activities designated as significant new uses. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities.

IV. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require the development of any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In this case, EPA recommends persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.* ASTM International standards are available at *http://www.astm.org/Standard/index.shtml.*

The recommended testing specified in Unit IV. of the proposed rule may not be the only means of addressing the potential risks of the chemical substance. However, SNUNs submitted without any test data may increase the likelihood that EPA will take action

under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

V. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 721.25 and 720.40. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems*.

VI. Economic Analysis

EPA evaluated the potential costs of SNUN requirements for potential manufacturers and processors of the chemical substances in the rule. The Agency's complete Economic Analysis is available in the docket under docket ID number EPA–HQ–OPPT–2014–0649.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866

This action will modify SNURs for 21 chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA, 44 U.S.C. 3501 *et seq.,* an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUN submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this rule.

This rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit VI and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this final rule. As such, EPA has determined that this rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''*Federalism*'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This rule would not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''*Consultation and Coordination with Indian Tribal Governments*'' (65 FR 67249, November 9, 2000), do not apply to this rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled ''*Protection of*

Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled ''*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*'' (59 FR 7629, February 16, 1994).

VIII. Congressional Review Act (CRA)

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 18, 2015.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR chapter I is amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Amend § 721.522 by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 721.522 Oxirane, methyl-, polymer with oxirane, mono (3,5,5,-trimethylhexyl) ether.

(a) * * *

(1) The chemical substance identified as oxirane, methyl-, polymer with oxirane, mono (3,5,5,-trimethylhexyl) ether (PMN P–99–669, SNUN S–09–1, and SNUN S–13–29; CAS No. 204336–40–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is use other than as a wetting agent, dispersing agent and defoaming/deaerating agent in waterborne coatings, inks, and paints, water based adhesives, and ultraviolet curable coatings; wetting agent in water miscible metalworking fluids, powdered construction additives for use in cementitious mortars, grouts and tile adhesives, and in liquid admixtures for concrete; and a substrate wetting and anticratering additive for ultraviolet curable inkjet ink.

* * * * *

■ 3. Amend § 721.532 as follows:
■ a. Revise the section heading.
■ b. Revise paragraph (a)(1).
■ c. Revise paragraph (a)(2)(i).
■ d. Add paragraph (a)(3).
■ e. Revise paragraph (b)(1).

The revisions and addition read as follows:

§ 721.532 1-Butanol, 3-methoxy-3-methyl-, acetate.

(a) * * *

(1) The chemical substance identified as 1-butanol, 3-methoxy-3-methyl-, acetate (PMN P–00–618; SNUN S–05–03; and SNUN S–11–4; CAS No. 103429–90–9) is subject to reporting under this section for the significant new uses described in paragraphs (a)(2) and (a)(3) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. The significant new use is any use other than the use described in P–00–618.

* * * * *

(3) The significant new uses for any use other than the use described in P–00–618:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3)(i), (b) (concentration set at 0.1 percent), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. Butyl rubber gloves with a minimum thickness of 16.6 mils or Silver shield gloves with a minimum thickness of 2.7 mils have been tested in accordance with the American Society for Testing Materials (ASTM) F739 method and found by EPA to satisfy the consent orders and § 721.63(a)(2)(i) requirements for dermal protection to 100 percent chemical substance. Silver Shield gloves with a minimum thickness of 2.7 mils have been tested in accordance with the American Society for Testing Materials (ASTM) F739 method and found by EPA to satisfy the consent orders and § 721.63(a)(2)(i) requirements for dermal protection for paint formulations where concentrations of the chemical substance is 10% or less. Gloves and other dermal protection may not be used for a time period longer than they are actually tested and must be replaced at the end of each work shift.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b) (concentration set at 0.1 percent), (c), (d), (f), (g)(1)(iv), (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(v), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (o), and any application method that generates a vapor, mist, or aerosol when the percent concentration of the SNUN substance in the final product exceeds 10%.

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

* * * * *

■ 4. Amend § 721.633 as follows:
■ a. Revise paragraph (a)(1).
■ b. Revise paragraph (a)(2)(i).
■ c. Remove paragraph (a)(2)(iii).
■ d. Revise paragraph (b)(1).

The revisions read as follows:

§ 721.633 Aluminosilicates, phospho-.

(a) * * *

(1) The chemical substance identified as aluminosilicates, phospho- (PMN P–98–1275 and SNUN S–11–10; CAS No. 201167–69–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following NIOSH-certified respirators with an APF of at least 50 meet the requirements of § 721.63(a)(4): NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters; NIOSH-certified powered air-purifying respirator equipped with a tight-fitting full facepiece and high efficiency particulate air (HEPA) filters; NIOSH-certified supplied-air respirator operated in positive pressure demand or continuous flow mode and equipped with a hood, or helmet or tight-fitting facepiece. As an alternative to the respiratory requirements listed here, a manufacturer or processor may choose to follow the New Chemical Exposure Limit (NCEL) provisions listed in the TSCA section 5(e) consent order for these substances. The NCEL is 0.1 mg/m^3 as an 8-hour time weighted average verified by actual monitoring data.

* * * * *

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), (f), (g), and (h) are applicable to manufacturers and processors of this substance.

* * * * *

■ 5. Amend § 721.2076 by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 721.2076 D-Glucuronic acid, polymer with 6-deoxy-L-mannose and D-glucose, acetate, calcium magnesium potassium sodium salt.

(a) * * *

(1) The chemical substance identified as D-Glucuronic acid, polymer with 6-deoxy-L-mannose and D-glucose, acetate, calcium magnesium potassium sodium salt (PMN P–00–7; SNUN S–05–1; SNUN S–06–4; SNUN S–07–03; and SNUN S–07–5; CAS No. 125005–87–0) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. The significant new use is any use other than manufacture of the substance where greater than 5 percent of the chemical substance consists of particle sizes below 10 microns.

* * * * *

■ 6. Amend § 721.5185 as follows:

■ a. Revise paragraph (a)(1).

■ b. Revise paragraph (a)(2)(iii).

■ c. Add paragraph (a)(2)(iv).

■ d. Revise paragraph (b)(1).

The revisions and addition read as follows:

§ 721.5185 2-Propen-1-one, 1-(4-morpholinyl)-.

(a) * * *

(1) The chemical substance identified as 2-Propen-1-one, 1-(4-morpholinyl)- (PMN P–95–169; SNUN S–08–7; and SNUN S–14–1; CAS No. 5117–12–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the chemical substance after it has been completely reacted (cured) because 2-Propen-1-one, 1-(4-morpholinyl)- will no longer exist.

(2) * * *

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1). It is a significant new use to use the chemical substance for any use other than as a monomer for use in ultraviolet ink jet applications unless the chemical substance is processed and used in an enclosed process.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N = 100).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this chemical substance.

* * * * *

■ 7. Amend § 721.5645 by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 721.5645 Pentane 1,1,1,2,3,4,4,5,5,5,-decafluoro.

(a) * * *

(1) The chemical substance identified as pentane 1,1,1,2,3,4,4,5,5,5,-decafluoro (PMN P–95–638, SNUN P–97–79, and SNUN S–06–8; CAS No. 138495–42–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use of the substance other than the uses as described in P–95–638, P–97–79, or S–06–8.

* * * * *

■ 8. Amend § 721.5713 by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 721.5713 Phenol—biphenyl polymer condensate (generic).

(a) * * *

(1) The chemical substance identified generically as a phenol—biphenyl polymer condensate (PMN P–00–1220 and S–07–2) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) * * *

(i) *Release to water.* Requirements as specified § 721.90(a)(4), (b)(4), and (c)(4) (N = 5).

* * * * *

■ 9. Amend § 721.8145 by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 721.8145 Propane,1,1,1,2,2,3,3-heptafluoro-3-methoxy-.

(a) * * *

(1) The chemical substance identified as propane,1,1,1,2,2,3,3-heptafluoro-3-methoxy- (PMN P–01–320; SNUN S–04–2; and SNUN 11–1; CAS No. 375–03–1) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use of the chemical substance other than as a heating transfer fluid, refrigerant, flush cleaning, foam blowing, deposition coatings, histology baths, vapor degreasing, and industrial and commercial aerosol spray cleaning.

* * * * *

■ 10. Amend § 721.9501 by revising paragraph (a)(1) to read as follows:

§ 721.9501 Silane, triethoxy[3-oxiranylmethoxy)propyl]-.

(a) * * *

(1) The chemical substance identified as silane, triethoxy[3-oxiranylmethoxy)propyl]- (PMN P–01–781; CAS No. 2602–34–8) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

* * * * *

■ 11. Amend § 721.9502 by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 721.9502 Siloxanes and silicones, aminoalkyl, fluorooctyl, hydroxy-terminated salt (generic).

(a) * * *

(1) The chemical substance identified generically as siloxanes and silicones, aminoalkyl, fluorooctyl, hydroxy-terminated salt (PMN P–00–1132 and SNUN S–11–5) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1). A significant new use is any use of the chemical substance other than in graffiti systems, as surface treatment and additive for coatings, adhesives, sealants, paste, insulation and textiles for porous, non-porous, ceramic, metal, glass, plastic, wood and leather surfaces or a surface treatment agent for inorganic filler particles.

* * * * *

■ 12. Amend § 721.9595 by revising the section heading and paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 721.9595 Benzenesulfonic acid, mono C-$_{10–16}$-alkyl derivs., compounds with 2-propen-1-amine and Alkyl benzene sulfonic acids and alkyl sulfates, amine salts.

(a) * * *

(1) The chemical substances identified as benzenesulfonic acid, mono C-$_{10–16}$-alkyl derivs., compds. with 2-propen-1-amine (PMN P–97–296 and SNUN S–03–10; CAS No. 195008–77–6) and the chemical substances identified generically as alkyl benzene sulfonic acids and alkyl sulfates, amine salts (PMNs P–97–297/298/299 and SNUNs S–03–11/12/13) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) N = 30.

* * * * *

■ 13. Amend § 721.9892 by revising the section heading and paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 721.9892 1,3-Dimethyl-2-imidazolidinone.

(a) * * *

(1) The chemical substance identified as 1,3-Dimethyl-2-imidazolidinone (PMN P–93–1649, SNUN S–04–3 and S–11–3; CAS No. 80–73–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). A significant new use is non-industrial use other than the commercial uses described in the S–04–3 and S–11–3.

* * * * *

■ 14. Amend § 721.10008 as follows:
■ a. Revise paragraph (a)(2)(ii).
■ b. Remove paragraph (a)(2)(iii).
■ c. Revise paragraph (b)(1).
■ b. Remove paragraph (b)(3).
The revisions read as follows:

§ 721.10008 Manganese strontium oxide ($MnSrO_3$).

(a) * * *

(2) * * *

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (manufacture, processing, or use of the PMN substance if the particle size is less than 10 microns).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), and (i) are applicable to manufacturers and processors of this substance.

* * * * *

■ 15. Amend § 721.10182 by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

§ 721.10182 1-Propene, 2,3,3,3-tetrafluoro-.

(a) * * *

(1) The chemical substance identified as 1-propene, 2,3,3,3-tetrafluoro- (PMN P–07–601, SNUN S–14–11, and SNUN S–15–5; CAS No. 754–12–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* A significant new use is:

(A) Use other than as a refrigerant: In motor vehicle air conditioning systems in new passenger cars and vehicles (*i.e.,* as defined in 40 CFR 82.32(c) and (d)), in stationary and transport refrigeration, or in stationary air conditioning.

(B) Section 721.80(m) (commercial use other than: In passenger cars and vehicles in which the original charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle original equipment manufacturer (OEM), in stationary and transport refrigeration, or in stationary air conditioning).

(C) Section 721.80(o) (use in consumer products other than products used to recharge the motor vehicle air conditioning systems in passenger cars and vehicles in which the original charging of motor vehicle air conditioning systems with the PMN substance was done by the motor vehicle OEM).

* * * * *

■ 16. Amend § 721.10283 as follows:
■ a. Revise paragraph (a)(2)(i).
■ b. Revise paragraph (a)(2)(ii).
■ c. Revise paragraph (a)(2)(iii).
■ d. Remove paragraph (a)(2)(iv).
■ e. Revise paragraph (b)(1).
The revisions read as follows:

§ 721.10283 Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-sulfo-.omega.-hydroxy-, C12–13-branched and linear alkyl ethers, sodium salts.

(a) * * *

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(ii) Disposal. Requirements as specified in § 721.85. A significant new of the substances is any method of disposal of a waste stream containing the PMN substances other than by incineration or by injection into a Class I or II waste disposal well.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(2)(ii), (b)(2)(ii), and (c)(2)(ii).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i), and (j) are applicable to manufacturers, importers, and processors of this substance.

* * * * *

■ 17. Amend § 721.10284 as follows:
■ a. Revise paragraph (a)(2)(i).
■ b. Revise paragraph (a)(2)(ii).
■ c. Revise paragraph (a)(2)(iii).
■ d. Remove paragraph (a)(2)(iv).
■ e. Revise paragraph (b)(1).
The revisions read as follows:

§ 721.10284 Poly[oxy(methyl-1,2-ethanediyl)], .alpha.-sulfo-.omega.-hydroxy-, C14–15-branched and linear alkyl ethers, sodium salts.

(a) * * *

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(ii) *Disposal.* Requirements as specified in § 721.85. A significant new of the substances is any method of disposal of a waste stream containing the PMN substances other than by incineration or by injection into a Class I or II waste disposal well.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(2)(ii), (b)(2)(ii), and (c)(2)(ii).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i), and (j) are applicable to manufacturers, importers, and processors of this substance.

* * * * *

[FR Doc. 2015–15917 Filed 6–29–15; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04–296; FCC 15–60]

Review of the Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) revises its rules governing the Emergency Alert System (EAS) to: Establish a national location code for EAS alerts issued by the President; amend the Commission's rules governing a national EAS test code for future nationwide tests; require broadcasters, cable service providers, and other entities required to comply with the Commission's EAS rules (EAS Participants) to file test result data electronically; and require EAS Participants to meet minimal standards to ensure that EAS alerts are accessible to all members of the public, including those with disabilities.

DATES: Effective July 30, 2015, except for § 11.21(a), and § 11.61(a)(3)(iv) which contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, at (202) 418–7452, or by email at *Lisa.Fowlkes@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Nicole On'gele at (202) 418–2991 or send an email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Sixth Report and Order in EB Docket No. 04–296, FCC 15–60, adopted on June 1, 2015 and released on June 3, 2015. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.*

I. Synopsis

1. Use of a National Location Code

1. In the *EAS Operational Issues NPRM,*[1] we proposed that EAS Participants must be capable of receiving and processing a national location code, and that ''six zeroes'' be designated as that code. We explained that adoption of a ''six zeroes'' location code would bring additional consistency to the EAS alert distribution hierarchy, and, along with our requirement that header codes not be ''amended, extended or abridged,'' could enable more precise geo-targeting of EAS alerts. We also explained that adoption of ''six zeroes'' as the national location code could have the additional long-term benefit of ensuring the desired harmony between our EAS rules and industry CAP standards, which, in turn, will facilitate the integration of the EAS into IP-based alerting systems such as IPAWS.

2. Commenters unanimously supported our adoption of the ''six zeroes'' national location code. For the reasons set forth herein, we agree and accordingly adopt ''six zeroes'' as the national location code for any future nationwide EAS test, as well as for any future nationwide EAS alerts. The rule we adopt today requires that EAS Participants' EAS encoder/decoder equipment be capable of processing ''000000'' in the location code field as a header code indicating that the alert is relevant to the entire United States.

3. Implementation of ''six zeroes'' as the national location code will present negligible costs to EAS Participants because most EAS equipment deployed in the field already supports the ''six zeroes'' national location code or would require only a software update to provide such support. For example, NCTA asserts that cable providers may have to engage in firmware updates and testing to verify that the new code functions within their systems. For this reason, NCTA asserts that adopting ''six zeroes'' as the national location code will present cable service provider EAS Participants with approximately $1.1 million in aggregated capital and operational costs for the entire cable industry. Similarly, in the *EAS Operational Issues NPRM,* we estimated that costs confronting broadcasters also would approach $1.1 million, for an aggregate cost of $2.2 million for the implementation of ''six zeroes'' as the national location code. No commenter challenges our estimated costs for either cable providers or broadcasters. Moreover, commenters agree this cost is justified by the benefits.

4. Use of ''six zeroes'' as the national location code promises to improve the efficacy of the EAS. Adoption of ''six zeroes'' as the national location code has the long-term benefit of ensuring consistency between the EAS rules and industry CAP standards, which already recognize ''six zeroes'' as the national location code. This, in turn, will facilitate the integration of the EAS into the IP-based IPAWS. We note that use of a ''six zeroes'' location code is also consistent with our requirement that EAS header codes not be ''amended, extended, or abridged.'' We have observed that using a single locality's location code for a national alert can cause confusion. We also recognize that to issue an alert for the entire United States without recourse to a national location code would require two separate alerts because the EAS alert headers can only hold thirty-one distinct location codes. Thus, we agree with Trilithic that the use of a single national location code simplifies our national alerting infrastructure. Finally, Monroe opines that ''use of a national location code would provide improved geo-targeting of an EAN should the President wish to address a particular part of the country rather than the nation as a whole.'' In light of these benefits, we find that adoption of a ''six zeroes'' national location code serves the public interest in promoting the effective use of the EAS.

2. National Periodic Test Code (NPT)

5. In the *EAS Operational Issues NPRM,* we proposed to amend our rules to allow use of the NPT for future EAS testing as a less burdensome and potentially less confusing alternative to the EAN. We also recognized that the NPT could be tailored in different ways, with different costs and benefits, and sought further comment on what operational requirements the Commission should require for the NPT to facilitate effective and minimally burdensome testing. Specifically, we sought to develop a more robust record on whether the NPT should: (a) Have the same two-minute maximum duration and limited priority as all other non-EAN EAS event codes; or (b) fully emulate the EAN in its mandatory priority and indefinite length. We stated that our intent was to provide FEMA with maximum flexibility to test the EAS in the most appropriate manner, while also articulating a clear and feasible standard for EAS Participants and other stakeholders. In this regard, we noted that, unlike an EAN-emulating NPT, an NPT that shares the priority

[1] Review of the Emergency Alert System. 79 FR 41159 (July 15, 2014).

and two-minute limit of other alert event codes would accommodate FEMA's stated desire to perform a national EAS test in the near future, and would do so at a dramatically lower cost than an EAN-emulating NPT. We sought comment, in the alternative, on how the cost of conducting another EAN-based nationwide test, including any outreach specifically tied to use of the EAN, would compare with the costs of conducting a test with an NPT that fully emulates the EAN. We also noted that an NPT with limited duration and priority would have all of the benefits of full-EAN emulation, except that it would not test the reset function triggered by an alert lasting longer than two minutes. Finally, the Commission sought comment on whether the reset functionality triggered by an alert lasting longer than two minutes was testable in a test bed.

6. Commenters unanimously agree that the NPT—not the EAN, and not an NPT that is reprogrammed to fully emulate the EAN—should be the national test event code. Accordingly, and for reasons discussed in further detail below, we adopt the NPT as the test event code for the purpose of nationwide EAS testing, and further require that the NPT as used in such tests be limited in duration to two minutes or less, and have normal priority. In order to comply with FEMA's stated intent that the NPT be disseminated with the ''same immediacy as the EAN,'' we further require that the NPT be retransmitted immediately upon receipt. We also reiterate that any national or occasional ''special'' EAS tests referred to in the part 11 rules that use the NPT will replace the required monthly test (RMT) of the EAS for any month in which such an NPT-based test is scheduled.

7. The record indicates that the cost of upgrading EAS equipment to allow the NPT to function in the manner we adopt today will not be significant. The NPT is already present in Section 11.31 of the EAS rules as a required event code and, as such, has already been programmed into most EAS equipment. According to EAS equipment manufacturers, ''the NPT code is already recognized by virtually all existing EAS devices or can be easily enabled by EAS [P]articipants through simple reconfigurations of the code filters on their encoder devices.'' The costs that EAS Participants must incur as a result of our requirements are limited to those incurred by the relatively small number of EAS Participants who will have to manually change the settings of their EAS equipment to automatically respond to the NPT. Any additional regulatory costs that are imposed by this requirement will be further offset by the reduction in regulatory burdens that will result from broadcast, cable and satellite EAS Participants not having to explain to the public through video replacement slides and other outreach efforts that the alert displayed on the screen is not an actual alert.

8. We contrast the minimal costs imposed by the NPT functionality we require today with those that EAS Participants would incur were the NPT to fully emulate the EAN. Commenters argue that full-EAN emulation would require three years to implement, and would cost at least $3.3 million more than implementing an NPT with standard duration and priority. During that time, firmware in EAS equipment would need to be modified such that an NPT would take priority over all other alerts and to avoid triggering the reset functionality that automatically ends an alert after two minutes. The standards and other proprietary protocols governing the operation of downstream equipment also would need to be updated. That equipment would then need to be upgraded, tested, and deployed in order to achieve operational readiness for an EAS test with an EAN-emulating NPT. We also note that an NPT with maximum priority would supersede any live alert that may be delivered in an area of the country subject to the test. We believe that this would be inconsistent with the life-saving purpose of the EAS. For these reasons, we decline to adopt an NPT that fully emulates the EAN.

9. We agree with commenters' assertions that an NPT that shares the priority and two minute time limit of all other event codes will still advance the most important goal of this proceeding, namely, to ready the national alerting infrastructure for a test that FEMA intends to conduct in the near future. Further, we agree with commenters that an NPT with the characteristics we require today will ''sufficiently test the reliability of the EAS dissemination ecosystem, providing adequate data for the Commission and FEMA to fully assess the hierarchy and dissemination of EAS alerts throughout the EAS system, via both legacy and CAP-enabled EAS devices.'' We also agree with commenters that the approach we take today has the benefit of being ''clearly marked as a test, preventing any public confusion.'' As noted earlier, the use of the EAN in conjunction with the first nationwide test necessitated extensive outreach to ensure that the public understood that the event was only a test; none of this outreach would be required with the use of the NPT. Finally, as commenters suggest, we note that it may be possible for FEMA to test EAS equipment's ability to successfully process the priority and duration elements of an EAN in a test bed, thus ensuring that all elements of the system are tested.

B. Electronic Test Reporting System

10. As the Bureau reported in the EAS Nationwide Test Report, of the EAS Participants who submitted test result data, the vast majority chose to use the voluntary, temporary, electronic filing system employed for the first nationwide EAS test, rather than to submit paper filings. The data available from the electronic reporting system allowed the Commission to generate reports on EAS Participants' monitoring assignments at all points throughout the EAS' national distribution architecture that would not have been feasible with paper filings alone. As a result of the positive response to this temporary electronic filing system and the enhanced analytics it enabled, the EAS Nationwide Test Report recommended that the Commission develop a permanent electronic reporting system based on the system used during the first nationwide EAS test to provide a similarly efficient mechanism to expedite the filing of test result data by EAS Participants. Subsequently, at its March 20, 2014 meeting, the Communications Security, Reliability, and Interoperability Council (CSRIC) also recommended that the Commission develop a federal government database to contain EAS Participants' monitoring assignments.

11. In the *EAS Operational Issues NPRM,* we proposed an improved electronic filing system and related database, the ETRS, based on the system the Commission used for the first nationwide EAS test. Use of this new system would be mandatory for EAS Participants, and the system would offer improvements over the prior version of the system designed to further expedite filing and minimize burdens on EAS Participants. As proposed, the ETRS would follow the structure of the system used in 2011, and be composed of three forms. Form One would ask each EAS Participant for identifying and background information, including EAS designation, EAS monitoring assignments, facility location, equipment type, contact information, and other relevant data. Form Two would ask each EAS Participant whether it received the Nationwide EAS Test alert code and, if required to do so, whether the EAS Participant propagated the alert code downstream. Form Three would ask each EAS Participant to

submit detailed information regarding its receipt and propagation, if applicable, of the alert code, including an explanation of any complications in receiving or propagating the code.

12. We also proposed certain improved processing procedures for the ETRS based on lessons learned from the first nationwide EAS test. In particular, we proposed that EAS Participants: (1) Would have the capability to review filings prior to final submission and to retrieve previous filings to correct errors; (2) would not be required to input data into the ETRS that EAS Participants have previously provided to the Commission elsewhere; and (3) would receive a filing receipt upon successful completion of the required report. We further proposed to revise our rules to integrate the identifying information provided by Form One of the new ETRS into the State EAS Plans filed pursuant to Section 11.21 of the Commission's EAS rules, and to consolidate those State EAS Plans into an EAS Mapbook. Finally, we proposed that EAS Participants submit Form One, the self-identifying portion of the ETRS, within one year of the effective date of the reporting rules, and to update the information that EAS Participants are required to supply in Form One on a yearly basis, and as required by any updates or waivers to State EAS Plans.

13. Commenters unanimously support the Commission's ETRS proposal because it eases the data-entry burden on EAS Participants and facilitates effective analysis of the EAS infrastructure. We agree, and therefore adopt a revised version of the ETRS, as described below. Although the ETRS we adopt today largely resembles the 2011 version, it also contains certain improvements supported by commenters. For example, in order to minimize EAS Participants' filing burden, the ETRS database will be pre-populated with the types of identifying information (*e.g.,* broadcaster call letters and geographic location of transmitters) that EAS providers have provided in the Universal Licensing System and related FCC databases. We find that pre-populating the ETRS in this manner is technically feasible and will encourage timely filings by streamlining the process and reducing burdens on filers significantly. We thus require that the ETRS have this functionality. Further, we agree that EAS Participants should be able to review their filings prior to final submission, to retrieve previous filings to correct errors for thirty days after submission, and to provide filers with a filing receipt verifying submission of a completed report. We also agree that the integration of ETRS data into the EAS Mapbook will ''ease the data-entry burden on EAS Participants and make the best use of the Commission's time and resources,'' and that the advent of ETRS gives the Commission the tool it needs to create the data tables necessary to complete it. The EAS Mapbook will also allow the Commission to maintain a centralized database containing all EAS monitoring assignments and alert distribution pathways, enabling new analyses of alert distribution at the national, state, and local levels. Accordingly, we require that the ETRS have the capability to create maps that indicate the propagation of an EAN throughout the EAS architecture. Finally, subsequent to any nationwide EAS test, we require EAS Participants to submit detailed information regarding their receipt and propagation, if applicable, of the alert code, including an explanation of any complications in receiving or propagating the code.

14. In order to address commenters' concerns expressed in the record, we adopt the following additional requirements for the ETRS:

- The ETRS will require a filer to identify itself as a radio broadcaster, television broadcaster, cable system, wireless cable system, Direct Broadcast Satellite (DBS), Satellite Digital Audio Radio Service (SDARS), wireline video system, or ''other,'' instead of the previous options (limited to ''broadcaster'' or ''cable operator'').
- The ETRS will reflect that the Physical System ID (PSID) is not necessarily equivalent to the geographic area in which an EAS Participant delivers emergency alerts. In addition to a PSID field, the system will include a new field called ''Geographic Zone'' so that EAS Participants can provide more granular information, if appropriate. For example, when the applicable PSID includes multiple geographic areas that span across counties or states, one ETRS filing for a PSID containing multiple ''Geographic Zones'' will be accepted.
- The ETRS will permit EAS Participants to supply latitude and longitude information as separate fields, using the North American Datum of 1983 (NAD83).
- The ETRS will require filers to supply contact information related to the individual who completes the form.
- The ETRS will allow for batch filing to facilitate more efficient reporting, consistent with the record on this issue.
- EAS Participants will be required to attest to the truthfulness of their filings in the ETRS, and are reminded that they are responsible for the accuracy of the information they file with the Commission, including any pre-populated data.

15. We find that the ETRS will minimize filing burdens on EAS Participants. In comparison to equivalent paper filings, the costs associated with requiring EAS Participants to file test result data in ETRS will be minimal, and the database improvements we adopt today are aimed at streamlining the filing process and reducing these costs even further. Most of the information that we propose EAS Participants submit to the ETRS has already been populated in other FCC databases, and thus compliance with the ETRS merely requires EAS Participants to review and update the pre-populated data fields to ensure the information is accurate and up to date. For the few data fields that EAS Participants must complete, we conclude that compliance would entail a one-time cost of approximately $125.00 per EAS Participant. This $125.00 figure for the cost of complying with ETRS filing requirements is based on the cost of filing in the comparable system used for the first nationwide EAS test, a cost which has already been reviewed and approved by the Office of Management and Budget in the Paperwork Reduction Act analysis. We also note that no commenter objects to this figure. Accordingly, we conclude that the aggregate cost for all EAS Participants to file test result data with the Commission is approximately $3.4 million.

16. We decline to make several changes to the ETRS proposal that were requested in the record. We do not agree that EAS Participants should only be required to report test results once. The purpose of ''day of test'' reporting is to provide an instant ''yes/no'' answer to whether the test worked for a particular EAS Participant. In the aggregate, such reporting provides the Commission and its Federal partners with near to near real-time situational awareness of all or any portion of the system. We believe that the burden of supplying such ''yes/no'' information is small compared to the benefit of knowing, in close to real time, any specific geographic areas where a national test has not been successful. For example, such instant reporting would allow the Commission and FEMA to map a particular area where a test may have failed and immediately identify any point of failure within the EAS alert distribution hierarchy that may have caused downstream failures. We also do not agree that a streamlined waiver process is necessary for those few EAS Participants who do not have Internet access and may need to file their test

results on paper. While the Commission recognizes that some areas of the nation may lack widespread Internet access, we believe that it is unnecessary to develop a streamlined waiver process for this reason alone. We believe the existing waiver process under Section 1.3 of the Commission's rules is sufficient and will review such requests accordingly.

17. Further, we will not, as Consumer Groups suggest, allow the ETRS to be used as a mechanism for consumer feedback about EAS accessibility and other test outcomes. The ETRS is a filing system for EAS Participants to facilitate increased understanding and improved analysis of the EAS alert distribution hierarchy, as well as for EAS Participants to identify or report any complications with the receipt or propagation of emergency alerts. As we discuss in further detail below, however, because of the importance of making EAS alerts more accessible, we will monitor all EAS accessibility complaints filed with the Commission through the normal channels. We also direct the Bureau, in coordination with the Consumer and Governmental Affairs Bureau (CGB) and other relevant Commission Bureaus and Offices, to establish a mechanism to receive public feedback on the test.

18. We also do not adopt the suggestion that, because the ETRS database will be used to construct the EAS Mapbook, State Emergency Coordination Committees (SECCs) must be granted access to the ETRS beyond that envisioned by the presumptively confidential nature of ETRS filings. It is not feasible to provide SECCs with such access without compromising the confidentiality of EAS Participant's filings, or risking that the SECC might unintentionally delete or corrupt a filing. Rather, we will, upon request from an SECC, provide the SECC with a report of their state's aggregated data. SECCs can use these reports to remedy monitoring anomalies evident from EAS Participant filings in their state.

19. Finally, we find that the implementation of the ETRS will be best accomplished by the Bureau. Accordingly, we direct the Bureau to implement the ETRS pursuant to the principles and requirements we discuss above. We direct the Bureau to release a subsequent public notice, providing additional information regarding the implementation of the ETRS closer to the launch date of the ETRS, and as subsequently required for future EAS tests and State EAS Plan filings.

C. Visual Crawl and Audio Accessibility

20. The EAS provides a critical means of delivering life- and property-saving information to the public. The Commission's rules ensure that this information is delivered to the public in an accessible manner, primarily by requiring that EAS Participants deliver EAS alerts in both audio and visual formats. The visual display of an EAS alert is generally presented as a page of fixed text, but it can also be presented as a video crawl that scrolls along the top of the screen.

21. The EAS visual message that was transmitted during the first nationwide EAS test was inaccessible to some consumers. For example, stakeholders noted that the visual message in some of the video crawls scrolled across the screen too quickly, or the font was otherwise difficult to read. Others stated that both the audio and visual presentation of the national EAS test message were inconsistent.

22. In the *EAS Operational Issues NPRM,* we proposed to amend the EAS rules to require that the EAS video crawl meet minimum accessibility requirements for crawl speed, completeness and placement. Our proposed accessibility rules for the EAS video crawls were based upon our quality requirements for closed captions. Specifically, we proposed that the video crawl: (1) Be displayed on the screen at a speed that can be read by viewers; (2) be displayed continuously throughout the duration of any EAS activation; (3) not block other important visual content on the screen; (4) utilize a text font that is sized appropriately for legibility; (5) prevent overlap of lines of text with one another; and (6) position the video crawl adequately so it does not run off the edge of the video screen. We also sought comment on methods of ensuring that EAS audio and EAS visual elements contained essentially the same information.

23. Commenters agree that the EAS visual message, at a minimum, must be accessible if the EAS is to fulfill its purpose of informing all Americans, including Americans with disabilities, of imminent dangers to life and property. Commenters suggest, however, that given the complexity of the EAS alert distribution infrastructure, further discussion and collaboration is necessary and that the Commission should refrain from adopting accessibility requirements at this time. We observe that the Commission tasked the CSRIC with examining the operational issues—including recommended methods to improve alert accessibility—identified in the *EAS Operational Issues Public Notice* that arose out of the first nationwide EAS test, but the CSRIC did not make specific recommendations on accessibility standards.

24. The Commission is committed to public/private partnership, and has consistently sought to collaborate with stakeholders and to provide EAS Participants with the opportunity to suggest (and take action on) solutions to EAS technical issues. However, given the life-saving importance of the EAS, we cannot afford to delay adoption of minimum rules in favor of further collaboration alone. Viewers are entitled to expect that the EAS visual message be legible to the general public, including people with disabilities. Accordingly, we agree with Consumer Groups that we must adopt a set of baseline accessibility requirements to ensure that EAS messages are accessible to all Americans. We will assess compliance with these minimum requirements through careful monitoring of the informal complaint and consumer inquiry processes, followed by enforcement action to the extent necessary.

25. *Display Legibility.* First, in addition to requiring that the EAS visual message, whether video crawl or block text, be displayed in a manner that is consistent with our current rules (*i.e.,* ''at the top of the television screen or where it will not interfere with other visual messages''), we amend Sections 11.51(d), (g)(3), (h)(3) and (j)(2) of the Commission's EAS rules to require that the visual message also be displayed in a size, color, contrast, location, and speed that is readily readable and understandable.

26. While parties do not agree on a common definition of ideal crawl speed or font size for the EAS video crawl, there is agreement in the record that alert legibility is essential to ensure the effectiveness of the alerts. For the purposes of our rules, we do not mandate a specific crawl speed or font size, nor do we believe such specificity is necessary at this time. Instead, we afford EAS Participants the flexibility to implement this requirement in accordance with their particular best practices and equipment capabilities. We expect EAS Participants to determine and implement effective practices that will ensure alert legibility. While we acknowledge commenters' statements that not all EAS devices are capable of crawling text, EAS Participants that use devices that display block text must nonetheless generate such text in a manner that remains on the screen for a sufficient length of time to be read.

27. *Completeness.* We also amend Sections 11.51(d), (g)(3), (h)(3) and (j)(2) of the Commission's EAS rules to

require that the EAS visual message be displayed in its entirety at least once during any EAS alert message. It would be confusing and potentially dangerous for anyone to be deprived of any portion of the EAS visual message while that alert is being delivered; EAS equipment must be capable of delivering such a basic service. On the other hand, we agree with commenters that the completeness requirement, as originally proposed in the *EAS Operational Issues NPRM,* should not be adopted. In the *NPRM,* we proposed to revise Section 11.51(d) of the Commission's EAS rules to require that the EAS video crawl be displayed continuously throughout the duration of any EAS activation. We note, however, that EAS equipment is not always capable of controlling the duration of the video crawl, and further, even if it were, non-Presidential alerts are designed to last no longer than two minutes. It would be inconsistent with the design of the system and a significant burden on EAS Participants to require that the video crawl last for the duration of the event that prompted the EAS alert, (which could potentially last for hours). Nonetheless, because EAS equipment is already capable of ensuring that an EAS visual message is displayed in its entirety at least once during any EAS message, and because doing so will avoid public confusion and dangers to life and property, we amend our rules accordingly to require that any EAS visual message be displayed in full at least one during the pendency of an EAS alert message. In addition, EAS Participants should display any EAS visual message in its entirety more than once, if possible, in order to ensure that viewers are able to re-read and capture the information conveyed by the visual message.

28. *Placement.* As we note above, we reiterate our requirement that the EAS visual message shall ''be displayed at the top of the television screen or where it will not interfere with other video messages,'' and we amend Section 11.51(d), (g)(3), (h)(3) and (j)(2) to require that the visual message not (1) contain overlapping lines of EAS text or (2) extend beyond the viewable display except for crawls that intentionally scroll on and off of the screen. We are persuaded by the weight of the record that the placement requirement we proposed in the *EAS Operational Issues NPRM,* which stated that the EAS visual message shall not ''block other important visual content on the screen,'' should not be adopted. Such a requirement would be inappropriate in light of commenters' assertions that, unlike closed caption producers, EAS Participants and equipment manufacturers cannot know where to place a video crawl on a screen in a way that will not interfere with non-EAS emergency information or regularly scheduled programming. On the other hand, Trilithic asserts that EAS Participants can render alerts that do not contain overlapping lines of EAS text, and do not run off the edge of the video screen (except for crawls that intentionally scroll on and off of the screen). According to Trilithic, these placement requirements are ''reasonable expectations and would help ensure that viewers are able to read and understand the text.'' We adopt these placement requirements accordingly.

29. *Enforcement Standard.* We acknowledge that the creation and delivery of an accessible visual message is not solely within the control of any one entity, and often requires coordination and execution among many connected parties and equipment in the EAS alert distribution chain. While we agree with commenters' assertions that EAS equipment is responsible for deriving the visual message from the EAS header codes or CAP text that an alert originator places within an alert, it remains the responsibility of the EAS Participant to purchase part 11-compliant equipment and to ensure that its equipment operates in a manner compliant with our part 11 rules.

30. The minimum accessibility rules we adopt today establish clear guidelines for the acceptable appearance of an EAS visual message, in order to ensure that EAS Participants offer accessible EAS video crawls and block text. We direct the Bureau to monitor the informal complaint process for complaints pertaining to EAS visual messages and, where appropriate, bring any potential noncompliance to the attention of the Enforcement Bureau for its review. We also note that, subsequent to a nationwide EAS test, EAS Participants must provide information in the ETRS regarding any complications in receiving or propagating the alert test. Such complications would include any failure to comply with the minimum accessibility requirements we adopt today.

31. Finally, we disagree with those commenters who argue that our adaptation of the Commission's minimum accessibility rules in the *Closed Captioning Quality Report and Order* to fit EAS visual messages is inappropriate because, unlike captions, the production of EAS visual messages is not within the control of the EAS Participants. We recognize that EAS visual messages are produced differently from closed captions, that the presentation of such a visual message can be affected by equipment downstream of the EAS Participant, and that there is no real time opportunity for EAS Participants to edit the text. At the same time, however, the rules we adopt today are technology neutral and do not necessitate that EAS visual messages be produced similarly to closed captions. The EAS accessibility rules we adopt today and our closed captioning requirements only share the foundational requirement that on-screen text be legible, complete, and appropriately placed. Further, we note that several commenters agree that the closed captioning rules can inform the formatting of the EAS visual message. In light of the importance of EAS visual messages, we find that it is reasonable to adopt rules that ensure that EAS video crawls and block text are at least as legible, complete, and appropriately placed as are closed captions.

32. We expect that the minimal accessibility rules we adopt today should have little impact on the operations of EAS equipment manufacturers whose equipment already produces a legible, complete, and appropriately placed EAS visual message, and on EAS Participants who deploy certified EAS equipment at their facilities. Accordingly, we do not anticipate that our revised rules will impose significant costs and burdens upon the majority of EAS Participants. As Trilithic notes, ''[m]any of the proposed requirements for . . . [visual message] accessibility require minimal changes and cost.'' Further, we are not dictating the precise formatting of the EAS visual message, but rather, we are adopting rules that provide EAS Participants and equipment manufacturers with flexibility to meet our minimum requirements in the most cost-effective manner for their systems.

33. *Audiovisual Synchronicity.* We decline to adopt rules requiring audiovisual synchronicity at this time. We agree with commenters that alert originators have primary control over audiovisual synchronicity because they are the only party in a position to initiate a message that contains identical audio and text elements. We also agree that downstream equipment in control of the audio presentation ''is not always the same equipment used to control the video presentation'' and further study would be required to determine how to coordinate these disparate elements of the alert distribution hierarchy. We further agree with Trilithic that message originators should be ''free to include as much important information in both

mediums as can be made to fit, which may not always result in identical content.'' As commenters suggest, we expect that EAS Participants and equipment manufacturers will work together to develop methods to improve audiovisual synchronicity, including the increased use of CAP, to the extent that it does not interfere with alert quality. Accordingly, we encourage EAS Participants to develop a greater capacity to generate both the audio and the visual elements of alerts in a manner that provides viewers with equal information within the same or similar timeframes. We will revisit the need for specific rules addressing this matter in the future if it is brought to our attention that problems with audiovisual synchronicity are impeding access to EAS alerts.

34. We note that FEMA has already addressed and corrected the primary audio quality problems experienced during the first nationwide EAS test, *i.e.,* a technical malfunction that occurred at the National Primary level that affected the underlying quality of EAS audio nationwide. However, as we stated in the *EAS Operational Issues NPRM,* we are concerned that the audio and visual elements should convey the same message. Accordingly, consistent with the overall accessibility rules we adopt today, including the requirements for the visual portion of an EAS alert, we require that the audio portion of any EAS alert must play in full at least once during any EAS message. Furthermore, we expect the audio portion of an EAS message to be delivered in a manner and cadence that is sufficient for the consumer who does not have a hearing loss to readily comprehend it. We will continue to monitor future EAS activations and tests to determine whether we need to adopt any additional rules to ensure that the audio portion of an EAS message is accessible.

35. *Text-to-Speech.* The Commission currently allows text-to-speech (TTS) to be used as a method of providing audio for EAS alerts. We agree with commenters that while TTS is an appropriate technology for rendering alert audio in some cases, and may support audiovisual parity when combined with CAP text, we do not mandate its use at this time. The technology is maturing, but mandating its use may require extensive and costly changes to EAS equipment for small EAS Participants. Nonetheless, given the critical and urgent nature of emergency information, as recommended by Wireless RERC, we encourage its use to construct EAS audio from the EAS header codes, especially when no separate audio file is provided by the alert originator, in order to provide access to the emergency information by individuals who are blind or visually impaired. We will continue to monitor the feasibility of adopting TTS requirements as the technology continues to evolve. In particular, as part of the workshop we direct the Bureau to convene below, stakeholders should examine, among other issues, the state of TTS technology, including ongoing research and development and readiness for reliable, cost-effective implementation as part of EAS.

36. *Workshop to Promote Accessibility and Wider Use of EAS.* In addition to the accessibility rules we adopt today, we direct the Bureau to continue collaborative efforts to ensure that the EAS is accessible and widely utilized. Specifically, we direct the Bureau to collaborate with FEMA and other relevant EAS stakeholders by hosting a workshop within three months of the adoption date of this order. The object of this workshop will be to ensure that EAS remains a reliable and effective resource for all Americans by addressing and making recommendations regarding two key issues: Increasing the flexibility of the EAS to expand its use by emergency managers at the state and local levels, and the improvement of alert accessibility. The workshop should discuss methods to empower and encourage state and local emergency managers to utilize the EAS and Wireless Emergency Alert (WEA) system more widely for localized alerts and exercises. The workshop also should build upon cumulative efforts to improve the accessibility of EAS visual messages by examining, *inter alia,* the technical feasibility of improving the synchronicity of EAS audio with the EAS visual crawl, as well as the readiness of TTS technology for increased usage in national and local alerting. The Commission may refer additional issues arising out of the workshop to the CSRIC and other FCC federal advisory committees, as appropriate.

D. Public Policy Analysis

37. In this Section, we conclude that the benefits of the rules we adopt today exceed their associated implementation costs. In the *EAS Operational Issues NPRM,* we sought comment on the specific costs and benefits associated with the implementation of our proposed rules establishing essential operational improvements to the EAS. Although the proposed rules covered a wide range of issues associated with the EAS, each with its own cost of development and deployment, we expected that their implementation would present a one-time, maximum aggregate cost of $13.6 million, and that all proposed rules shared the common expected benefit of saving human lives, reducing injuries, mitigating property damage, and minimizing the disruption of our national economy on an ongoing basis.

38. No commenter opposes our analysis of the costs or benefits associated with implementation of our proposed rules. In large part, we adopt the rules proposed in the *EAS Operational Issues NPRM.* The rules we adopt today present EAS Participants with minimum implementation costs and a significant degree of implementation flexibility. To the extent our final rules differ from the proposed rules, however, those differences should actually result in the same or lower costs for EAS Participants. In particular, because we adopt NPT rules that do not require the use of the EAN (or an NPT that emulates the use of the EAN), the maximum costs of implementing our requirements will be $6.6 million less than originally proposed. Accordingly, we find that the upper bound of the cost of compliance with the rules we adopt today is $7 million, rather than $13.6 million as initially proposed.

39. With regard to benefits, we find that the EAS is a resilient public alert and warning tool that is essential to help save lives and protect property during times of national, state, regional, and local emergencies. Although the EAS, as tested in 2011, works largely as designed, the improvements we adopt today are responsive to operational inconsistencies uncovered by the first nationwide EAS test. These operational inconsistencies, left unaddressed, would adversely affect the continued efficacy of the system. These rules also will enable the Commission to improve its ability to collect, process and evaluate data about EAS alerting pathways, and will lead to higher quality alerts for every American. In sum, the rules we adopt today will preserve safety of life through more effective alerting. We find, therefore, that it is reasonable to expect that the improvements to the EAS that will result from the rules we adopt today will save lives and result in numerous other benefits that are less quantifiable but still advance important public interest objectives.

E. Compliance Timing

40. *National Location Code and NPT Rules Compliance Timeline.* We conclude that EAS Participants should

be given up to twelve months from the effective date of the rule amendments requiring use of the national location code and NPT rules to come into compliance with these amendments. In light of the fact that FEMA intends to conduct a nationwide EAS test ''in the near future,'' and that such a test will use both the NPT and the ''six zeroes'' location code, it is imperative that we ensure that EAS Participants are capable of processing a test with these characteristics as rapidly as possible. In the *EAS Operational Issues NPRM,* we addressed this concern by proposing to require compliance with the national location code and NPT requirements we proposed within six months from the effective date of their codification into our rules. Some commenters, such as Monroe and Verizon, agree that a period as short as six months could be sufficient to implement our rules. NCTA and AT&T, on the other hand, argue that a six-month timeline would not provide EAS Participants with sufficient time to develop, test, and deploy the required system updates, and argue instead for a twelve-month implementation timeline. Specifically, AT&T asserts that their ''Approval For Use'' process, that is standardized throughout the AT&T networks, must take at least one year to complete, because it is an iterative process, especially in the new Internet Protocol TV markets in which they operate, whereby their engineers failure test EAS equipment programming, then send the product back to the manufacturer for further updates if they find errors, and then retest the updated equipment recursively until one hundred percent certainty can be established that the device will perform as expected within their system. According to AT&T, this is not the kind of process that can be accelerated merely by the increased expenditure of resources.

41. Our goal in this and related rulemakings is to ensure that the EAS is efficient and secure, and we acknowledge that this goal would not be furthered by requiring any EAS Participant to short circuit their testing process for new rules. Accordingly, we provide herein that EAS Participants are granted a period of up to, but no longer than, twelve months in which to come into compliance with the national location code and NPT requirements that are reflected in the rule amendments we adopt today. This twelve-month period will run from the effective date of these rule amendments, which is thirty days after their publication in the **Federal Register**.

42. *ETRS Compliance Timeline.* We require EAS Participants to complete the identifying information initially required by the ETRS filing requirement we adopt today within sixty days of the effective date of the ETRS rules we adopt today, or within sixty days of the launch of the ETRS, whichever is later. We agree that the requirement for EAS Participants to provide ETRS identifying information within sixty days of adoption of these rules would be a reasonable time period, but that it makes sense for the compliance triggering event to be the date on which the ETRS becomes operational. We further require EAS Participants to update their identifying information concurrently with any update to their EAS State Plans, and require EAS Participants to complete the ''day of test'' portion of their filing obligation within 24 hours of any test, and the remainder of the filing obligation within forty-five days of the next EAS nationwide test, the same timeline that we successfully implemented for the first nationwide EAS test.

43. We believe it is reasonable for EAS Participants to complete their filings on this timeline because no equipment changes or attendant processes are required in order to achieve compliance with this rule. Furthermore, the electronic filing system should allow EAS Participants to complete their filing obligation even more quickly than they did for the first nationwide test, in which we adopted the same compliance timeline for submitting test data.

44. *Accessibility Compliance Timeline.* We also provide herein that EAS Participants will be given a period of up to, but no longer than, six months in which to come into compliance with the display legibility, completeness and placement requirements that are reflected in the rule amendments we adopt today. This six-month period will run from the effective date of these rule amendments, which is thirty days after their publication in the **Federal Register**. We note that NCTA avers that EAS Participants generally are already compliant with the majority of accessibility rules as proposed in the *EAS Operational Issues NPRM*. While Trilithic argues that our proposed completeness rule would require significantly longer than a year to implement, because EAS equipment is not capable of controlling the duration of the EAS visual crawl, we do not require the EAS visual crawl to last for the duration of the EAS activation and, as such, Trilithic's argument is now inapplicable. On the other hand, we also decline to adopt a shorter timeframe for implementation of these accessibility requirements, as urged by some consumer groups. We fully recognize the exigency of providing accessible alerts to all Americans, and it is for that reason that we adopt these accessibility rules today, but it would be counterproductive to require compliance with these rules sooner than we reasonably could expect that EAS Participants would generally be able to meet such requirements. Commenters generally did not object to implementing the accessibility rules we proposed in the *EAS Operational Issues NPRM* within six months. We therefore find that six months will provide sufficient time for EAS Participants to comply with the EAS accessibility rules we adopt today.

II. Procedural Matters

A. Regulatory Flexibility Analysis

45. As required by the Regulatory Flexibility Act of 1980 (RFA),[2] the Commission has prepared a Final Regulatory Certification (Certification) for the *Sixth Report and Order*. The Certification is set forth as Appendix E. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the *Sixth Report and Order* and the Certification to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

B. Paperwork Reduction Analysis

46. The *Sixth Report and Order* contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new information collection requirements contained in this proceeding.

47. We note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' [3] In addition, we have described impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the FRFA in Appendix B, *infra.*

[2] *See* 5 U.S.C. 603.

[3] *See EAS Operational Issues NPRM,* 29 FCC Rcd at Appendix B.

C. Congressional Review Act

48. The Commission will send a copy of this *Sixth Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), *see* 5 U.S.C. 801(a)(1)(A).

III. Ordering Clauses

49. Accordingly, *it is ordered,* pursuant to Sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 301(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 615 that the *Sixth Report and Order* in EB Docket No. 04–296 IS *adopted* and shall become effective July 30, 2015, except for § 11.21(a), and § 11.61(a)(3)(iv) which contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

50. *It is further ordered* that notwithstanding paragraph [64] above, EAS Participants are granted a period of twelve months from the effective date of the rule amendments contained in 47 CFR 11.31, 11.51(m)(2) and (n), 11.52, and 11.54, in which to come into compliance with those amendments.

51. *It is further ordered* that notwithstanding paragraph [64] above, EAS Participants are granted a period of six months from the effective date of the rule amendments contained in 47 CFR 11.51(d), (g)(3), (h)(3), and (j)(2) in which to come into compliance with those amendments.

52. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Sixth Report and Order,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 11

Radio, Television.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 11 as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

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

Authority: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

■ 2. Amend § 11.21 by revising paragraphs (a) and (c) to read as follows:

§ 11.21 State and Local Area plans and FCC Mapbook.

* * * * *

(a) The State EAS Plan contains procedures for State emergency management and other State officials, the NWS, and EAS Participants' personnel to transmit emergency information to the public during a State emergency using the EAS. EAS State Plans should include a data table, in computer readable form, clearly showing monitoring assignments and the specific primary and backup path for emergency action notification (''EAN'') messages that are formatted in the EAS Protocol (specified in § 11.31), from the PEP to each station in the plan. If a state's emergency alert system is capable of initiating EAS messages formatted in the Common Alerting Protocol (CAP), its EAS State Plan must include specific and detailed information describing how such messages will be aggregated and distributed to EAS Participants within the state, including the monitoring requirements associated with distributing such messages. Consistent with the requirements of § 11.61(a)(3)(iv), EAS Participants shall provide the identifying information required by the EAS Test Reporting System (ETRS) no later than sixty days after the publication in the **Federal Register** of a notice announcing the approval by the Office of Management and Budget of the modified information collection requirements under the Paperwork Reduction Act of 1995 and an effective date of the rule amendment, or within sixty days of the launch of the ETRS, whichever is later, and shall renew this identifying information on a yearly basis or as required by any revision of the EAS Participant's State EAS Plan filed pursuant to this section.

* * * * *

(c) The FCC Mapbook is based on the consolidation of the data table required in each State EAS plan with the identifying data contained in the ETRS. The Mapbook organizes all EAS Participants according to their State, EAS Local Area, and EAS designation.

■ 3. Amend § 11.31 by revising paragraph (f) to read as follows:

§ 11.31 EAS protocol.

* * * * *

(f) The All U.S., State, Territory and Offshore (Marine Area) ANSI number codes (SS) are as follows. County ANSI numbers (CCC) are contained in the State EAS Mapbook.

	ANSI No.
All U.S.	00
State:	
AL	01
AK	02
AZ	04
AR	05
CA	06
CO	08
CT	09
DE	10
DC	11
FL	12
GA	13
HI	15
ID	16
IL	17
IN	18
IA	19
KS	20
KY	21
LA	22

	ANSI No.
ME	23
MD	24
MA	25
MI	26
MN	27
MS	28
MO	29
MT	30
NE	31
NV	32
NH	33
NJ	34
NM	35
NY	36
NC	37
ND	38
OH	39
OK	40
OR	41
PA	42
RI	44
SC	45
SD	46
TN	47
TX	48
UT	49
VT	50
VA	51
WA	53
WV	54
WI	55
WY	56
Terr.:	
AS	60
FM	64
GU	66
MH	68
MH	68
PR	72
PW	70
UM	74
VI	78
Offshore (Marine Areas): [1]	
Eastern North Pacific Ocean, and along U.S. West Coast from Canadian border to Mexican border	57
North Pacific Ocean near Alaska, and along Alaska coastline, including the Bering Sea and the Gulf of Alaska	58
Central Pacific Ocean, including Hawaiian waters	59
South Central Pacific Ocean, including American Samoa waters	61
Western Pacific Ocean, including Mariana Island waters	65
Western North Atlantic Ocean, and along U.S. East Coast, from Canadian border south to Currituck Beach Light, N.C.	73
Western North Atlantic Ocean, and along U.S. East Coast, south of Currituck Beach Light, N.C., following the coastline into Gulf of Mexico to Bonita Beach, FL., including the Caribbean	75
Gulf of Mexico, and along the U.S. Gulf Coast from the Mexican border to Bonita Beach, FL	77
Lake Superior	91
Lake Michigan	92
Lake Huron	93
Lake St. Clair	94
Lake Erie	96
Lake Ontario	97
St. Lawrence River above St. Regis	98

[1] Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their existing EAS equipment to add these marine area location codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003, must be capable of receiving and transmitting these marine area location codes. EAS Participants that install or replace their EAS equipment after February 1, 2004, must install equipment that is capable of receiving and transmitting these location codes.

■ 4. Amend § 11.51 by revising paragraphs (d), (g)(3) (h)(3), (j)(2), (m)(2) and (n) to read as follows:

§ 11.51 EAS code and Attention Signal Transmission requirements.

* * * * *

(d) Analog and digital television broadcast stations shall transmit a visual message containing the Originator, Event, Location and the valid time period of an EAS message. Effective June 30, 2012, visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the ''ECIG Recommendations for a CAP EAS

Implementation Guide, Version 1.0'' (May 17, 2010), except that if the EAS Participant has deployed an Intermediary Device to meet its CAP-related obligations, this requirement shall be effective June 30, 2015, and until such date shall be subject to the general requirement to transmit a visual message containing the Originator, Event, Location and the valid time period of the EAS message.

(1) The visual message portion of an EAS alert, whether video crawl or block text, must be displayed:

(i) At the top of the television screen or where it will not interfere with other visual messages

(ii) In a manner (*i.e.,* font size, color, contrast, location, and speed) that is readily readable and understandable,

(iii) That does not contain overlapping lines of EAS text or extend beyond the viewable display (except for video crawls that intentionally scroll on and off of the screen), and

(iv) In full at least once during any EAS message.

(2) The audio portion of an EAS message must play in full at least once during any EAS message.

* * * * *

(g) * * *

(3) Shall transmit a visual EAS message on at least one channel. The visual message shall contain the Originator, Event, Location, and the valid time period of the EAS message. Effective June 30, 2012, visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the ''ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0'' (May 17, 2010), except that if the EAS Participant has deployed an Intermediary Device to meet its CAP-related obligations, this requirement shall be effective June 30, 2015, and until such date shall be subject to the general requirement to transmit a visual message containing the Originator, Event, Location and the valid time period of the EAS message.

(i) The visual message portion of an EAS alert, whether video crawl or block text, must be displayed:

(A) At the top of the television screen or where it will not interfere with other visual messages;

(B) In a manner (*i.e.,* font size, color, contrast, location, and speed) that is readily readable and understandable;

(C) That does not contain overlapping lines of EAS text or extend beyond the viewable display (except for video crawls that intentionally scroll on and off of the screen), and

(D) In full at least once during any EAS message.

(ii) The audio portion of an EAS message must play in full at least once during any EAS message.

(h) * * *

(3) Shall transmit the EAS visual message on all downstream channels. The visual message shall contain the Originator, Event, Location, and the valid time period of the EAS message. Effective June 30, 2012, visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the ''ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0'' (May 17, 2010), except that if the EAS Participant has deployed an Intermediary Device to meet its CAP-related obligations, this requirement shall be effective June 30, 2015, and until such date shall be subject to the general requirement to transmit a visual message containing the Originator, Event, Location and the valid time period of the EAS message.

(i) The visual message portion of an EAS alert, whether video crawl or block text, must be displayed:

(A) At the top of the television screen or where it will not interfere with other visual messages

(B) In a manner (*i.e.,* font size, color, contrast, location, and speed) that is readily readable and understandable,

(C) That does not contain overlapping lines of EAS text or extend beyond the viewable display (except for video crawls that intentionally scroll on and off of the screen), and

(D) In full at least once during any EAS message.

(ii) The audio portion of an EAS message must play in full at least once during any EAS message.

* * * * *

(j) * * *

(2) The visual message shall contain the Originator, Event, Location, and the valid time period of the EAS message. Effective June 30, 2012, visual messages derived from CAP-formatted EAS messages shall contain the Originator, Event, Location and the valid time period of the message and shall be constructed in accordance with § 3.6 of the ''ECIG Recommendations for a CAP EAS Implementation Guide, Version 1.0'' (May 17, 2010), except that if the EAS Participant has deployed an Intermediary Device to meet its CAP-related obligations, this requirement shall be effective June 30, 2015, and until such date shall be subject to the general requirement to transmit a visual message containing the Originator, Event, Location and the valid time period of the EAS message.

(i) The visual message portion of an EAS alert, whether video crawl or block text, must be displayed:

(A) At the top of the television screen or where it will not interfere with other visual messages

(B) In a manner (*i.e.,* font size, color, contrast, location, and speed) that is readily readable and understandable,

(C) That does not contain overlapping lines of EAS text or extend beyond the viewable display (except for video crawls that intentionally scroll on and off of the screen), and

(D) In full at least once during any EAS message.

(ii) The audio portion of an EAS message must play in full at least once during any EAS message.

* * * * *

(m) * * *

(2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code, or the National Periodic Test (NPT) Event code in the case of a nationwide test of the EAS, must be transmitted immediately; Monthly EAS test messages must be transmitted within 60 minutes. All actions must be logged and include the minimum information required for EAS video messages.

(n) EAS Participants may employ a minimum delay feature, not to exceed 15 minutes, for automatic interruption of EAS codes. However, this may not be used for the EAN Event code, or the NPT Event code in the case of a nationwide test of the EAS, which must be transmitted immediately. The delay time for an RMT message may not exceed 60 minutes.

* * * * *

■ 5. Amend § 11.52 by revising paragraphs (e) introductory text and (e)(2) to read as follows:

§ 11.52 EAS code and Attention Signal Monitoring requirements.

* * * * *

(e) EAS Participants are required to interrupt normal programming either automatically or manually when they receive an EAS message in which the header code contains the Event codes for Emergency Action Notification (EAN), the National Periodic Test (NPT), or the Required Monthly Test (RMT) for their State or State/county location.

* * * * *

(2) Manual interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code, or the NPT Event code in

the case of a nationwide test of the EAS, must be transmitted immediately; Monthly EAS test messages must be transmitted within 60 minutes. All actions must be logged and recorded as specified in §§ 11.35(a) and 11.54(a)(3). Decoders must be programmed for the EAN Event header code and the RMT and RWT Event header codes (for required monthly and weekly tests), with the appropriate accompanying State and State/county location codes.

■ 6. Amend § 11.54 by revising paragraph (a) introductory text to read as follows:

§ 11.54 EAS operation during a National Level emergency

(a) Immediately upon receipt of an EAN message, or the NPT Event code in the case of a nationwide test of the EAS, EAS Participants must comply with the following requirements, as applicable:

* * * * *

■ 7. Amend § 11.61 by revising paragraph (a)(3)(iv) to read as follows:

§ 11.61 Tests of EAS procedures.

(a) * * *

(3) * * *

(iv) Test results as required by the Commission shall be logged by all EAS Participants into the EAS Test Reporting System (ETRS) as determined by the Commission's Public Safety and Homeland Security Bureau, subject to the following requirements.

(A) EAS Participants shall provide the identifying information required by the ETRS initially no later than sixty days after the publication in the **Federal Register** of a notice announcing the approval by the Office of Management and Budget of the modified information collection requirements under the Paperwork Reduction Act of 1995 and an effective date of the rule amendment, or within sixty days of the launch of the ETRS, whichever is later, and shall renew this identifying information on a yearly basis or as required by any revision of the EAS Participant's State EAS Plan filed pursuant to § 11.21.

(B) ''Day of test'' data shall be filed in the ETRS within 24 hours of any nationwide test or as otherwise required by the Public Safety and Homeland Security Bureau.

(C) Detailed post-test data shall be filed in the ETRS within forty five (45) days following any nationwide test.

* * * * *

[FR Doc. 2015–15805 Filed 6–29–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 13–184 and 10–90; FCC 14–189]

Modernizing the E-rate Program for Schools and Libraries

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of six months, the information collection associated with the Commission's *Second E-rate Modernization Report and Order* and Order on Reconsideration (*Second E-rate Modernization Order*). This notice is consistent with the (*Second E-rate Modernization Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: 47 CFR 54.503(c)(1) published at 80 FR 5961, February 4, 2015, is effective June 30, 2015.

FOR FURTHER INFORMATION CONTACT: James Bachtell, Wireline Competition Bureau at (202) 418–2694 or TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This document announces that, on June 22, 2015, OMB approved, for a period of six months, the information collection requirements contained in the Commission's *Second E-rate Modernization Order,* FCC 14–189, published at 80 FR 5961, February 4, 2015. The OMB Control Number is 3060–0806. The Commission publishes this notice as an announcement of the effective date of the rule § 54.503(c)(1).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on June 22, 2015, for the information collection requirements contained in the Commission's rules at 47 CFR 54.503(c)(1).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0806.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0806.

OMB Approval Date: June 22, 2015.

OMB Expiration Date: December 31, 2015.

Title: Universal Service-Schools and Libraries Universal Service Program, FCC Forms 470 and 471.

Form Number: FCC Forms 470 and 471.

Respondents: State, local or tribal government public institutions, and other not-for-profit institutions.

Number of Respondents and Responses: 82,000 respondents; 82,000 responses.

Estimated Time per Response: 3.5 hours for FCC Form 470 (3 hours for response; 0.5 hours for recordkeeping; 4.5 hours for FCC Form 471 (4 hours for response; 0.5 hours for recordkeeping).

Frequency of Response: On occasion and annual reporting requirements, and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403, and 405.

Total Annual Burden: 334,000 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no assurance of confidentiality provided to respondents concerning this information collection. However, respondents may request materials or information submitted to the Commission or to the Administrator be withheld from public inspection under 47 CFR 0.459 of the FCC's rules.

Needs and Uses: The FCC Form 470 is used by applicants to seek competitive bids on eligible services from service providers. The Commission revised OMB 3060–0806 to conform the FCC Form 470 to changes implemented in the *Second E-Rate Modernization Order* (WC Docket No. 13–184, FCC 14–189; 80 FR 5961, February 4, 2015).

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer.

[FR Doc. 2015–15972 Filed 6–29–15; 8:45 am]

BILLING CODE 6712–01–P

OFFICE OF PERSONNEL MANAGEMENT

RIN 3206–AN13

48 CFR Parts 1609, 1615, 1632, and 1652

Federal Employees Health Benefits Program: FEHB Plan Performance Assessment System

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The United States Office of Personnel Management (OPM) is issuing a final rule to amend the system for assessing the annual performance of health plans contracted under the Federal Employees Health Benefits (FEHB) Program. The purpose of this rule is to measure and assess FEHB plan performance (both experience-rated and community-rated plans) through the use of a common, objective, and quantifiable performance assessment.

DATES: This final rule is effective July 30, 2015.

FOR FURTHER INFORMATION CONTACT: Wenqiong Fu, Policy Analyst at (202) 606–0004.

SUPPLEMENTARY INFORMATION: The Federal Employees Health Benefits (FEHB) Program was established in 1960 and provides health insurance to over eight million Federal employees, annuitants, and their family members. Chapter 89 of Title 5 United States Code, which authorizes the FEHB Program, allows OPM to contract with health insurance carriers to provide coverage under certain types of plans. FEHB contracts are either community-rated or experience-rated. In community-rated contracts, the overall premium is based on the carrier's standard rating methodology, taking into account factors in the larger geographic area or ''community.'' In experience-rated contracts, the FEHB carrier considers actual ''experience'' or medical costs of the group of covered lives. The two types of contracts are regulated under different sections of the FEHB Acquisition Regulation (FEHBAR). Premiums are determined according to distinct processes and plan performance is evaluated differently.

On December 15, 2014, the Office of Personnel Management (OPM) published a proposed rule inviting comments on amendments to the FEHB Program regulations to amend OPM's assessment of plan performance. The 30-day comment period ended on January 14, 2015. OPM received 8 responses containing multiple comments. The comments are summarized and discussed below.

Responses to Comments on the Proposed Rule

OPM received several comments requesting additional information on measurement criteria such as specific weighted measurement percentages, evaluation methods, measurement criteria, and measurement timelines, and requested opportunities to comment on these criteria. Commenters requested that OPM clarify the specific weights and measures within the regulation so they can better plan for the assessment period, and to more clearly adhere to the traditional regulatory structure for a weighted guidelines structured approach. Due to the evolving nature of clinical quality measures, and OPM's need to focus performance on policy-driven measures to be determined annually, it is no longer appropriate to retain fixed weights and measures in regulation. As stated in the proposed rule-making, OPM intends to retain the weighted guidelines structured approach as a regulatory framework and to provide applicable measurement criteria through advance carrier letter guidance with opportunity for comment, followed by incorporation of the measurement criteria as a contract amendment. Since 2014, OPM has issued three carrier letters (CL 2014–19, CL 2014–28, and CL 2015–10). Carrier Letter 2015–10 specifically addresses the types of questions about measurement criteria addressed in the comments. OPM intends to provide carriers with transparency which will allow the new performance assessment system to retain flexibility and to mature over time. A number of commenters requested reasonable lead time and turnaround times after release of measures and assigned weights that will be the subject of performance and performance assessments. OPM intends to keep plans informed in a timely manner as we identify measurement criteria for future years so plans can have sufficient time to prepare for performance that will be evaluated in the following assessment cycle. We also highly encourage feedback and communication through our mailbox at *fehbperformance@opm.gov.* For these reasons, OPM is not amending the rule in response to these comments.

One commenter recommended that OPM seek to improve health care quality by offering enrollees access to high quality, accredited health care networks and prescription benefit managers. Another commenter recommended that OPM add plan accreditation as an element to the clinical quality, customer service, and resource use factors. OPM addressed plan accreditation in Carrier Letter (2014–10). The vast majority of FEHB health plans already meet OPM's accreditation requirement. However, not all health plan accreditors incorporate annual measurement of clinical quality, customer service, or resource use into their accreditation framework. OPM's plan performance assessment system standardizes this component of performance measurement for all FEHB plans. Contract Officers may also take plan performance on accreditation milestones into account in the Contract Oversight section. For these reasons, OPM is not amending the rule in response to this comment.

One commenter requested OPM consider waiving the performance adjustment if a plan exceeds a Medical Loss Ratio threshold. OPM is not amending the rule in response to this comment. We believe it would not be appropriate for OPM to waive the performance expectations for those carriers that do not achieve their margin targets due to higher than expected claim loss. While we understand the performance adjustment is a concern, using it to cover the excess of the Medical Loss Ratio threshold is not the intent of the proposed assessment system.

OPM received a comment recommending that experience rated carriers have the option for a cost plus incentive or fee contract. OPM is not amending the rule in response to this comment. OPM is not proposing to amend the types of contracts with which it contracts. For experience rated carriers, this rulemaking simply amends the performance assessment system used to determine the service charge.

One commenter recommended that the performance assessment system should provide rewards and resources to allow plans to improve. Another commenter noted its understanding that OPM was comparing the quality indicators it proposes to incorporate into its performance assessment system with quality indicators relied upon by other large purchasers to influence payments to plans, and therefore recommended that OPM consider a different performance approach similar to that of Medicare Advantage plans quality rating programs. OPM did not propose to adopt the same mechanism that others use for influencing payments to plans, and declines to adopt these recommendations.

One commenter recommended safeguards for FEHB experience rated contracts that allow them a minimum service charge payment of a negotiated

percentage of the prior year's service charge, with the option to reset the minimum payment every 3 years with reference to a percentage of the average service charge paid over the prior three years. OPM is not amending the rule in response to this comment. As described in the proposed rule, we believe making adjustments to the service charge based on plan performance in the areas identified to be measured is critical in allowing the assessment system to grow, evolve, and remain flexible. However, in Carrier Letter 2015–10, we have addressed a minimum adjustment methodology for carriers that achieve a performance score that is below a threshold.

Several commenters requested additional information on Contract Oversight with concerns about specific components within this performance area and the objectivity of assessment in this performance area compared to the other three quantified performance areas. OPM has issued guidance on this issue in our Carrier Letters (2014–28) and (2015–10). Carrier Letter 2015–10 specifically addresses Contract Oversight measurement. As described in the proposed rule, OPM's purpose is to establish a program-wide assessment system that allows performance-based criteria to be linked to health plan premium disbursements. OPM will assess performance for the Contract Oversight performance area using many sources of information, most of which are used with discretion in the current processes for the service charge and incentive performance criteria. For these reasons, OPM is not amending the rule in response to these comments.

OPM received several comments that the proposed rule omitted group size as an element. The prior group size element under Contract cost risk (1615.404–70(a)(2)) was omitted because OPM is replacing the current profit analysis factors with a new framework. However, OPM has allowed a minimum adjustment methodology for carriers that achieve a performance score that is below a threshold. The methodology is designed based on group size and is described in detail in Carrier Letter (2015–10).

One commenter requested OPM provide quarterly performance reports in order to inform carriers and allow them to make corrections or improvements to ensure better performance each year. OPM plans to use an annual evaluation cycle since many measures are collected annually, and not quarterly. Three of the new performance areas, Clinical Quality, Customer Service, and Resource Use, are based on measures contained in annual evaluation systems. OPM is committed to transparency with regard to the performance assessment system and has plans to make available a dashboard that carriers may use to view their individual performance ratings and overall scores. For these reasons, OPM declines to accept this comment.

We received one comment regarding the use of HEDIS and CAHPS measures to measure performance. The commenter stated that the health carrier does not have direct control to influence the decisions of the patient and their family or their health care providers, and recommended attributing modest weight to these measures. This commenter further asserted that CAHPS is an experience survey which measures perception rather than satisfaction, that HEDIS and CAHPS reflect successful data collection efforts and not necessarily quality improvement, and that CAHPS recently stopped its survey of members for whom Medicare is primary, which will negatively impact FEHB results. Other commenters recommended the use of other measurement tools and voiced their concerns that HEDIS and CAHPS measure the carrier's entire book of commercial business and not just the FEHB program. OPM is not amending the proposed rule in response to these comments. OPM's intention with the proposed performance assessment system is to build on already established requirements for FEHB Carriers to report evaluations by HEDIS and CAHPS. The goal of the new performance assessment system is to build on the quality initiatives OPM has implemented in recent years, such as public reporting of HEDIS scores.

We want to incentivize carriers who achieve high performance in areas such as clinical quality, customer service and resource use. While HEDIS and CAHPS measure the carrier's entire book of business, and may be imperfect measures of customer satisfaction, they are well recognized national measurement systems in the health insurance arena. Our goal is to ensure that FEHB enrollees receive the highest quality services, and we believe the data from HEDIS and CAHPS best serves the purpose of recognizing good health plan performance. In addition, our methodologies for specific measures have been purposefully selected to prioritize those that are most actionable at the health plan level. Therefore, for the initial Performance Assessment year, we believe that using HEDIS and CAHPS reports as our evaluation best reflects our goals of evaluating plan performance against national commercial benchmarks. We welcome feedback and suggestions from carriers on other externally validated measures for consideration in future years.

We received one comment that the proposed change to 1652.232–71 was a drafting error and should be withdrawn. OPM agrees this is a drafting error and withdraws the proposed language. OPM is not changing the current procedure that allows an experience-rated plan to draw down the service charge from the Contingency Reserve through its Letter of Credit Account. We are simply changing the calculation of that service charge based on the plan's performance assessment.

One individual recommended that the new assessment system include a measure that requires FEHB to provide services comparable to those available under Medicare. This rule-making is intended to address plan performance, not the types of services available under health plans. All FEHB plans provide essential health benefits identified by the Affordable Care Act. Therefore, OPM is not amending the proposed rule in response to this comment.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation affects only health insurance carriers under the Federal Employees Health Benefits Program.

Executive Orders 13563 and 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Orders 13563 and 12866.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

List of Subjects in 48 CFR Parts 1609, 1615, 1632 and 1652

Government employees, Government procurement, Health insurance.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

For the reasons set forth in the preamble, OPM amends chapter 16 of title 48 CFR (FEHBAR) as follows:

PART 1609—CONTRACTOR QUALIFICATIONS

■ 1. The authority citation for part 1609 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

Subpart 1609.71—[Removed]

■ 2. Remove subpart 1609.71.

PART 1615—CONTRACTING BY NEGOTIATION

■ 3. The authority citation for part 1615 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 4. In section 1615.404–4, paragraph (a) is revised to read as follows:

1615.404–4 Profit.

(a) When the pricing of FEHB Program contracts is determined by cost analysis (experience-rated) or by a combination of cost and price analysis (community rated), OPM will determine a performance based percentage of the price using a weighted guidelines structured approach based on the profit analysis factors described in 1615.404–70. For experience-rated plans, OPM will use the performance based percentage so determined to develop the profit or fee prenegotiation objective, which will be the total profit (service charge) negotiated for the contract. For community-rated plans, OPM will use the performance based percentage so determined to develop an adjustment to net-to-carrier premiums, (performance adjustment) to be made during the first quarter of the following contract period.

* * * * *

■ 5. Section 1615.404–70 is revised to read as follows:

1615.404–70 Profit analysis factors.

(a) OPM Contracting Officers will apply a weighted guidelines method in developing the performance based percentage for FEHB Program contracts. For experience-rated plans, the performance based percentage will be applied to projected incurred claims and allowable administrative expenses. For community-rated plans, the performance based percentage will be applied to subscription income and will be used to calculate a performance adjustment to net-to-carrier premiums, as described at 48 CFR 1632.170(a)(2), to be made during the first quarter of the following contract period. In the context of the factors outlined in FAR 15.404–4(d), OPM will assess performance of FEHB carriers according to four factors.

(1) *Clinical quality.* OPM will consider elements within such domains as preventive care, chronic disease management, medication use, and behavioral health. This factor incorporates elements from the FAR factor ''contractor effort.''

(2) *Customer service.* OPM will consider elements within such domains as communication, access, claims, and member experience/engagement. This factor incorporates elements of the FAR factor ''contractor effort.''

(3) *Resource use.* OPM will consider elements within such domains as utilization management, administrative, and cost trends. This factor incorporates elements of the FAR factors ''contractor effort,'' ''contract cost risk,'' and ''cost control and other past accomplishments.''

(4) *Contract oversight.* OPM will consider an assessment of contract performance in specific areas such as audit findings, fraud/waste/abuse, and responsiveness to OPM, benefits/network management, contract compliance, technology management, data security, and Federal socioeconomic programs. This factor could incorporate any of the FAR profit analysis factors listed at 15.404–4(d)(1)(i)–(vi).

(b) The sum of the maximum scores for the profit analysis factors will be 1 percent.

PART 1632—CONTRACT FINANCING

■ 6. The authority citation for part 1632 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 7. In section 1632.170, paragraph (a)(2) is revised to read as follows:

1632.170 Recurring premium payments to carriers.

(a) * * *

(2) The difference between one percent and the performance based percentage of the contract price described at 1615.404–4 will be multiplied by the carrier's subscription income for the year of performance and the resulting amount (performance adjustment) will be withheld from the net-to-carrier premium disbursement during the first quarter of the following contract period unless an alternative payment arrangement is made with the carrier's Contracting Officer. Amounts withheld from a community rated plan's premium disbursement will be deposited into the plan's Contingency Reserve.

* * * * *

PART 1652—CONTRACT CLAUSES

■ 8. The authority citation for part 1652 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 9. In section 1652.232–70, revise the introductory text and paragraph (a) and remove paragraph (f). The revisions read as follows:

1652.232–70 Payments—Community-rated contracts.

As prescribed in 1632.171, the following clause shall be inserted in all community-rated FEHBP contracts:

Payments (JAN 2000)

(a) OPM will pay to the Carrier, in full settlement of its obligations under this contract, subject to adjustment for error or fraud, the subscription charges received for the plan by the Employees Health Benefits Fund (hereinafter called the Fund) less the amounts set aside by OPM for the Contingency Reserve and for the administrative expenses of OPM, amounts for obligations due pursuant to paragraph (b) of this clause and the performance adjustment described at 1615.404–4, plus any payments made by OPM from the Contingency Reserve.

* * * * *

1652.232–71 [Amended]

■ 10. In section 1652.232–71, remove paragraph (f).

[FR Doc. 2015–15988 Filed 6–29–15; 8:45 am]

BILLING CODE 6325–63–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 0907271173–0629–03]

RIN 0648–XE003

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2015 Commercial Accountability Measure and Closure for South Atlantic Snowy Grouper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial snowy grouper in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects

commercial landings for snowy grouper will reach the commercial annual catch limit (ACL) (commercial quota) by June 30, 2015. Therefore, NMFS closes the commercial sector for snowy grouper in the South Atlantic EEZ on June 30, 2015, and it will remain closed until the start of the next fishing season on January 1, 2016. This closure is necessary to protect the snowy grouper resource.

DATES: This rule is effective 12:01 a.m., local time, June 30, 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 snapper-grouper fishery of the South Atlantic includes snowy grouper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS 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 (equivalent to the commercial quota) for snowy grouper in the South Atlantic is 82,900 lb (37,603 kg), gutted weight, for the current fishing year, January 1 through December 31, 2015, as specified in 50 CFR 622.190(a)(1).

Under 50 CFR 622.193(b)(1), NMFS is required to close the commercial sector for snowy grouper when the commercial ACL (commercial quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS projects that commercial landings of South Atlantic snowy grouper, as estimated by the Science and Research Director, will reach the commercial ACL by June 30, 2015. Accordingly, the commercial sector for South Atlantic snowy grouper is closed effective 12:01 a.m., local time, June 30, 2015, until 12:01 a.m., local time, January 1, 2016.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having snowy grouper on board must have landed and bartered, traded, or sold such snowy grouper prior to 12:01 a.m., local time, June 30, 2015. During the commercial closure, harvest and possession of snowy grouper in or from the South Atlantic EEZ is limited to the bag and possession limits, as specified in § 622.187(b)(2)(ii) and (c)(1). Also during the commercial closure, the sale or purchase of snowy grouper taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of snowy grouper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, June 30, 2015, and were held in cold storage by a dealer or processor.

For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limits and the sale and purchase provisions of the commercial closure for snowy grouper would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of snowy grouper and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(b)(1) 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 snowy grouper 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 would be 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 snowy grouper since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL (commercial quota). 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 (commercial quota).

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 25, 2015.

Jennifer M. Wallace,

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

[FR Doc. 2015–16017 Filed 6–25–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140117052–4402–02]

RIN 0648–XD985

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2015 commercial summer flounder quota to the Commonwealth of Virginia. These quota adjustments are necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provision. This announcement is intended to inform the public of the revised commercial quota for each state involved.

DATES: Effective June 29, 2015, through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Reid Lichwell, Fishery Management Specialist, 978–281–9112.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are in 50 CFR 648.100 through 50 CFR 648.110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.10(c)(1)(i).

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan provided a mechanism for summer flounder quota to be transferred from one state to another (December 17, 1993; 58 FR 65936). Two or more states, under mutual agreement and with the

concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i) when evaluating requests for quota transfers or combinations.

North Carolina has agreed to transfer 7,340 lb (3,329 kg) of its 2015 commercial summer flounder quota to Virginia. This transfer was prompted by landings of a North Carolina vessel that was granted safe harbor in Virginia due to mechanical failure on May 3, 2015. As a result of these landings, a quota transfer is necessary to account for an increase in Virginia landings that would have otherwise accrued against the North Carolina quota.

The Regional Administrator has determined that the criteria set forth in § 648.102(c)(2)(i) have been met. The transfer is consistent with the criteria because it will not preclude the overall annual quota from being fully harvested, the transfer addresses an unforeseen variation or contingency in the fishery, and the transfer is consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act. The revised summer flounder commercial quotas for calendar year 2015 are: Virginia, 2,401,568 lb (1,089,330 kg); and North Carolina, 2,976,243 lb (1,350,001 kg).

Classification

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

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

Dated: June 25, 2015.

Jennifer M. Wallace,

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

[FR Doc. 2015–16019 Filed 6–29–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140904749–5507–02]

RIN 0648–BE50

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Standardized Bycatch Reporting Methodology Omnibus Amendment

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

ACTION: Final rule.

SUMMARY: This final rule implements approved management measures contained in the Standardized Bycatch Reporting Methodology Omnibus Amendment to the fishery management plans of the Greater Atlantic Region, developed and submitted to NMFS by the Mid-Atlantic and New England Fishery Management Councils. This amendment is necessary to respond to a remand by the U.S. District of Columbia Court of Appeals decision concerning observer coverage levels specified by the SBRM and to add various measures to improve and expand on the Standardized Bycatch Reporting Methodology previously in place. The intended effect of this action is to implement the following: A new prioritization process for allocation of observers if agency funding is insufficient to achieve target observer coverage levels; bycatch reporting and monitoring mechanisms; analytical techniques and allocation of at-sea fisheries observers; a precision-based performance standard for discard estimates; a review and reporting process; framework adjustment and annual specifications provisions; and provisions for industry-funded observers and observer set-aside programs.

DATES: This rule is effective July 30, 2015. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 30, 2015.

ADDRESSES: Copies of the Standardized Bycatch Reporting Methodology (SBRM) Omnibus Amendment, and of the Environmental Assessment (EA), with its associated Finding of No Significant Impact (FONSI) and the Regulatory Impact Review (RIR), are available from the Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; and from the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The SBRM Omnibus Amendment and EA/FONSI/RIR is also accessible via the Internet at: *www.greateratlantic.fisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, 978–281–9341.

SUPPLEMENTARY INFORMATION:

Background

This final rule implements the SBRM Omnibus Amendment management measures developed and submitted by the New England and Mid-Atlantic Regional Fishery Management Councils, which were approved by NMFS on behalf of the Secretary of Commerce on March 13, 2015. A proposed rule for this action was published on January 21, 2015 (80 FR 2898), with public comments accepted through February 20, 2015.

Section 303(a)(11) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that all Fishery Management Plans (FMPs) ''establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery.'' The purpose of the amendment is to: Address the Appellate Court's remand by minimizing the discretion allowed in prioritizing allocation of observers when there are insufficient funds; explain the methods and processes by which bycatch is currently monitored and assessed for fisheries in the region; determine whether these methods and processes need to be modified and/or supplemented; establish standards of precision for bycatch estimation for these fisheries; and, thereby, document the SBRM established for all fisheries managed through the FMPs of the Greater Atlantic Region. Extensive background on the development of the SBRM Omnibus Amendment, including the litigation history that precipitated the need for the amendment, is provided in the proposed rule and supporting environmental assessment. For brevity, that information is not repeated here.

As detailed below (in the sections titled Bycatch Reporting and Monitoring Mechanisms and Analytical Techniques and Allocation of At-sea Fisheries Observers), this action incorporates by reference provisions of the SBRM Omnibus Amendment and EA/FONSI/RIR, identified formally as the

Standardized Bycatch Reporting Methodology: An Omnibus Amendment to the Fishery Management Plans of the Mid-Atlantic and New England Regional Fishery Management Councils, completed March 2015 by the New England Fishery Management Council, Mid-Atlantic Fishery Management Council, National Marine Fisheries Service Greater Atlantic Regional Fisheries Office, and National Marine Fisheries Service Northeast Fisheries Science Center. To ensure that the public can readily access and understand the provisions that are incorporated by reference, the full SBRM Omnibus Amendment is available online at *www.greateratlantic.fisheries.noaa.gov,* and from the Greater Atlantic Regional Fisheries Office or either the New England or Mid-Atlantic Fishery Management Councils (see **ADDRESSES**).

This final rule for the SBRM Omnibus Amendment establishes an SBRM for all FMPs administered by the Greater Atlantic Regional Fisheries Office comprised of seven elements: (1) The methods by which data and information on discards are collected and obtained; (2) the methods by which the data obtained through the mechanisms identified in element 1 are analyzed and utilized to determine the appropriate allocation of at-sea observers; (3) a performance measure by which the effectiveness of the SBRM can be measured, tracked, and utilized to effectively allocate the appropriate number of observer sea days; (4) a process to provide the Councils with periodic reports on discards occurring in fisheries they manage and on the effectiveness of the SBRM; (5) a measure to enable the Councils to make changes to the SBRM through framework adjustments and/or annual specification packages rather than full FMP amendments; (6) a description of sources of available funding for at-sea observers and a formulaic process for prioritizing at-sea observer coverage allocations to match available funding; and (7) measures to implement consistent, cross-cutting observer service provider approval and certification procedures and to enable the Councils to implement either a requirement for industry-funded observers or an observer set-aside program through a framework adjustment rather than an FMP amendment. These measures are described in detail as follows.

Bycatch Reporting and Monitoring Mechanisms

This final rule incorporates by reference the SBRM Omnibus Amendment's use of the status quo methods by which data and information on discards occurring in Greater Atlantic Region fisheries are collected and obtained. The SBRM uses sampling designs developed to minimize bias to the maximum extent practicable. The Northeast Fisheries Observer Program (NEFOP) is the primary mechanism to obtain data on discards in all Greater Atlantic Region commercial fisheries managed under one or more of the regional FMPs. All subject FMPs require vessels permitted to participate in Federal fisheries to carry an at-sea observer upon request. All data obtained by the NEFOP under this SBRM are collected according to the techniques and protocols established and detailed in the Fisheries Observer Program Manual and the Biological Sampling Manual, which are available online (*www.nefsc.noaa.gov/fsb/*). Data collected by the NEFOP include, but are not limited to, the following items: Vessel name; date/time sailed; date/time landed; steam time; crew size; home port; port landed; dealer name; fishing vessel trip report (FVTR) serial number; gear type(s) used; number/amount of gear; number of hauls; weather; location of each haul (beginning and ending latitude and longitude); species caught; disposition (kept/discarded); reason for discards; and weight of catch. These data are collected on all species of organisms caught by the vessels. This includes species managed under the regional FMPs or afforded protection under the Endangered Species Act or Marine Mammal Protection Act, but also includes species of non-managed fish, invertebrates, and marine plants. The SBRM will incorporate data collection mechanisms implemented by NMFS and affected states as part of the Marine Recreational Information Program (MRIP) for information on recreational fishery discards.

Analytical Techniques and Allocation of At-Sea Fisheries Observers

This final rule incorporates by reference the SBRM Omnibus Amendment's use of the existing methods by which the data obtained through the mechanisms included above are analyzed and utilized to determine the appropriate allocation of at-sea observers across the subject fishing modes, including all managed species and all relevant fishing gear types in the Greater Atlantic Region. At-sea fisheries observers will, to the maximum extent possible and subject to available resources, be allocated and assigned to fishing vessels according to the procedures established through the amendment. All appropriate filters identified in the amendment will be applied to the results of the analysis to determine the observer coverage levels needed to achieve the objectives of the SBRM. These filters are designed to aid in establishing observer sea day allocations that are more meaningful and efficient at achieving the overall objectives of the SBRM.

SBRM Performance Standard

This action incorporates by reference the intention of the SBRM Omnibus Amendment to ensure that the data collected under the SBRM are sufficient to produce a coefficient of variation (CV) of the discard estimate of no more than 30 percent. This standard is designed to ensure that the effectiveness of the SBRM can be measured, tracked, and utilized to effectively allocate the appropriate number of observer sea days. Each year, the Regional Administrator and the Science and Research Director will, subject to available funding, allocate at-sea observer coverage to the applicable fisheries of the Greater Atlantic Region sufficient to achieve a level of precision (measured as the CV) no greater than 30 percent for each applicable species and/or species group, subject to the use of the filters noted above.

SBRM Review and Reporting Process

This final rule incorporates by reference the SBRM Omnibus Amendment's requirements for NMFS to prepare an annual report for the Councils on discards occurring in Greater Atlantic Region fisheries, and to work with the Councils to develop a report every 3 years that evaluates the effectiveness of the SBRM. Once each year, the Science and Research Director will present to the Councils a report on catch and discards occurring in fisheries in the Region. Details about the information to be included in the annual discard reports are included in the amendment. The specific elements of the discard report may change over time to adjust to the changing needs of the Councils. Every 3 years, the Regional Administrator and the Science and Research Director will appoint appropriate staff to work with staff appointed by the executive directors of the Councils to obtain and review available data on discards and to prepare a report assessing the effectiveness of the SBRM.

Framework Adjustment and/or Annual Specification Provisions

This rule implements regulations to enable the Councils to make changes to specific elements of the SBRM through framework adjustments and/or annual

specification packages rather than full FMP amendments. Framework adjustments and annual specification packages provide for an efficient yet thorough process to modify aspects of the SBRM if a Council determines that a change is needed to address a contemporary management or scientific issue in a particular FMP. Such changes to the SBRM may include modifications to the CV-based performance standard, the means by which discard data are collected/obtained in the fishery, the stratification (modes) used as the basis for SBRM-related analyses, the process for prioritizing observer sea-day allocations, reporting on discards or the performance of the SBRM. Such changes may also include the establishment of a requirement for industry-funded observers and/or observer set-aside provisions.

Prioritization Process

This rule incorporates by reference the SBRM Omnibus Amendment process to identify the funds that will be made available annually for SBRM, and how to prioritize the available observer sea-days if the funding provided to NMFS for such purposes is insufficient to fully implement the SBRM across all fishing modes. This measure is intended to limit the discretion the agency has in determining when funds are insufficient and how to reallocate observers under insufficient funding scenarios to address the concerns raised by the Court of Appeals in *Oceana* v. *Locke.*[1]

Under the new prioritization process, the amount of money available for the SBRM will be the funding allocated to the Region under four specific historically-appropriated observer funding lines (less deductions for management and administrative costs). Of these, the funds made available by Congressional appropriation through the Northeast Fisheries Observers funding line must be dedicated to fund the proposed SBRM. In fiscal years 2011–2014, the Northeast Fisheries Observers funding line made up 53 percent to 59 percent of all observer funds for the Greater Atlantic Region under these four funding lines. Amounts from three of the funding lines are allocated among the fisheries in the five NMFS regions, including the Greater Atlantic Region, to meet national observer program needs. The total amount of the funds allocated for the Greater Atlantic Region from these three funding lines will constitute the remainder of the available SBRM funds. In fiscal year 2014, the amount appropriated under the Northeast Fisheries Observers funding line was $6.6 million, and another $5.9 million was made available for fisheries in the Greater Atlantic region under the other three funding lines. Funding in fiscal year 2015 for the Greater Atlantic Region under the other three funding lines is expected to be consistent with past allocations of these funds. Historically, the available funding has been insufficient to fully fund the SBRM to meet the performance standard. If the available funding continues to be insufficient to fully fund the SBRM, the amendment establishes a non-discretionary formulaic processes for prioritizing how the available observer sea-days would be allocated to the various fishing modes to maximize the effectiveness of bycatch reporting and bycatch determinations.

Industry-Funded Observers and Observer Set-Aside Program Provisions

This final rule implements regulatory changes to establish consistent, cross-cutting observer service provider approval and certification procedures and measures to enable the Councils to implement either a requirement for industry-funded observers and/or an observer set-aside program through a framework adjustment, rather than an FMP amendment.

Corrections and Clarifications

This final rule also makes minor modifications to the regulations under authority granted the Secretary under section 305(d) of the Magnuson-Stevens Act to ensure that FMPs are implemented as intended and consistent with the requirements of the Magnuson-Stevens Act. This action corrects the list of framework provisions under the Atlantic Surfclam and Ocean Quahog FMP at § 648.79(a)(1) to also include, ''the overfishing definition (both the threshold and target levels).'' This text was inadvertently removed from the regulations by the final rule to implement annual catch limits and accountability measures for fisheries managed by the Mid-Atlantic Fishery Management Council (76 FR 60606, September 29, 2011). The regulations at § 648.11(h)(5)(vii) are revised to remove reference to the requirement that observer service providers must submit raw data within 72 hours. The final rule to implement Framework 19 to the Atlantic Sea Scallop FMP (73 FR 30790, May 29, 2008) incorrectly stated the time an observer service provider has to provide raw data collected by an observer to NMFS, and this correction better reflects the Council's intent for that action.

This action also implements a consistent deadline for payment of industry-funded observers in the scallop fishery. Previously, there was not a specific due date for payment of industry-funded observers following an observed trip. We are implementing a deadline of 45 days after the end of an observed fishing trip as a due date for payment for all industry-funded observer services rendered in the scallop fishery.

Changes From Proposed Rule

A minor change has been made to the proposed regulatory text. As stated in the proposed rule, this amendment proposed to implement consistent, cross-cutting observer service provider and certification procedures and measures. To do this, several paragraphs within § 648.11(h) were proposed to be revised for consistency and to remove references that were specific to the current industry-funded scallop observer program. However, the specific provision at § 648.11(h)(5)(viii)(A) only applies to the industry-funded scallop observer program, and the reference to scallop vessels in that paragraph should not have been removed. Therefore, this final rule clarifies that this paragraph applies specifically to scallop vessels.

Comments and Reponses

A total of 11 individual comment letters with 15 distinct categories of comments were received on the proposed rule and SBRM Omnibus Amendment.

Comment 1: One member of the public expressed general support for the action as an overhaul of bycatch reporting methods.

Response: NMFS appreciates the support for the proposed action, although the comment did not address any specific provision of the SBRM Omnibus Amendment or its proposed rule.

Comment 2: A letter from the Cape Cod Commercial Fishermen's Alliance, an organization representing commercial fishermen, expressed concern with how the SBRM would trigger prioritization when funding is insufficient and the subsequent impact to the Northeast multispecies sector management program, and urged disapproval of the amendment. The group stated that the proposed SBRM is overly complicated and expensive; that it will hinder industry efforts to develop alternative monitoring solutions including electronic monitoring; that it will eliminate supplemental observer coverage on midwater trawl vessels fishing in groundfish closed areas; and that it negatively impacts the groundfish at-sea monitoring program and could put the Northeast multispecies sector

[1] 670 F. 3d 1238 (D.C. Cir. 2011).

system at risk because the system is heavily reliant on appropriate monitoring.

Response: NMFS acknowledges the prioritization process trigger may result in observer funding—previously used by the Agency to discretionarily fund at-sea monitoring, electronic monitoring, and/or supplemental coverage of midwater-trawl vessels—being used exclusively for SBRM if the funding amounts are insufficient to realize the level of coverage estimated to achieve the 30-percent CV performance standard. This is a direct result of efforts to address the specific finding of the U.S. Appeals Court in *Oceana* v. *Locke* that the Agency had too much discretion to determine the available funding for SBRM. The impacts of this change on other monitoring priorities are real and will require adjusting expectations and evaluating whether other sources of funding for these priorities may be possible. NMFS has developed annual agency-wide guidance regarding how observer funding is allocated across regions to meet SBRM and other observer needs.

The groundfish sector at-sea monitoring program is separate from the SBRM and is specific to the Northeast Multispecies FMP. The at-sea monitoring program provides supplemental monitoring within this fishery to address specific management objectives of the New England Fishery Management Council. The SBRM Omnibus Amendment does not specifically modify the groundfish sector at-sea monitoring program or its objectives, including the requirement for the groundfish industry to pay for its portion of costs for at-sea monitors if the Federal government does not. The groundfish at-sea monitoring provisions were developed by the Council and have been in place since 2010. To date, we have been able to provide sufficient funding for the groundfish sector at-sea monitoring program such that industry did not have to pay for at-sea monitoring. With the constraints imposed by this final rule, funds previously used to cover groundfish sector at-sea monitoring will now be required to fund SBRM. It may be necessary for the Council to develop alternatives to ensure accountability with sector annual catch entitlements when there are funding shortages that reduce available at-sea monitoring coverage below the rates needed to ensure a CV of 30 percent.

Electronic monitoring has been viewed as one possible means of addressing observer funding shortages. In recent years, NMFS has worked with groundfish sectors to develop and evaluate monitoring alternatives, including electronic monitoring. While electronic monitoring is not currently sufficiently developed or suitable to be a viable replacement for at-sea observers for the purpose of the SBRM for fisheries administered by the Greater Atlantic Regional Fisheries Office, there are circumstances where it may be appropriate to address other monitoring purposes. NMFS is committed to working with our industry partners to continue development and implementation of electronic monitoring to the extent that it meets management objectives and funding is available. The SBRM can be amended at any time in the future to incorporate other monitoring means such as electronic monitoring.

In recent years, the Northeast Multispecies FMP has authorized midwater trawl vessels to fish in the groundfish closed areas if they carried observers. The SBRM Omnibus Amendment may result in the unavailability of the funds previously used for this coverage because the funds must first go to the SBRM requirements. The requirement for midwater trawl vessels to have an observer to fish in the groundfish closed areas, however, is not changed by this amendment. Accordingly, without funds to provide this supplemental observer coverage, fewer midwater trawl trips will have access to these areas.

Comment 3: Two nongovernmental environmental organizations, Oceana, Inc., and Earthjustice, both stated the amendment uses outdated catch data from 2004 and does not meet various legal requirements.

Response: NMFS disagrees with the commenters' assertion that the amendment uses outdated data. Where new data would not provide additional insight or value in the amendment, the analysis from the 2007 SBRM amendment was maintained. When new data informed decision making in the amendment, NMFS used the most recent data available. Much of the amendment describes a system of statistical calculations that remain valid and appropriate even when newer data are not analyzed to provide context. The descriptions of the fisheries and fishing modes and the analysis of the impacts of alternatives uses catch data from 2012. Other analysis used more recent data. Some analyses in Chapter 5 of the Omnibus Amendment Environmental Assessment are illustrative examples of the sample size analysis used to determine how many observer sea-days are needed to achieve the 30-percent CV performance standard, and the bycatch rate analysis that uses data from observed fishing trips to estimate bycatch across the whole fishery. These analyses are conducted each year with updated data as a part of the SBRM process. The validity of these examples is not dependent on using data from a specific fishing year. The detailed analysis and description of the process that was conducted and presented in the 2007 SBRM amendment is still valid today. Recreating this work for this specific action would have taken a significant amount of time and effort, but would not have provided any additional insight into the SBRM process. Therefore, updated analysis was conducted and added to the document where needed to reflect the changes in the fisheries since the initial 2007 SBRM amendment was developed and implemented.

Comment 4: Oceana and Earthjustice assert that the action does not contain a sufficient range of reasonable alternatives including a no-action alternative, and that some alternatives were improperly rejected from consideration, including using non-managed species as drivers of observer coverage and use of electronic monitoring as a component of the SBRM. Oceana states the SBRM would have significant impacts and should require a full environmental impact statement (EIS) under the National Environmental Policy Act (NEPA).

Response: NMFS disagrees with the commenters' claim that the amendment does not meet the legal requirements of the NEPA, including that the amendment does not properly address cumulative impacts, does not have an adequate no-action alternative, does not have an adequate range of alternatives, and that it requires an EIS. Consistent with NEPA, Council for Environmental Quality (CEQ) regulations, and NOAA administrative policy, NMFS and the Councils collaborated to prepare an EA to evaluate the significance of the environmental impacts expected as a result of the management measures considered in the SBRM Omnibus Amendment. The results of this assessment are provided in section 8.9.2 of the amendment, which supports the finding of no significant impacts (FONSI) signed by the agency on March 10, 2015. The commenters provide no evidence that the conclusion in the FONSI is not supported by the facts presented in the EA for this finding. NMFS asserts that the EA considers a sufficient range of alternatives to satisfy the requirements of NEPA. As described throughout the amendment (the Executive Summary, chapters 6, 7, and 8), the alternatives considered by the Councils were structured around seven

specific elements that together comprise the Greater Atlantic Region SBRM. Multiple alternatives were developed and considered for each element and, in some cases, various sub-options were also developed and considered. Section 7.3 of the amendment explicitly provides a discussion of the expected cumulative effects associated with this action. NMFS asserts that this treatment of cumulative effects is consistent with CEQ regulations and current NOAA policy.

Oceana presented these same contentions before the Court in its challenge to the 2007 SBRM amendment (*Oceana* v. *Locke,* 725 F. Supp. 2d 46 (D.D.C. 2010) reversed on other grounds (*Oceana* v. *Locke,* 670 F. 3d 1238 (DCC. 2011)). In that case, the U.S. District Court thoroughly reviewed their arguments and concluded that an EA for the 2007 SBRM amendment was consistent with NEPA. The Court specifically stated that, ''NMFS sufficiently considered the issue of cumulative effects and concluded that any potential downstream impacts were not 'reasonably foreseeable and directly linked' to the Amendment'' [2] and that ''NMFS' consideration of alternatives in the EA was sufficient to meet the requirements of NEPA.'' [3]

While some components of the amendment remain essentially unchanged from the 2007 SBRM amendment, several components, including the affected environment and cumulative impacts analyses have been updated to account for changes since 2007. NMFS asserts that the amendment continues to meet all legal requirements, including NEPA.

NMFS disagrees with the commenters' assertion that alternatives were improperly listed as considered but rejected. When the Councils initiated this action, they explicitly supported the previous Council decisions regarding the range of alternatives, including the alternatives considered but rejected. Both Councils directed the plan development team for this action specifically to focus on the legal deficiencies identified by the Court of Appeals and some minor revisions suggested by the 3-year review report. Given the primary scope of this action to specifically focus on the Court's remand, alternatives previously considered but rejected in the 2007 amendment were deemed considered and rejected for this action. Chapter 6.8 of the SBRM Omnibus Amendment reiterates the discussion of why each alternative was considered but rejected in the prior action, and explains how each does not meet the purpose and need of the SBRM Omnibus Amendment. The commenters offer no new information or circumstances that show these alternatives should have not been rejected from further consideration for this action.

Comment 5: Oceana states that the adoption of annual catch limits and associated accountability measures in recent years has significantly changed the data collection needs for management and that the SBRM needs to fully discuss and meet all bycatch monitoring needs of each FMP, including inseason actions. Oceana asserts the annual discard reports described in the SBRM Omnibus Amendment will not provide bycatch data at a level of detail necessary to meet all management priorities of the Councils.

Response: NMFS disagrees with Oceana's claim that the SBRM Omnibus Amendment does not meet the monitoring needs of annual catch limits and accountability measures mandated by the Magnuson-Stevens Act. The Magnuson-Stevens Act requires each Council to develop annual catch limits for each of its managed fisheries. Further guidance on annual catch limit requirements was issued by NMFS in 2009 (74 FR 3178). The SBRM is designed to meet the statutory requirements to establish a mechanism for collecting bycatch information from each fishery and estimating the discards of each species on an annual basis, to effectively monitor these annual catch limits. The SBRM forms the basis for bycatch monitoring in the Region, but need not address all monitoring requirements of all fishery management plans. Oceana conflates the Magnuson-Stevens Act requirement for annual catch limits (ACLs), which are typically set for the whole stock at an annual level, and assessed after the conclusion of each fishing year, with the Councils' prerogative to manage fisheries using smaller scale requirements such as sub-ACLs for groundfish sector fisheries and other fisheries that may trigger inseason management actions. The specific monitoring requirements of these management programs may be addressed outside of the SBRM with separate observer or monitoring requirements. Most FMPs that use in-season actions to open or close fisheries use landings data to make that determination, and do not rely on near real-time estimates of discards. When the New England Council designed the Northeast multispecies sector program, it recommended NMFS monitor catch, including discards, at the sector level and require measures designed to allow for inseason management actions. To meet this need, the Council created the sector at-sea monitoring program. The sector at-sea monitoring program requires additional monitoring coverage, beyond SBRM targets, which can then provide the additional information the Council determined was necessary for its groundfish-specific management objectives. If there is a need for more finely-tuned monitoring requirements in a particular fishery, the FMP for that fishery can be amended to address those requirements, including increasing monitoring or observer coverage over and above the SBRM levels. For example, the Industry-Funded Monitoring Omnibus Amendment currently under development by the New England and Mid-Atlantic Councils includes measures intended to facilitate the monitoring of incidental catch limits or bycatch events in the Atlantic Herring and the Atlantic Mackerel, Squids, and Butterfish FMPs. NMFS has determined that unless a specific FMP has requirements for such additional monitoring, the SBRM is sufficient for monitoring bycatch for the purposes of assessing total catch against annual catch limits. The commenters have not provided any evidence that the SBRM would not be sufficient to provide the estimated bycatch component of the total annual catch of a fishery that is used to monitor ACLs. Nor have they submitted any recommendations or alternatives that were not considered.

Comment 6: Oceana and Earthjustice claim the SBRM Omnibus Amendment does not adequately discuss the potential for bias in observer data that could adversely affect estimated bycatch. The commenters' are critical of the 30-percent CV standard, and suggest this level of precision is not sufficient for bycatch estimates. Supporting this contention, both groups cite a technical review of the 2007 SBRM Amendment by Dr. Murdoch McAllister of the University of British Columbia.

Response: NMFS disagrees with Oceana's contention that the amendment does not sufficiently address the issue of potential bias in observer data and the alleged impact of such bias on the accuracy of bycatch estimations. Chapter 5 of the SBRM Omnibus Amendment discusses at length and in detail bias and precision issues as they relate to the SBRM. As discussed in the SBRM Omnibus Amendment and described below, new research and analysis has been conducted since 2007 of potential

[2] *Oceana* v. *Locke,* 725 F. Supp. 2d 46 (D.D.C. 2010) at pg 24, reversed on other grounds *Oceana* v. *Locke,* 670 F. 3d 1238 (D.C.C. 2011).

[3] *Id.* At pg 25.

observer bias and the implications for discard estimation.

Oceana cites the Agency's analysis of at-sea monitoring requirements for the Northeast multispecies sector fishery,[4] but draws an unsupported conclusion about potential bias in observed trips versus unobserved trips. An analysis contained in that report examined if there were indications of an observer effect on groundfish trips using trawl or gillnet gear that could result in either systematic or localized biases, meaning that the observer data used to generate discard estimates may not be representative. This study essentially looked for differences in performance when a vessel carried an observer and when it did not. This analysis found evidence for some difference in fishing behavior between observed and unobserved groundfish trips; however, the analysis does not conclude whether the apparent differences would necessarily result in discard rates on unobserved trips that are different (higher or lower) than on observed trips. If the discard rate is unchanged, then the apparent differences would not affect total discard estimates. Additional analysis included in the report found that even if there is some bias, the discard rate for the groundfish sector trips studied would need to be five to ten times higher on unobserved trips for total catch to exceed the acceptable biological catch. None of the analyses conducted to date suggest behavioral differences on observed versus unobserved trips of this magnitude. In any event, the analysis for the Northeast multispecies sector fishery is not directly relevant for all fisheries covered by the SBRM.

Oceana made similar claims of potential bias about the 2007 SBRM amendment, but the U.S. District Court found that the amendment contained an extensive consideration of bias, precision, and accuracy. Commenters do not add any additional information or analysis that contradicts the finding of the District Court. NMFS, nevertheless, supports continued analysis of potential sources of bias, and the SBRM can be modified in the future to address any shortcomings that are identified.

NMFS disagrees with the commenters' contention that the choice of a 30-percent CV performance standard is inappropriate. The rationale for a 30-percent CV performance standard is explained in Chapters 5 and 6.3 of the SBRM Omnibus Amendment and in the 2004 NMFS technical memorandum ''Evaluating bycatch: A national approach to standardized bycatch monitoring programs'' (NMFS–F/SPO–66). The commenters' cite a technical review of the 2007 SBRM amendment to argue that this level of precision would not be suitable for stock assessments. However, the cited section of the technical review refers to a level of variability in estimates of total catch, while the SBRM is addressing the variability in estimated discards of a species group in a single fishing mode. For most fisheries in the Greater Atlantic Region, discards are a relatively small portion of total catch, and the subdivision by different fishing modes would result in estimates of total discards with much lower total variability. This error on the part of the commenters about relevant scale is a common and understandable confusion about precision. Oceana made a similar argument before the U.S. District Court in its challenge to the 2007 SBRM Amendment. In that case, the Court found that NMFS's decision to use a 30-percent CV, and the agency's response to the technical review, was reasonable and did not violate the Magnuson-Stevens Act or any other applicable law. In its most recent comments, Oceana provides no new information or analysis that contradicts the Court's conclusion.

Comment 7: Oceana and Earthjustice state that the proposed prioritization process is not a sufficient response to the Appeals Court order in *Oceana* v. *Locke.* Oceana states the proposed funding trigger is not sufficiently distinct from the status quo. In the opinion of the commenters, the amendment does not adequately explain: Why only the named funding lines would be used for SBRM and not others; whether other discretionary sources of money exist; how the agency might handle new funding lines that might be applicable; and what the term ''consistent with historic practice'' means. Oceana suggests that the amendment must consider other sources of potential funding including other Federal funding sources and development of new industry-funding alternatives. Oceana states that the prioritization of observer coverage should affect catch buffers, and refers to National Standard 1 guidance to argue that any change in the anticipated precision of discard estimates should be directly tied to the uncertainty buffers around allowable catch.

Response: NMFS disagrees with the commenters' contentions that the prioritization process does not address the Court's finding in *Oceana* v. *Locke.* Contrary to Oceana's assertion, the prioritization funding trigger places real and significant restrictions on the Agency's discretion to determine the available funding for the SBRM. The four funding lines identified in the amendment where chosen because they represent the primary sources of observer funding in the Greater Atlantic Region, and had been used to fund the SBRM in previous years. By committing the Region to use the funds available in those specific lines to support the SBRM, NMFS is creating a transparent mechanism for determining under what circumstances the SBRM prioritization process would be triggered.

The Agency is not contending that it has no discretion in how to spend any other funding lines, or that there are no other funding lines that may be available to support other monitoring priorities in the Region. NMFS must maintain some flexibility to use appropriated funding to respond to appropriations changes and changes in conditions and priorities within the Region and across the country. To do otherwise would be irresponsible and could be counter to legal requirements and jeopardize the Agency's mission. NMFS acknowledges that Congressional appropriations may change over time. The SBRM Amendment does not speculate about potential future changes in existing or potential future funding lines. The provisions of the SBRM prioritization process may be adjusted to incorporate future changes through an FMP framework action. Framework adjustment development would occur through established Council public participation processes. NMFS has developed annual agency-wide guidance that further explains how and why specific funding decisions are made for SBRM programs and other observer needs throughout the country.

Oceana expresses confusion regarding the meaning of the phrase ''consistent with historic practice'' used in the amendment. To provide context, this phrase is intended to reflect that not every dollar allocated to the Region through the specified funding lines will necessarily be converted into observer sea-days. All funding lines to regional offices and science centers are subject to standard overhead deductions that are used to support shared resources and infrastructure that do not receive their own appropriation of funds, such as building rent and maintenance, utilities, shared information technology, etc. In addition, the cost of the SBRM includes more than just observer sea-days. Additional costs include, but are not limited to, shore-side expenses to support the observer program, training

[4] Summary of Analyses Conducted to Determine At-Sea Monitoring Requirements for Multispecies Sectors FY 2013. *www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/Sectors/ASM/FY2013_Multispecies_Sector_ASM_Requirements_Summary.pdf.*

of observers, and development of improved sampling procedures. These expenses will necessarily vary from year to year, and it was not practicable to try to enumerate all possible expenses that may be needed to support the SBRM. The intent of specifying that funds will be used ''consistent with historic practice'' means that these additional costs will be incurred at levels that are consistent with what has occurred in the past such that not all specified funds will be converted to observer sea-days.

NMFS rejects Oceana's contention that the amendment must include an alternative for the fishing industry to pay for any funding shortfall. Industry-funded monitoring programs are complex and must be carefully tailored to each specific fishery as a management/policy decision in each specific FMP. As stated in Chapter 1 of the SBRM Omnibus Amendment, the SBRM is a methodology to assess the amount and type of bycatch in the fisheries and not a management plan for how each fishery operates. It is not necessary or practicable to develop such programs for all of the fisheries in the Region through this action. The Councils have the flexibility to consider industry-funded programs, to meet SBRM or other monitoring priorities, on a case by case basis, depending on the needs and circumstances of each fishery.

NMFS disagrees with Oceana's repeated assertions that the anticipated precision of estimated discards must be directly tied to changes in the uncertainty buffers around catch limits. Each data source has a certain degree of uncertainty associated with it. The specific amount of uncertainty can only be estimated and cannot be parsed into specific amounts at different catch levels of different species in different fisheries. NMFS' National Standard 1 guidelines recommend the use of buffers around catch thresholds to account for these various sources of management and scientific uncertainty (74 FR 3178; January 16, 2009). The Councils have adopted control rules and/or make use of scientific and technical expertise so that these buffers address numerous sources of potential uncertainty that may be present in these catch limits into a single value. Each source of uncertainty may vary and the buffers are set conservatively to account for this variability and the complex interplay that may exist between sources of uncertainty. To propose adjusting these buffers to automatically account for changes in the precision estimate for one component of the total catch, in this case discards of a specific species in a specific fishing mode, misunderstands the general nature of these buffers and the complexities they are intended to address. The precision of a discard estimate does not necessarily reflect the magnitude or importance of that estimate. A very small amount of estimated discards could be very imprecise without having a significant impact on total catch. Similarly, if a species is discarded by several fishing modes, a change in precision in one mode may not significantly affect the precision of the total estimated discards for that stock. How the variability in discard estimates impacts the scientific uncertainty of overall catch estimates is outside the scope of this action and is best considered on a case by case basis, through the Councils' acceptable biological catch (ABC) control rules and Scientific and Statistical Committees. NMFS acknowledges that, in certain cases, the magnitude or importance of estimated discards may be cause for ABC control rules and/or Scientific and Statistical Committees to specifically consider discard estimate precision and underlying uncertainty when recommending an ABC, but not formulaically as the commenter suggests.

NMFS disagrees with Oceana's claim that the SBRM Omnibus Amendment fails to mandate that data be reported in a rational manner useful for fisheries management. As described in Chapter 1 of the SBRM amendment, the SBRM is a general, over-arching methodology for assessing bycatch in all fisheries managed by the New England and Mid-Atlantic Fishery Management Councils to meet the requirements of the Magnuson-Stevens Act. It is not designed as a specific, real-time quota monitoring process. The amendment specifies minimum components to include in the annual discard reports, and anticipates that the format and content of these reports will evolve over time. The 2007 SBRM amendment was very prescriptive of the detailed information to be included in the annual discard reports. However, this resulted in annual discard reports with over 1,000 pages of tables. While these reports contained a lot of information, they were not as useful for management as intended. The revised SBRM Omnibus Amendment calls for annual discard reports to contain more summarized data that could be presented in different ways. We intend to work with the Councils on an ongoing basis to ensure these reports continue to provide the information fishery managers need in a format that is useful in their work. As explained in Chapters 1 and 2 of the Omnibus Amendment, fishing modes are used as the operational unit for assigning observer coverage because it reflects information that is available when a vessel leaves the dock. While data may be collected by fishing mode, the calculated discards can be reported in multiple ways. NMFS looks forward to working with the Councils to prepare annual discard reports that provide needed information to support their management decisions.

Comment 8: Earthjustice claims the importance filters remove coverage from important fleets, and the SBRM must not prevent NMFS from paying for the government costs of new industry-funded monitoring programs. The commenter also asserts that the implications of the amendment on supplemental observer coverage of mid-water trawl fisheries were first discussed in August 2014, after the Councils had taken final action. The commenter urges the agency to disapprove the amendment and initiate scoping for a new amendment and EIS.

Response: NMFS disagrees with the commenter's contention that the importance filters create a situation that ''is not only absurd and irrational, but entirely inconsistent with the needs of the fishery'' with regard to monitoring the bycatch of river herring and shad species caught in the midwater trawl fisheries. As described in Chapter 6.2.3 of the amendment, the importance filters are a tool to aid in establishing observer sea day allocations that are more meaningful and efficient at achieving the overall objectives of the SBRM. As the commenter acknowledges, midwater trawl vessels that incidentally catch these species typically retain and land them, and as such, those fish are not bycatch as defined by the Magnuson-Stevens Act. Therefore, such incidental catch is outside of the mandate of the SBRM. Not all monitoring priorities must be part of the SBRM. In cases where a Council determines monitoring of incidental catch of specific species is a management priority, NMFS works with the Council to design and evaluate monitoring options, including at-sea observers or monitors, dockside sampling, electronic monitoring, or other options that best address the needs of the specific fishery.

NMFS acknowledges the commenter's concern that the agency may not be able to fully fund the government's costs associated with a future industry-funded monitoring program. One of the goals of another initiative, the Industry-Funded Monitoring Omnibus Amendment, currently under development by the Councils is to create

a process for prioritizing available appropriated government and industry funds to efficiently provide supplemental monitoring for management goals beyond the SBRM. Currently, the agency may not use private funds to finance the costs of fundamental government obligations in a manner that is not consistent with the Antideficiency Act, Miscellaneous Receipts Statute, and other appropriations laws or rules. In the Industry-Funded Monitoring Omnibus Amendment, the New England and Mid-Atlantic Councils are considering how to prioritize and coordinate government funds necessary for supporting at-sea observers and other monitoring needs consistent with the Councils' recommendations for industry-funded observer programs outside of the SBRM requirements. Development of this process would ensure that when funds are available, they will be used consistent with the priorities regarding observer coverage and monitoring needs established by the Councils. NMFS will continue to work to identify potential funding sources that could be utilized to support the Councils' monitoring priorities.

NMFS disagrees with the commenter's assertion that the implications of how the SBRM impacts at-sea observer coverage in other fisheries were first discussed in August 2014. NMFS staff gave a special presentation about the funding of the Northeast Fisheries Observer Program at both the New England and Mid-Atlantic Council meetings in April 2014. These presentations highlighted the sources of funding and potential effect of the proposed SBRM funding trigger on available SBRM coverage and other monitoring programs previously funded by the effected funding lines. This message was then reiterated during the presentation of the SBRM Omnibus Amendment at the same meetings, before the Councils voted to take final action on the amendment.

Comment 9: The Center for Biological Diversity, an environmental group, submitted a letter focusing on the potential impact of the SBRM on endangered species. The commenter suggests that the allocation of observers should be focused on the conservation status of potential bycatch species, particularly those that are overfished, undergoing overfishing, or have been identified as endangered, threatened, or species of concern. The group also asserted that the amendment does not adequately consider potential adverse effects on endangered species.

Response: NMFS disagrees with the commenter's assertion that the SBRM should be driven primarily by the conservation status of the potential bycatch species. Section 303(a)(11) of the Magnuson-Stevens Act requires that each FMP ''establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery'' regardless of the conservation status of the species caught in the fishery. As stated in Chapter 1.3 of amendment, the primary purpose of bycatch reporting and monitoring is to collect information that can be used reliably as the basis for making sound fisheries management decisions for all managed species in the Greater Atlantic Region, including stock assessments and annual catch accounting. Figure 1 in Appendix H of the SBRM Omnibus Amendment illustrates that beyond a certain point, increased observer coverage provides diminishing returns as far as improved precision of estimated discards. As a result, prioritizing observer coverage by conservation status could risk sacrificing the precision of bycatch estimates for several species to achieve a marginal improvement in one, which is unlikely to meet the stated objectives of this action.

NMFS disagrees with the commenter's contention that the SBRM Omnibus Amendment does not adequately consider adverse effects to endangered species. As discussed in Chapter 5 of the amendment, the SBRM applies the 30-percent CV performance standard to species afforded protection under the Endangered Species Act, as it does for species managed under a FMP. This has been the case since the implementation of the 2007 SBRM Amendment. Since that time, the agency has continued to effectively use discard estimates for these species for management purposes, including monitoring incidental take limits, and there is no information indicating these estimates are inadequate. The SBRM Omnibus Amendment is primarily administrative in nature and is not expected to result in any changes in fishing effort or behavior, fishing gears used, or areas fished, and therefore will not adversely affect endangered and threatened species in any manner not considered in prior consultations.

Comment 10: One commercial fisherman expressed frustration with how observer coverage and at-sea monitors are allocated across the groundfish fleet. The commenter suggested assigning observers based on the amount of bycatch rather than the estimated variance in discards. The commenter was also very concerned about the potential cost to vessels of industry-funded monitoring.

Response: As described in Chapter 5 of the SBRM Omnibus Amendment, the target observer coverage rates are calculated based on the variance of discards (*i.e.,* the CV performance standard) rather than on total amount of discards from any one fishing mode. This approach is designed to provide a suitable level of precision in discard estimates to meet the requirements of the Magnuson-Stevens Act. The SBRM focuses on providing a statistically rigorous sampling of fishing activity, which will provide a more precise estimate of total discards, rather than a direct measurement or census of discards. Thus, it is intended to provide a better measurement of overall discards, rather than trying to directly observe a high volume of discards that might lead to a less precise estimate of total discards when unobserved trips are factored in. The comment regarding the potential burden that paying for at-sea monitors would place on the groundfish industry is addressed under Comment 2, above.

Comment 11: One commercial fisherman expressed concerns that the proposed funding trigger would be too restrictive on the use of certain observer funds and would prevent funds from being used to cover the groundfish industry costs for at-sea monitors as it has in the past.

Response: NMFS agrees with this individual's observation. Funds previously used to cover groundfish at-sea monitors may be fully committed to the SBRM process by the amendment's measures to the extent that SBRM funding amounts are insufficient to realize the level of observer coverage estimated to achieve the 30-percent CV performance standard. Additional detail on this comment is addressed in the response to Comment 2, above.

Comment 12: One member of the public wrote in support of the proposed 45-day payment period for observer services to the scallop fishing fleet, and suggested that such a payment period be specified in any future action to develop industry-funded observer programs. The commenter also suggested that the proposed rule at § 648.11(h)(5)(vii)(A) incorrectly states that an observer has 24 hours for electronic submission of observer data after a trip has landed, and that the correct time should be 48 hours.

Response: This comment refers to one of three minor modifications to the regulations in the proposed rule that are not part of the SBRM Omnibus Amendment, but were proposed under authority granted the Secretary under section 305(d) of the Magnuson-Stevens Act to ensure that FMPs are

implemented as intended and consistent with the requirements of the Magnuson-Stevens Act. NMFS agrees that a clear payment deadline is valuable for both the observer service providers and the vessel operators who are contracting observer services.

The requirement to submit electronic observer data within 24 hours reflects the current regulations. NMFS acknowledges that current practice is to allow 48 hours for electronic submission of observer data. The proposed rule did not specifically propose addressing this inconsistency, and as a result there was no opportunity for public comment. Therefore, NMFS is not changing this regulation in this rule. There may be other areas within this section of the regulations where current practice has evolved away from the specific provisions in the regulations. NMFS may address these inconsistencies in a future rulemaking.

Comment 13: A letter from The Nature Conservancy expressed support for improving fishery monitoring systems and cited the benefits of accurate and reliable data. The commenter urged NMFS to clarify the agency's intention to take steps necessary to implement additional tools for collecting timely and accurate fishery-related data, including the use of electronic monitoring. In particular, the commenter urged the agency to ensure that the SBRM support, and not hinder, the earliest possible implementation of electronic monitoring. The commenter also expressed support for the SBRM review and reporting process, and requested that the triennial review include a broader set of stakeholders beyond NMFS and the Councils.

Response: NMFS acknowledges that the funding-related prioritization trigger may require some funding sources that have previously been used to support development of electronic monitoring to be used exclusively for the SBRM. This may delay implementation of electronic monitoring in the Region. The commenter cited the recent adoption of electronic monitoring requirements to monitor bluefin tuna bycatch in the pelagic longline fishery under the Consolidated Atlantic Highly Migratory Species FMP as evidence that electronic monitoring is ready to meet the bycatch monitoring goals of the SBRM. NMFS is very supportive of the new electronic monitoring program to monitor bycatch of bluefin tuna in the pelagic longline fishery. Lessons learned in the implementation of the bluefin tuna program should help inform other electronic monitoring programs in the future. However, a technology that is suitable for identification of bycatch of a distinctive species by a specific gear type, such as bluefin tuna in the pelagic longline fishery, may not yet be as suitable or affordable for monitoring more complex bycatch situations covered by the SBRM, such as differentiating flounder species in a multispecies trawl fishery, or providing length and weight data (all of which would be essential for electronic monitoring to effectively replace observers under the SBRM). Electronic monitoring is a technological tool that may be used to serve monitoring purposes that may differ between fisheries. The suitability and manner of using this tool for a particular purpose must be considered in the context of each proposed program. NMFS supports the continued development of electronic monitoring and will continue to evaluate its applicability as a component of a comprehensive SBRM and other coverage purposes.

The team that conducted the 3-year review of the SBRM in 2011 included staff from the Northeast Fisheries Science Center, the Greater Atlantic Regional Fisheries Office, the New England and Mid-Atlantic Fishery Management Councils, and the Atlantic States Marine Fisheries Commission. Because much of the data analyzed as part of the 3-year review are confidential under the Magnuson-Stevens Act, the team was limited to individuals authorized to access such information. The annual discard reports as well as the final 3-year review report present information in a format consistent with data confidentiality requirements and are all publically available. NMFS and the Councils will consider how additional stakeholders might be included in the next review in a way that could allow their input without compromising the confidentiality of catch and discard data.

Comment 14: The Marine Mammal Commission submitted a letter requesting NMFS include additional information in the final rule about whether the SBRM has implications for observer programs under the Marine Mammal Protection Act (MMPA). In addition, the letter noted particular support for the proposed use of a non-discretionary formulaic process for prioritizing available observer sea-days, and the provision to facilitate the future development of an industry-funded observer program through a framework adjustment.

Response: NMFS appreciates the commenter's support for the use of a non-discretionary formulaic process for prioritizing available observer sea-days, and the provision to facilitate the future development of an industry-funded observer program through the FMP's framework adjustment process. Observer programs explicitly funded to support the MMPA are not affected by this amendment. NMFS receives dedicated funding for observers under the MMPA, which is a separate funding allocation from the SBRM program. Because the funding for these MMPA observers is outside of the funding lines dedicated to the SBRM, the allocation of MMPA observers is not directly subject to the observer allocation process or prioritization process described in the SBRM Omnibus Amendment. The MMPA observers are allocated across fisheries based on the estimated likelihood of marine mammal interactions. At-sea observers allocated under the SBRM actually provide additional marine mammal observer coverage as they record and report any interactions with marine mammals that occur on observed fishing trips. Likewise, at-sea monitors in the groundfish sector program record any interactions they witness. Similarly, in the absence of a marine mammal interaction, MMPA observers record information about the trip and observed bycatch that contributes to our overall estimation of bycatch in Greater Atlantic fisheries. However, if a marine mammal is present, these observers are required to focus their attention on that marine mammal interaction, and monitoring of other bycatch becomes a secondary priority. For additional information about how marine mammal interactions are monitored, please see the Greater Atlantic Region's Marine Mammal Program Web site at: *www.greateratlantic.fisheries.noaa.gov/Protected/mmp/*.

Comment 15: The comments submitted by Environmental Defense Fund, an environmental organization, expressed concerns about the impact of the proposed SBRM on the continued development and implementation of electronic monitoring in the Region. The commenter expressed concern that the amendment should have included electronic monitoring as an explicit component of the SBRM. The group asserts that 100-percent electronic monitoring would reduce uncertainty in catch data and improve stock assessments, and that electronic monitoring could provide a lower sea-day cost than current at-sea observers. The group is critical that the proposed funding trigger is not properly explained and would prevent funds from being available for electronic monitoring or to cover the government

costs associated with any future industry-funded monitoring programs.

Response: The responses above to Comment 3, Comment 4, and Comment 9 address many of the points raised by the commenter. NMFS does not agree with the commenter's characterization of the potential cost savings with electronic monitoring at this time. The commenter promotes the potential for a lower cost per sea-day with electronic monitoring than with at-sea observers, but also advocates for 100-percent electronic monitoring on every fishing trip. This is a substantial increase in coverage rate when compared to the current SBRM using at-sea observers. The affordability of electronic monitoring has yet to be determined. Electronic monitoring costs will be determined largely by the purpose and scope of particular electronic monitoring coverage and the available technology to meet those needs. Even at a potentially lower cost per day, the increase in coverage to 100 percent of trips would likely result in a program that is significantly more expensive than the SBRM is currently. This does not take into account that electronic monitoring is not yet considered robust enough to replace observers for bycatch monitoring in some gears types or for identifying all bycatch to the species level. In addition, some amount of at-sea observer coverage is likely to still be required to collect biological samples, which would further increase the costs. NMFS will continue to support development of electronic monitoring as a potential tool where it is fitting and appropriate.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that the SBRM Omnibus Amendment is necessary for the conservation and management of Greater Atlantic fisheries and that it is consistent with the Magnuson-Stevens Act and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements, Incorporation by reference.

Dated: June 17, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.11, add paragraph (g)(5)(iii), and revise paragraphs (h)(1), (h)(3)(iv), (h)(3)(vi), (h)(3)(viii), (h)(3)(ix), (h)(4), (h)(5), (h)(7) introductory text, (i)(1), (i)(2), (i)(3)(ii) and (v), (i)(4), and (i)(5) to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(g) * * *

(5) * * *

(iii) Owners of scallop vessels shall pay observer service providers for observer services within 45 days of the end of a fishing trip on which an observer deployed.

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(h) *Observer service provider approval and responsibilities*—(1) *General.* An entity seeking to provide observer services must apply for and obtain approval from NMFS following submission of a complete application. A list of approved observer service providers shall be distributed to vessel owners and shall be posted on the NMFS/NEFOP Web site at: *www.nefsc.noaa.gov/femad/fsb/.*

* * * * *

(3) * * *

(iv) A statement, signed under penalty of perjury, from each owner or owners, board members, and officers, if a corporation, describing any criminal conviction(s), Federal contract(s) they have had and the performance rating they received on the contracts, and previous decertification action(s) while working as an observer or observer service provider.

* * * * *

(vi) A description of the applicant's ability to carry out the responsibilities and duties of a fishery observer services provider as set out under paragraph (h)(5) of this section, and the arrangements to be used.

* * * * *

(viii) Proof that its observers, whether contracted or employed by the service provider, are compensated with salaries that meet or exceed the U.S. Department of Labor (DOL) guidelines for observers. Observers shall be compensated as Fair Labor Standards Act (FLSA) non-exempt employees. Observer providers shall provide any other benefits and personnel services in accordance with the terms of each observer's contract or employment status.

(ix) The names of its fully equipped, NMFS/NEFOP certified, observers on staff or a list of its training candidates (with resumes) and a request for an appropriate NMFS/NEFOP Observer Training class. The NEFOP training has a minimum class size of eight individuals, which may be split among multiple vendors requesting training. Requests for training classes with fewer than eight individuals will be delayed until further requests make up the full training class size.

* * * * *

(4) *Application evaluation.* (i) NMFS shall review and evaluate each application submitted under paragraph (h)(3) of this section. Issuance of approval as an observer provider shall be based on completeness of the application, and a determination by NMFS of the applicant's ability to perform the duties and responsibilities of a fishery observer service provider, as demonstrated in the application information. A decision to approve or deny an application shall be made by NMFS within 15 business days of receipt of the application by NMFS.

(ii) If NMFS approves the application, the observer service provider's name will be added to the list of approved observer service providers found on the NMFS/NEFOP Web site specified in paragraph (h)(1) of this section, and in any outreach information to the industry. Approved observer service providers shall be notified in writing and provided with any information pertinent to its participation in the fishery observer program.

(iii) An application shall be denied if NMFS determines that the information provided in the application is not complete or the evaluation criteria are not met. NMFS shall notify the applicant in writing of any deficiencies in the application or information submitted in support of the application. An applicant who receives a denial of his or her application may present additional information to rectify the deficiencies specified in the written

denial, provided such information is submitted to NMFS within 30 days of the applicant's receipt of the denial notification from NMFS. In the absence of additional information, and after 30 days from an applicant's receipt of a denial, an observer provider is required to resubmit an application containing all of the information required under the application process specified in paragraph (h)(3) of this section to be re-considered for being added to the list of approved observer service providers.

(5) *Responsibilities of observer service providers.* (i) An observer service provider must provide observers certified by NMFS/NEFOP pursuant to paragraph (i) of this section for deployment in a fishery when contacted and contracted by the owner, operator, or vessel manager of a fishing vessel, unless the observer service provider refuses to deploy an observer on a requesting vessel for any of the reasons specified at paragraph (h)(5)(viii) of this section.

(ii) An observer service provider must provide to each of its observers:

(A) All necessary transportation, including arrangements and logistics, of observers to the initial location of deployment, to all subsequent vessel assignments, and to any debriefing locations, if necessary;

(B) Lodging, per diem, and any other services necessary for observers assigned to a fishing vessel or to attend an appropriate NMFS/NEFOP observer training class;

(C) The required observer equipment, in accordance with equipment requirements listed on the NMFS/NEFOP Web site specified in paragraph (h)(1) of this section, prior to any deployment and/or prior to NMFS observer certification training; and

(D) Individually assigned communication equipment, in working order, such as a mobile phone, for all necessary communication. An observer service provider may alternatively compensate observers for the use of the observer's personal mobile phone, or other device, for communications made in support of, or necessary for, the observer's duties.

(iii) *Observer deployment logistics.* Each approved observer service provider must assign an available certified observer to a vessel upon request. Each approved observer service provider must be accessible 24 hours per day, 7 days per week, to enable an owner, operator, or manager of a vessel to secure observer coverage when requested. The telephone system must be monitored a minimum of four times daily to ensure rapid response to industry requests. Observer service providers approved under paragraph (h) of this section are required to report observer deployments to NMFS daily for the purpose of determining whether the predetermined coverage levels are being achieved in the appropriate fishery.

(iv) *Observer deployment limitations.* (A) A candidate observer's first four deployments and the resulting data shall be immediately edited and approved after each trip by NMFS/NEFOP prior to any further deployments by that observer. If data quality is considered acceptable, the observer would be certified.

(B) Unless alternative arrangements are approved by NMFS, an observer provider must not deploy any observer on the same vessel for more than two consecutive multi-day trips, and not more than twice in any given month for multi-day deployments.

(v) *Communications with observers.* An observer service provider must have an employee responsible for observer activities on call 24 hours a day to handle emergencies involving observers or problems concerning observer logistics, whenever observers are at sea, stationed shoreside, in transit, or in port awaiting vessel assignment.

(vi) *Observer training requirements.* The following information must be submitted to NMFS/NEFOP at least 7 days prior to the beginning of the proposed training class: A list of observer candidates; observer candidate resumes; and a statement signed by the candidate, under penalty of perjury, that discloses the candidate's criminal convictions, if any. All observer trainees must complete a basic cardiopulmonary resuscitation/first aid course prior to the end of a NMFS/NEFOP Observer Training class. NMFS may reject a candidate for training if the candidate does not meet the minimum qualification requirements as outlined by NMFS/NEFOP minimum eligibility standards for observers as described on the NMFS/NEFOP Web site.

(vii) *Reports*—(A) *Observer deployment reports.* The observer service provider must report to NMFS/NEFOP when, where, to whom, and to what fishery (including Open Area or Access Area for sea scallop trips) an observer has been deployed, within 24 hours of the observer's departure. The observer service provider must ensure that the observer reports back to NMFS its Observer Contract (OBSCON) data, as described in the certified observer training, within 24 hours of landing. OBSCON data are to be submitted electronically or by other means specified by NMFS. The observer service provider shall provide the raw (unedited) data collected by the observer to NMFS within 4 business days of the trip landing.

(B) *Safety refusals.* The observer service provider must report to NMFS any trip that has been refused due to safety issues, *e.g.,* failure to hold a valid USCG Commercial Fishing Vessel Safety Examination Decal or to meet the safety requirements of the observer's pre-trip vessel safety checklist, within 24 hours of the refusal.

(C) *Biological samples.* The observer service provider must ensure that biological samples, including whole marine mammals, sea turtles, and sea birds, are stored/handled properly and transported to NMFS within 7 days of landing.

(D) *Observer debriefing.* The observer service provider must ensure that the observer remains available to NMFS, either in-person or via phone, at NMFS' discretion, including NMFS Office for Law Enforcement, for debriefing for at least 2 weeks following any observed trip. If requested by NMFS, an observer that is at sea during the 2-week period must contact NMFS upon his or her return.

(E) *Observer availability report.* The observer service provider must report to NMFS any occurrence of inability to respond to an industry request for observer coverage due to the lack of available observers by 5 p.m., Eastern Time, of any day on which the provider is unable to respond to an industry request for observer coverage.

(F) *Other reports.* The observer service provider must report possible observer harassment, discrimination, concerns about vessel safety or marine casualty, or observer illness or injury; and any information, allegations, or reports regarding observer conflict of interest or breach of the standards of behavior, to NMFS/NEFOP within 24 hours of the event or within 24 hours of learning of the event.

(G) *Observer status report.* The observer service provider must provide NMFS/NEFOP with an updated list of contact information for all observers that includes the observer identification number, observer's name, mailing address, email address, phone numbers, homeports or fisheries/trip types assigned, and must include whether or not the observer is ''in service,'' indicating when the observer has requested leave and/or is not currently working for an industry funded program.

(H) *Vessel contract.* The observer service provider must submit to NMFS/NEFOP, if requested, a copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated

into the contract) between the observer provider and those entities requiring observer services.

(I) *Observer contract.* The observer service provider must submit to NMFS/NEFOP, if requested, a copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and specific observers.

(J) *Additional information.* The observer service provider must submit to NMFS/NEFOP, if requested, copies of any information developed and/or used by the observer provider and distributed to vessels, such as informational pamphlets, payment notification, description of observer duties, etc.

(viii) *Refusal to deploy an observer.* (A) An observer service provider may refuse to deploy an observer on a requesting scallop vessel if the observer service provider does not have an available observer within 48 hours of receiving a request for an observer from a vessel.

(B) An observer service provider may refuse to deploy an observer on a requesting fishing vessel if the observer service provider has determined that the requesting vessel is inadequate or unsafe pursuant to the reasons described at § 600.746 of this chapter.

(C) The observer service provider may refuse to deploy an observer on a fishing vessel that is otherwise eligible to carry an observer for any other reason, including failure to pay for previous observer deployments, provided the observer service provider has received prior written confirmation from NMFS authorizing such refusal.

* * * * *

(7) *Removal of observer service provider from the list of approved observer service providers.* An observer service provider that fails to meet the requirements, conditions, and responsibilities specified in paragraphs (h)(5) and (6) of this section shall be notified by NMFS, in writing, that it is subject to removal from the list of approved observer service providers. Such notification shall specify the reasons for the pending removal. An observer service provider that has received notification that it is subject to removal from the list of approved observer service providers may submit written information to rebut the reasons for removal from the list. Such rebuttal must be submitted within 30 days of notification received by the observer service provider that the observer service provider is subject to removal and must be accompanied by written evidence rebutting the basis for removal. NMFS shall review information rebutting the pending removal and shall notify the observer service provider within 15 days of receipt of the rebuttal whether or not the removal is warranted. If no response to a pending removal is received by NMFS, the observer service provider shall be automatically removed from the list of approved observer service providers. The decision to remove the observer service provider from the list, either after reviewing a rebuttal, or if no rebuttal is submitted, shall be the final decision of NMFS and the Department of Commerce. Removal from the list of approved observer service providers does not necessarily prevent such observer service provider from obtaining an approval in the future if a new application is submitted that demonstrates that the reasons for removal are remedied. Certified observers under contract with an observer service provider that has been removed from the list of approved service providers must complete their assigned duties for any fishing trips on which the observers are deployed at the time the observer service provider is removed from the list of approved observer service providers. An observer service provider removed from the list of approved observer service providers is responsible for providing NMFS with the information required in paragraph (h)(5)(vii) of this section following completion of the trip. NMFS may consider, but is not limited to, the following in determining if an observer service provider may remain on the list of approved observer service providers:

* * * * *

(i) *Observer certification.* (1) To be certified, employees or sub-contractors operating as observers for observer service providers approved under paragraph (h) of this section must meet NMFS National Minimum Eligibility Standards for observers. NMFS National Minimum Eligibility Standards are available at the National Observer Program Web site: *www.nmfs.noaa.gov/op/pds/categories/science_and_technology.html.*

(2) *Observer training.* In order to be deployed on any fishing vessel, a candidate observer must have passed an appropriate NMFS/NEFOP Observer Training course. If a candidate fails training, the candidate shall be notified in writing on or before the last day of training. The notification will indicate the reasons the candidate failed the training. Observer training shall include an observer training trip, as part of the observer's training, aboard a fishing vessel with a trainer. A candidate observer's first four deployments and the resulting data shall be immediately edited and approved after each trip by NMFS/NEFOP, prior to any further deployments by that observer. If data quality is considered acceptable, the observer would be certified.

(3) * * *

(ii) Be physically and mentally capable of carrying out the responsibilities of an observer on board fishing vessels, pursuant to standards established by NMFS. Such standards are available from NMFS/NEFOP Web site specified in paragraph (h)(1) of this section and shall be provided to each approved observer service provider;

* * * * *

(v) Accurately record their sampling data, write complete reports, and report accurately any observations relevant to conservation of marine resources or their environment.

(4) *Probation and decertification.* NMFS may review observer certifications and issue observer certification probation and/or decertification as described in NMFS policy found on the NMFS/NEFOP Web site specified in paragraph (h)(1) of this section.

(5) *Issuance of decertification.* Upon determination that decertification is warranted under paragraph (i)(4) of this section, NMFS shall issue a written decision to decertify the observer to the observer and approved observer service providers via certified mail at the observer's most current address provided to NMFS. The decision shall identify whether a certification is revoked and shall identify the specific reasons for the action taken. Decertification is effective immediately as of the date of issuance, unless the decertification official notes a compelling reason for maintaining certification for a specified period and under specified conditions. Decertification is the final decision of NMFS and the Department of Commerce and may not be appealed.

* * * * *

■ 3. Add § 648.18 to subpart A to read as follows:

§ 648.18 Standardized bycatch reporting methodology.

NMFS shall comply with the Standardized Bycatch Reporting Methodology (SBRM) provisions established in the following fishery management plans by the *Standardized Bycatch Reporting Methodology: An Omnibus Amendment to the Fishery Management Plans of the Mid-Atlantic and New England Regional Fishery Management Councils,* completed

March 2015, also known as the SBRM Omnibus Amendment, by the New England Fishery Management Council, Mid-Atlantic Fishery Management Council, National Marine Fisheries Service Greater Atlantic Regional Fisheries Office, and National Marine Fisheries Service Northeast Fisheries Science Center: Atlantic Bluefish; Atlantic Mackerel, Squid, and Butterfish; Atlantic Sea Scallop; Atlantic Surfclam and Ocean Quahog; Atlantic Herring; Atlantic Salmon; Deep-Sea Red Crab; Monkfish; Northeast Multispecies; Northeast Skate Complex; Spiny Dogfish; Summer Flounder, Scup, and Black Sea Bass; and Tilefish. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of the SBRM Omnibus Amendment from the Greater Atlantic Regional Fisheries Office (*www.greateratlantic.fisheries.noaa.gov,* 978–281–9300). You may inspect a copy at the Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930 or 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: *www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

■ 4. In § 648.22, add paragraph (c)(13) to read as follows:

§ 648.22 Atlantic mackerel, squid, and butterfish specifications.

* * * * *

(c) * * *

(13) Changes, as appropriate, to the SBRM, including the coefficient of variation (CV) based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

* * * * *

■ 5. In § 648.25, revise paragraph (a)(1) to read as follows:

§ 648.25 Atlantic Mackerel, squid, and butterfish framework adjustments to management measures.

(a) * * *

(1) *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear requirements or prohibitions; permitting restrictions; recreational possession limit; recreational seasons; closed areas; commercial seasons; commercial trip limits; commercial quota system, including commercial quota allocation procedure and possible quota set-asides to mitigate bycatch; recreational harvest limit; annual specification quota setting process; FMP Monitoring Committee composition and process; description and identification of EFH (and fishing gear management measures that impact EFH); description and identification of habitat areas of particular concern; overfishing definition and related thresholds and targets; regional gear restrictions; regional season restrictions (including option to split seasons); restrictions on vessel size (LOA and GRT) or shaft horsepower; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; any other management measures currently included in the FMP; set aside quota for scientific research; regional management; process for inseason adjustment to the annual specification; mortality caps for river herring and shad species; time/area management for river herring and shad species; and provisions for river herring and shad incidental catch avoidance program, including adjustments to the mechanism and process for tracking fleet activity, reporting incidental catch events, compiling data, and notifying the fleet of changes to the area(s); the definition/duration of 'test tows,' if test tows would be utilized to determine the extent of river herring incidental catch in a particular area(s); the threshold for river herring incidental catch that would trigger the need for vessels to be alerted and move out of the area(s); the distance that vessels would be required to move from the area(s); and the time that vessels would be required to remain out of the area(s). Measures contained within this list that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require amendment of the FMP instead of a framework adjustment.

* * * * *

■ 6. In § 648.41, revise paragraph (a) to read as follows:

§ 648.41 Framework specifications.

(a) *Within season management action.* The New England Fishery Management Council (NEFMC) may, at any time, initiate action to implement, add to or adjust Atlantic salmon management measures to:

(1) Allow for Atlantic salmon aquaculture projects in the EEZ, provided such an action is consistent with the goals and objectives of the Atlantic Salmon FMP; and

(2) Make changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

* * * * *

■ 7. In § 648.55, revise paragraphs (f)(39) and (40), and add paragraph (f)(41) to read as follows:

§ 648.55 Framework adjustments to management measures.

* * * * *

(f) * * *

(39) Adjusting EFH closed area management boundaries or other associated measures;

(40) Changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set-aside programs; and

(41) Any other management measures currently included in the FMP.

* * * * *

■ 8. In § 648.79, revise paragraph (a)(1) to read as follows:

§ 648.79 Surfclam and ocean quahog framework adjustments to management measures.

(a) * * *

(1) *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and

biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting, and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; the overfishing definition (both the threshold and target levels); description and identification of EFH (and fishing gear management measures that impact EFH); habitat areas of particular concern; set-aside quota for scientific research; VMS; OY range; suspension or adjustment of the surfclam minimum size limit; and changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs. Issues that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require an amendment of the FMP instead of a framework adjustment.

* * * * *

■ 9. In § 648.90, revise paragraphs (a)(2)(i), (a)(2)(iii), (b)(1)(ii), and (c)(1)(i) and (ii) to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(2) *Biennial review.* (i) The NE multispecies PDT shall meet on or before September 30 every other year to perform a review of the fishery, using the most current scientific information available provided primarily from the NEFSC. Data provided by states, ASMFC, the USCG, and other sources may also be considered by the PDT. Based on this review, the PDT will develop ACLs for the upcoming fishing year(s) as described in paragraph (a)(4) of this section and develop options for consideration by the Council if necessary, on any changes, adjustments, or additions to DAS allocations, closed areas, or other measures necessary to rebuild overfished stocks and achieve the FMP goals and objectives, including changes to the SBRM.

* * * * *

(iii) Based on this review, the PDT shall recommend ACLs and develop options necessary to achieve the FMP goals and objectives, which may include a preferred option. The PDT must demonstrate through analyses and documentation that the options they develop are expected to meet the FMP goals and objectives. The PDT may review the performance of different user groups or fleet sectors in developing options. The range of options developed by the PDT may include any of the management measures in the FMP, including, but not limited to: ACLs, which must be based on the projected fishing mortality levels required to meet the goals and objectives outlined in the FMP for the 12 regulated species and ocean pout if able to be determined; identifying and distributing ACLs and other sub-components of the ACLs among various segments of the fishery; AMs; DAS changes; possession limits; gear restrictions; closed areas; permitting restrictions; minimum fish sizes; recreational fishing measures; describing and identifying EFH; fishing gear management measures to protect EFH; designating habitat areas of particular concern within EFH; and changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs. In addition, the following conditions and measures may be adjusted through future framework adjustments: Revisions to DAS measures, including DAS allocations (such as the distribution of DAS among the four categories of DAS), future uses for Category C DAS, and DAS baselines, adjustments for steaming time, etc.; modifications to capacity measures, such as changes to the DAS transfer or DAS leasing measures; calculation of area-specific ACLs, area management boundaries, and adoption of area-specific management measures; sector allocation requirements and specifications, including the establishment of a new sector, the disapproval of an existing sector, the allowable percent of ACL available to a sector through a sector allocation, and the calculation of PSCs; sector administration provisions, including at-sea and dockside monitoring measures; sector reporting requirements; state-operated permit bank administrative provisions; measures to implement the U.S./Canada Resource Sharing Understanding, including any specified TACs (hard or target); changes to administrative measures; additional uses for Regular B DAS; reporting requirements; the GOM Inshore Conservation and Management Stewardship Plan; adjustments to the Handgear A or B permits; gear requirements to improve selectivity, reduce bycatch, and/or reduce impacts of the fishery on EFH; SAP modifications; revisions to the ABC control rule and status determination criteria, including, but not limited to, changes in the target fishing mortality rates, minimum biomass thresholds, numerical estimates of parameter values, and the use of a proxy for biomass may be made either through a biennial adjustment or framework adjustment; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; and any other measures currently included in the FMP.

* * * * *

(b) * * *

(1) * * *

(ii) The Whiting PDT, after reviewing the available information on the status of the stock and the fishery, may recommend to the Council any measures necessary to assure that the specifications will not be exceeded; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; as well as changes to the appropriate specifications.

* * * * *

(c) * * *

(1) * * *

(i) After a management action has been initiated, the Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analyses and opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to management measures, other than to address gear conflicts, must come from one or more of the following categories: DAS changes; effort monitoring; data reporting; possession limits; gear restrictions; closed areas; permitting restrictions; crew limits; minimum fish sizes; onboard observers; minimum hook size and hook style; the use of crucifer in the hook-gear fishery; sector requirements;

recreational fishing measures; area closures and other appropriate measures to mitigate marine mammal entanglements and interactions; description and identification of EFH; fishing gear management measures to protect EFH; designation of habitat areas of particular concern within EFH; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; and any other management measures currently included in the FMP.

(ii) The Council's recommendation on adjustments or additions to management measures pertaining to small-mesh NE multispecies, other than to address gear conflicts, must come from one or more of the following categories: Quotas and appropriate seasonal adjustments for vessels fishing in experimental or exempted fisheries that use small mesh in combination with a separator trawl/grate (if applicable); modifications to separator grate (if applicable) and mesh configurations for fishing for small-mesh NE multispecies; adjustments to whiting stock boundaries for management purposes; adjustments for fisheries exempted from minimum mesh requirements to fish for small-mesh NE multispecies (if applicable); season adjustments; declarations; participation requirements for any of the Gulf of Maine/Georges Bank small-mesh multispecies exemption areas; OFL and ABC values; ACL, TAL, or TAL allocations, including the proportions used to allocate by season or area; small-mesh multispecies possession limits, including in-season AM possession limits; changes to reporting requirements and methods to monitor the fishery; and biological reference points, including selected reference time series, survey strata used to calculate biomass, and the selected survey for status determination; and changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

* * * * *

■ 10. In § 648.96, revise paragraph (a)(3)(ii) to read as follows:

§ 648.96 FMP review, specification, and framework adjustment process.

(a) * * *

(3) * * *

(ii) The range of options developed by the Councils may include any of the management measures in the Monkfish FMP, including, but not limited to: ACTs; closed seasons or closed areas; minimum size limits; mesh size limits; net limits; liver-to-monkfish landings ratios; annual monkfish DAS allocations and monitoring; trip or possession limits; blocks of time out of the fishery; gear restrictions; transferability of permits and permit rights or administration of vessel upgrades, vessel replacement, or permit assignment; measures to minimize the impact of the monkfish fishery on protected species; gear requirements or restrictions that minimize bycatch or bycatch mortality; transferable DAS programs; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; changes to the Monkfish Research Set-Aside Program; and other frameworkable measures included in §§ 648.55 and 648.90.

* * * * *

■ 11. In § 648.102, add paragraph (a)(10) to read as follows:

§ 648.102 Summer flounder specifications.

(a) * * *

(10) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

* * * * *

■ 12. In § 648.110, revise paragraph (a)(1) to read as follows:

§ 648.110 Summer flounder framework adjustments to management measures.

(a) * * *

(1) *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear requirements or prohibitions; permitting restrictions; recreational possession limit; recreational seasons; closed areas; commercial seasons; commercial trip limits; commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch; recreational harvest limit; specification quota setting process; FMP Monitoring Committee composition and process; description and identification of essential fish habitat (and fishing gear management measures that impact EFH); description and identification of habitat areas of particular concern; regional gear restrictions; regional season restrictions (including option to split seasons); restrictions on vessel size (LOA and GRT) or shaft horsepower; operator permits; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; any other commercial or recreational management measures; any other management measures currently included in the FMP; and set aside quota for scientific research. Issues that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require an amendment of the FMP instead of a framework adjustment.

* * * * *

■ 13. In § 648.122, add paragraph (a)(13) to read as follows:

§ 648.122 Scup specifications.

(a) * * *

(13) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

* * * * *

■ 14. In § 648.130, revise paragraph (a)(1) to read as follows:

§ 648.130 Scup framework adjustments to management measures.

(a) * * *

(1) *Adjustment process.* The MAFMC shall develop and analyze appropriate

management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rules; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear restricted areas; gear requirements or prohibitions; permitting restrictions; recreational possession limits; recreational seasons; closed areas; commercial seasons; commercial trip limits; commercial quota system including commercial quota allocation procedure and possible quota set asides to mitigate bycatch; recreational harvest limits; annual specification quota setting process; FMP Monitoring Committee composition and process; description and identification of EFH (and fishing gear management measures that impact EFH); description and identification of habitat areas of particular concern; regional gear restrictions; regional season restrictions (including option to split seasons); restrictions on vessel size (LOA and GRT) or shaft horsepower; operator permits; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; any other commercial or recreational management measures; any other management measures currently included in the FMP; and set aside quota for scientific research.

* * * * *

■ 15. In § 648.142, add paragraph (a)(12) to read as follows:

§ 648.142 Black sea bass specifications.

(a) * * *

(12) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

* * * * *

■ 16. In § 648.162, add paragraph (a)(9) to read as follows:

§ 648.162 Bluefish specifications.

(a) * * *

(9) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; and

* * * * *

■ 17. In § 648.167, revise paragraph (a)(1) to read as follows:

§ 648.167 Bluefish framework adjustment to management measures.

(a) * * *

(1) *Adjustment process.* After a management action has been initiated, the MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC shall provide the public with advance notice of the availability of both the proposals and the analysis and the opportunity to comment on them prior to and at the second MAFMC meeting. The MAFMC's recommendation on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear requirements or prohibitions; permitting restrictions; recreational possession limit; recreational season; closed areas; commercial season; description and identification of EFH; fishing gear management measures to protect EFH; designation of habitat areas of particular concern within EFH; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; and any other management measures currently included in the FMP. Measures that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require an amendment of the FMP instead of a framework adjustment.

* * * * *

■ 18. In § 648.200, revise the introductory text of paragraph (b) to read as follows:

§ 648.200 Specifications.

* * * * *

(b) *Guidelines.* As the basis for its recommendations under paragraph (a) of this section, the PDT shall review available data pertaining to: Commercial and recreational catch data; current estimates of fishing mortality; discards; stock status; recent estimates of recruitment; virtual population analysis results and other estimates of stock size; sea sampling and trawl survey data or, if sea sampling data are unavailable, length frequency information from trawl surveys; impact of other fisheries on herring mortality; and any other relevant information. The specifications recommended pursuant to paragraph (a) of this section must be consistent with the following:

* * * * *

■ 19. In § 648.206, add paragraph (b)(29) to read as follows:

§ 648.206 Framework provisions.

* * * * *

(b) * * *

(29) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs;

* * * * *

■ 20. In § 648.232, add paragraph (a)(6) to read as follows:

§ 648.232 Spiny dogfish specifications.

(a) * * *

(6) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs;

* * * * *

■ 21. In § 648.239, revise paragraph (a)(1) to read as follows:

§ 648.239 Spiny dogfish framework adjustments to management measures.

(a) * * *

(1) *Adjustment process.* After the Councils initiate a management action, they shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Councils shall provide

the public with advance notice of the availability of both the proposals and the analysis for comment prior to, and at, the second Council meeting. The Councils' recommendation on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear requirements, restrictions, or prohibitions (including, but not limited to, mesh size restrictions and net limits); regional gear restrictions; permitting restrictions, and reporting requirements; recreational fishery measures (including possession and size limits and season and area restrictions); commercial season and area restrictions; commercial trip or possession limits; fin weight to spiny dogfish landing weight restrictions; onboard observer requirements; commercial quota system (including commercial quota allocation procedures and possible quota set-asides to mitigate bycatch, conduct scientific research, or for other purposes); recreational harvest limit; annual quota specification process; FMP Monitoring Committee composition and process; description and identification of essential fish habitat; description and identification of habitat areas of particular concern; overfishing definition and related thresholds and targets; regional season restrictions (including option to split seasons); restrictions on vessel size (length and GRT) or shaft horsepower; target quotas; measures to mitigate marine mammal entanglements and interactions; regional management; changes to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs; any other management measures currently included in the Spiny Dogfish FMP; and measures to regulate aquaculture projects. Measures that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require an amendment of the FMP instead of a framework adjustment.

* * * * *

■ 22. In § 648.260, revise paragraph (a)(1) to read as follows:

§ 648.260 Specifications.

(a) * * *

(1) The Red Crab PDT shall meet at least once annually during the intervening years between Stock Assessment and Fishery Evaluation (SAFE) Reports, described in paragraph (b) of this section, to review the status of the stock and the fishery. Based on such review, the PDT shall provide a report to the Council on any changes or new information about the red crab stock and/or fishery, and it shall recommend whether the specifications for the upcoming year(s) need to be modified. At a minimum, this review shall include a review of at least the following data, if available: Commercial catch data; current estimates of fishing mortality and catch-per-unit-effort (CPUE); discards; stock status; recent estimates of recruitment; virtual population analysis results and other estimates of stock size; sea sampling, port sampling, and survey data or, if sea sampling data are unavailable, length frequency information from port sampling and/or surveys; impact of other fisheries on the mortality of red crabs; and any other relevant information.

* * * * *

■ 23. In § 648.261, revise paragraph (a)(1) to read as follows:

§ 648.261 Framework adjustment process.

(a) * * *

(1) In response to an annual review of the status of the fishery or the resource by the Red Crab PDT, or at any other time, the Council may recommend adjustments to any of the measures proposed by the Red Crab FMP, including the SBRM. The Red Crab Oversight Committee may request that the Council initiate a framework adjustment. Framework adjustments shall require one initial meeting (the agenda must include notification of the impending proposal for a framework adjustment) and one final Council meeting. After a management action has been initiated, the Council shall develop and analyze appropriate management actions within the scope identified below. The Council may refer the proposed adjustments to the Red Crab Committee for further deliberation and review. Upon receiving the recommendations of the Oversight Committee, the Council shall publish notice of its intent to take action and provide the public with any relevant analyses and opportunity to comment on any possible actions. After receiving public comment, the Council must take action (to approve, modify, disapprove, or table) on the recommendation at the Council meeting following the meeting at which it first received the recommendations. Documentation and analyses for the framework adjustment shall be available at least 2 weeks before the final meeting.

* * * * *

■ 24. In § 648.292, revise paragraph (a) to read as follows:

§ 648.292 Tilefish specifications.

* * * * *

(a) *Annual specification process.* The Tilefish Monitoring Committee shall review the ABC recommendation of the SSC, tilefish landings and discards information, and any other relevant available data to determine if the ACL, ACT, or total allowable landings (TAL) requires modification to respond to any changes to the stock's biological reference points or to ensure that the rebuilding schedule is maintained. The Monitoring Committee will consider whether any additional management measures or revisions to existing measures are necessary to ensure that the TAL will not be exceeded, including changes, as appropriate, to the SBRM. Based on that review, the Monitoring Committee will recommend ACL, ACT, and TAL to the Tilefish Committee of the MAFMC. Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the MAFMC the appropriate ACL, ACT, TAL, and other management measures for a single fishing year or up to 3 years. The MAFMC shall review these recommendations and any public comments received, and recommend to the Regional Administrator, at least 120 days prior to the beginning of the next fishing year, the appropriate ACL, ACT, TAL, the percentage of TAL allocated to research quota, and any management measures to ensure that the TAL will not be exceeded, for the next fishing year, or up to 3 fishing years. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations, and after such review, NMFS will publish a proposed rule in the **Federal Register** specifying the annual ACL, ACT, TAL and any management measures to ensure that the TAL will not be exceeded for the upcoming fishing year or years. After considering public comments, NMFS will publish a final rule in the **Federal Register** to implement the ACL, ACT, TAL and any management measures. The previous year's specifications will remain effective unless revised through the specification process and/or the

research quota process described in paragraph (e) of this section. NMFS will issue notification in the **Federal Register** if the previous year's specifications will not be changed.

* * * * *

■ 25. In § 648.299, add paragraph (a)(1)(xviii) to read as follows:

§ 648.299 Tilefish framework specifications.

(a) * * *

(1) * * *

(xviii) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs;

* * * * *

■ 26. In § 648.320, revise paragraphs (a)(5)(ii) and (iii), and add paragraph (a)(5)(iv) to read as follows:

§ 648.320 Skate FMP review and monitoring.

(a) * * *

(5) * * *

(ii) In-season possession limit triggers for the wing and/or bait fisheries;

(iii) Required adjustments to in-season possession limit trigger percentages or the ACL–ACT buffer, based on the accountability measures specified at § 648.323; and

(iv) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

* * * * *

■ 27. In § 648.321, revise paragraphs (b)(22) and (23), and add paragraph (b)(24) to read as follows:

§ 648.321 Framework adjustment process.

* * * * *

(b) * * *

(22) Reduction of the baseline 25-percent ACL–ACT buffer to less than 25 percent;

(23) Changes to catch monitoring procedures; and

(24) Changes, as appropriate, to the SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, the process for prioritizing observer sea-day allocations, reports, and/or industry-funded observers or observer set aside programs.

* * * * *

[FR Doc. 2015–15619 Filed 6–29–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 125
Tuesday, June 30, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1987; Directorate Identifier 2014–NM–240–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes. This proposed AD was prompted by reports of cracked forward door members of the inboard main landing gear (MLG) doors. This proposed AD would require repetitive inspections of the inboard MLG doors, repairs if necessary, and replacement of the inboard MLG doors. This proposed AD also would provide optional terminating action for the door replacement. We are proposing this AD to prevent loss of an MLG door during flight, which could result in damage to the airplane.

DATES: We must receive comments on this proposed AD by August 14, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.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.

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–2015–1987; 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 Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone 516–228–7329; fax 516–794–5531.

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–2015–1987; Directorate Identifier 2014–NM–240–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–42, dated December 12, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes. The MCAI states:

> Cases of inboard MLG doors with cracked door forward members were found. A cracked inboard MLG door forward member could result in door departure from the aeroplane. Loss of an MLG door during flight could result in damage to the aeroplane and injury to persons on the ground.
>
> This [Canadian] AD mandates the repetitive inspection [and corrective actions if necessary] and replacement of the inboard MLG doors.

The repetitive inspection is a detailed inspection for damage (including deformation, pulled or missing fasteners on the inner and outer skin, cracks, and deformation) on the forward member of the inboard MLG door inner skins, outer skin, and the forward member.

Corrective actions include repairing, removing, or replacing the inboard MLG door. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1987.

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information.

- Bombardier Modification Summary Package IS670528200033, Revision A–2, dated October 11, 2005. This service information describes procedures for enlarging the forward and aft hinge cutouts of the MLG inboard and outboard doors.
- Bombardier Service Bulletin 670BA–32–040, Revision D, dated July 2, 2014, including Appendix A, Revision A, dated July 2, 2014, and Appendix B, Revision B, dated July 2, 2014. This service information describes procedures for increasing the clearances between the MLG fairing and the MLG doors.
- Bombardier Service Bulletin 670BA–32–040, Revision E, dated

November 13, 2014, including Appendix A, Revision A, dated July 2, 2014, and Appendix B, Revision B, dated July 2, 2014. This service information describes procedures for increasing the clearances between the MLG fairing and the MLG doors, and for enlarging the forward and aft hinge cutouts of the MLG inboard and outboard doors.

• Bombardier Service Bulletin 670BA–32–042, Revision A, dated July 2, 2014, including Appendices A and B, both dated November 5, 2013. This service information describes procedures for inspecting and repairing the inboard MLG door inner skins, outer skin, and the forward member.

• Bombardier Service Bulletin 670BA–32–043, Revision A, dated November 13, 2014. This service information describes procedures for replacing the inboard MLG doors.

• Bombardier Service Bulletin 670BA–32–043, dated July 2, 2014. This service information describes procedures for replacing the inboard MLG doors.

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 and Requirements of This Proposed AD

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

Related Rulemaking

AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010), requires repetitive inspections for damage of the MLG inboard doors and fairing, and corrective actions if necessary. AD 2010–23–19 applies to Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes having serial numbers (S/Ns) 10003 and subsequent; and Model CL–600–2D15 (Regional Jet Series 705) and CL–600–2D24 (Regional Jet Series 900) airplanes having S/Ns 15001 and subsequent.

Costs of Compliance

We estimate that this proposed AD affects 269 airplanes of U.S. registry.

We estimate that it would take about 16 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work hour. Required parts would cost about $31,000 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $8,704,840, or $32,360 per product.

In addition, we estimate that any necessary follow-on actions would take up to 44 work-hours and require parts costing up to $31,000, for a cost of up to $34,740 per product. We have no way of determining the number of aircraft that might need these actions.

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):

Bombardier, Inc.: Docket No. FAA–2015–1987; Directorate Identifier 2014–NM–240–AD.

(a) Comments Due Date

We must receive comments by August 14, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, certificated in any category, serial numbers 10002 and subsequent, as identified in Bombardier Service Bulletin 670BA–32–042, Revision A, dated July 2, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by reports of cracked forward door members of the inboard main landing gear (MLG) doors. We are issuing this AD to prevent loss of an MLG door during flight, which could result in damage to the airplane.

(f) Compliance

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

(g) Repetitive Inspections

Within 660 flight hours or 12 months after the effective date of this AD, whichever occurs first: Do a detailed inspection for damage (including deformation, pulled or missing fasteners on the inner and outer skin, cracks, and deformation) on the outer skin, and the forward member, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–042, Revision A, dated July 2, 2014, including

Appendices A and B, both dated November 5, 2013. Repeat the inspection thereafter at intervals not to exceed 660 flight hours or 12 months, whichever occurs first.

(h) Detailed Inspection Definition

For the purposes of this AD, a detailed inspection is an intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.

(i) Corrective Actions

(1) If any damage is found on the inner or outer skin of the inboard MLG door during any inspection required by paragraph (g) of this AD: Before further flight, do the actions specified in paragraph (i)(1)(i), (i)(1)(ii), or (i)(1)(iii) of this AD.

(i) Remove the damaged inboard MLG door, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–042, Revision A, dated July 2, 2014, including Appendices A and B, both dated November 5, 2013.

(ii) Repair the door as specified in paragraph (i)(1)(i)(A) or (i)(1)(i)(B) of this AD, as applicable.

(A) If repair of the inboard MLG door is possible: Repair and reinstall the door, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–042, Revision A, dated July 2, 2014, including Appendices A and B, both dated November 5, 2013.

(B) If it is not possible to repair the inboard MLG door in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–042, Revision A, dated July 2, 2014, including Appendices A and B, both dated November 5, 2013: Repair using a method approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

(iii) Replace the inboard MLG door, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–043, Revision A, dated November 13, 2014.

(2) If any damage is found on the forward member of the inboard MLG door during any inspection required by paragraph (g) of this AD: Before further flight, replace the inboard MLG door, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–043, Revision A, dated November 13, 2014.

(j) Terminating Action

Within 6,600 flight hours or 36 months after the effective date of this AD, whichever occurs first, except as provided by paragraph (l) of this AD: Replace the inboard MLG door, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–043, Revision A, dated November 13, 2014; except, where Bombardier Service Bulletin 670BA–32–043, Revision A, dated November 13, 2014, specifies to contact the manufacturer for certain instructions, this AD requires accomplishing those actions using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO.

(1) Doing the MLG door replacement required by paragraph (j) of this AD terminates the inspections required by paragraph (g) of this AD for that MLG door.

(2) Doing the actions required by this paragraph does not terminate the actions required by AD 2010–23–19, Amendment 39–16508 (75 FR 68695, November 9, 2010).

(k) Optional Actions for Compliance with Paragraph (j) of this AD

Doing any of the actions specified in paragraph (k)(1), (k)(2), (k)(3), or (k)(4) of this AD is acceptable for compliance with the requirements of paragraph (j) of this AD.

(1) Replacement of the inboard MLG door, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–043, Revision A, dated November 13, 2014; and enlargement of the forward and aft hinge cutouts, in accordance with the procedures specified in Bombardier Modification Summary Package (MoDSum) IS670528200033, Revision A–2, dated October 11, 2005.

(2) Installation of an inboard MLG door assembly with a part number listed in the ''Post SB Part Number'' column of Section M, Relationship Chart, of Bombardier Service Bulletin 670BA–32–043, dated July 2, 2014, in accordance with the Accomplishment instructions of Bombardier Service Bulletin 670BA–32–043, dated July 2, 2014; or Bombardier Service Bulletin 670BA–32–043, Revision A dated November 13, 2014; or using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO.

(3) Doing the actions specified in ''PART C—Installation of the Inboard MLG Door Part Number CC670–10520–15 and Increase of the Clearance Between the Left MLG Inboard-Door and the MLG Fairing'' and ''PART D—Installation of the Inboard MLG Door Part Number CC670–10520–16 and Increase of the Clearance Between the Right MLG Inboard-Door and the MLG Fairing'' of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–040, Revision E, dated November 13, 2014, including Appendix A, Revision A, dated July 2, 2014, and Appendix B, Revision B, dated July 2, 2014.

(4) Doing the actions specified in paragraphs (k)(4)(i) and (k)(4)(ii) of this AD.

(i) Doing the actions specified in ''PART C—Installation of the Inboard MLG Door Part Number CC670–10520–15 and Increase of the Clearance Between the Left MLG Inboard-Door and the MLG Fairing'' and ''PART D—Installation of the Inboard MLG Door Part Number CC670–10520–16 and Increase of the Clearance Between the Right MLG Inboard-Door and the MLG Fairing'' of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–32–040, Revision D, dated July 2, 2014, including Appendix A, Revision A, dated July 2, 2014, and Appendix B, Revision B, dated July 2, 2014.

(ii) Enlargement of the forward and aft hinge cutouts specified in Bombardier Modsum IS670528200033, Revision A–2, dated October 11, 2005.

(l) Optional Delay of MLG Door Replacement

If an MLG door is removed, the replacement required by paragraph (j) of this AD can be delayed until the MLG door is reinstalled. When the removed MLG door is replaced, the actions required by paragraph (j) of this AD must be done at the time specified in paragraph (j) of this AD.

(m) Parts Installation Prohibition

Upon completion of the actions specified in paragraph (j) or (k) of this AD, no person may install an inboard MLG door assembly with a part number listed in the ''Pre SB Part Number'' column of Section M, Relationship Chart, of Bombardier Service Bulletin 670BA–32–043, dated July 2, 2014, on any airplane.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO, ANE–170, 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 ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516 794 5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO authorized signature.

(o) Special Flight Permits

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–42, dated December 12, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1987.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514 855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this 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 19, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–15856 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0345]

RIN 1625–AA00

Safety Zone; Ohio River between Mile 25.2 and 25.8; New Brighton, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone on the Ohio River Mile from mile 25.2 to mile 25.8. The proposed safety zone will be effective from 8:45 p.m. to 11:15 p.m. on August 22, 2015. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with the Beaver County Regatta Fireworks. Entry into this zone will be prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port (COTP), Pittsburgh or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before July 15, 2015.

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

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

(2) Fax: 202–493–2251.

(3) Mail or Delivery: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh Waterways Management Division, U.S. Coast Guard; telephone (412)221–0807, email *Jennifer.L.Haggins@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
SAR Search and Rescue

A. Public Participation and Request for Comments

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

1. Submitting Comments

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

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2015–0345] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2015–0345) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

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

B. Regulatory History and Information

The Coast Guard has a long history working with local, state, and federal agencies in areas to improve emergency response, to prepare for events that call for swift action, and to protect our nation. The Coast Guard is proposing to establish this safety zone on the waters of the Ohio River for the Beaver County Regatta fireworks. The marine event is scheduled to take place from 8:45 p.m. to 11:15 p.m. on August 22, 2015. This proposed rule is necessary to protect the safety of the participants, spectators, commercial traffic, and the general public on the navigable waters of the United States during the event.

C. Basis and Purpose

The legal basis and authorities for this proposed rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1; 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. The purpose of this proposed safety zone is to protect public boaters and their vessels from potential safety hazards associated with the Beaver County Regatta Fireworks on the Ohio River, including falling embers and debris.

D. Discussion of Proposed Rule

This proposed rule is necessary to establish a safety zone that will encompass all waters of the Ohio River in New Brighton, Pennsylvania. The proposed safety zone will be enforced from approximately 8:45 p.m. to 11:15 p.m., for approximately 2 hour 30 minutes on August 22, 2015. As proposed, the safety zone would be a complete closure of the Ohio River from mile 25.2 to mile 25.8 from 8:45 p.m. to 11:15 p.m. on August 22, 2015. All persons and vessels, except those persons and vessels participating in the marine fireworks event and those vessels enforcing the areas, would be prohibited from entering, transiting through, anchoring in, or remaining within the proposed safety zone area.

Persons and vessels may request authorization to enter, transit though, anchor in, or remain within the enforcement areas by contacting the Captain of the Port Pittsburgh by telephone at (412)221–0807, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the enforcement areas is granted by the Captain of the Port Pittsburgh or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Pittsburgh or a designated representative.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The temporary safety zone listed in this proposed rule will restrict vessel traffic from entering, transiting, or anchoring within a portion of the Ohio River. The effect of this proposed regulation will not be significant for several reasons: (1) The amount of time the Ohio River will be closed, and (2) the impacts on routine navigation are expected to be minimal because notifications to the marine community will be made through local notice to mariners (LNM) and broadcast notice to mariners (BNM). Therefore, these notifications will allow the public to plan operations around the proposed safety zone and its enforcement times.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Ohio River from mile 25.2 to mile 25.8 effective from 8:45 p.m. to 11:15 p.m. on August 22, 2015. This proposed safety zone will not have a significant economic impact on a substantial number of small entities because this proposed rule will impede navigational traffic for a short period of time. Traffic in this area is almost entirely limited to recreational vessels and commercial towing vessels. Notifications to the marine community will be made through BNMs and electronic mail. Notices of changes to the proposed safety zone and scheduled effective times and enforcement periods will also be made. Deviation from the proposed restrictions may be requested from the COTP or designated representative and will be considered on a case-by-case basis.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a temporary safety zone. The safety zone will be on the Ohio River mile 25.2 to mile 25.8 from 8:45 p.m. to 11:15 p.m. on August 22, 2015. This action is necessary to protect persons and property during the Beaver County Regatta Fireworks. This proposed rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08–0345 is added to read as follows:

§ 165.T08–0345 Safety zone; Ohio River between mile 25.2 and 25.8; New Brighton, PA.

(a) *Locations.* The following area is a temporary safety zone: All waters on the Ohio River Mile from mile 25.2 to mile 25.8.

(b) *Effective date and time.* The safety zone listed in section (a) is effective from 8:45 p.m. to 11:15 p.m. on August 22, 2015.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this area is prohibited unless authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

(2) Spectator vessels may safely transit outside the safety zones at a minimum safe speed, but may not anchor, block, loiter, or impede participants or official patrol vessels.

(3) Vessels requiring entry into or passage through the safety zones must request permission from the COTP Pittsburgh or a designated representative. They may be contacted by telephone at (412) 412–0807.

(4) All vessels shall comply with the instructions of the COTP Pittsburgh and designated personnel. Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) *Informational Broadcasts:* The Captain of the Port, Pittsburgh or a designated representative will inform the public through broadcast notices to mariners (BNM) of the effective period for the safety zone and of any changes in the effective period, enforcement times, or size of the safety zones.

Dated: May 27, 2015.

L.N. Weaver,

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

[FR Doc. 2015–16105 Filed 6–29–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2015–0026; FRL–9929–46–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Alternative Monitoring Plan for Milton R. Young Station

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of North Dakota. On April 8, 2013, the Governor of North Dakota submitted to EPA an alternative monitoring plan for the Milton R. Young Station (MRYS). The plan relates to continuous opacity monitoring for Unit 1 at MRYS. The intended effect of this action is to approve a state plan established to address minimum emission monitoring requirements. The EPA is proposing approval of this SIP revision in accordance with the requirements of section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 30, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2015–0026, by one of the following methods:

- *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Email: Fallon.Gail@epa.gov*.
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER**

INFORMATION CONTACT if you are faxing comments).

• *Mail:* Carl Daly, Director, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

• *Hand Delivery:* Director, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instruction on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Gail Fallon, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado, 80202–1129, (303) 312–6218, *Fallon.Gail@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register,** EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule.

If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule.

EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the **ADDRESSES** section of this notice.

Please note that if EPA receives adverse comment on a distinct provision of the 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. See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

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

Dated: June 9, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2015–15525 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket Nos. 14–92; 15–121; 15–121; FCC 15–59]

Assessment and Collection of Regulatory Fees for Fiscal Year 2015

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) will revise its Schedule of Regulatory Fees in order to recover an amount of $339,844,000 that Congress has required the Commission to collect for fiscal year 2015.

DATES: Submit comments on or before June 22, 2015, and reply comments on or before July 6, 2015.

ADDRESSES: You may submit comments, identified by MD Docket No. 15–121, by any of the following methods:

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

• Federal Communications Commission's Web site: *http://www.fcc.gov/cgb/ecfs.* Follow the instructions for submitting comments.

• *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

• *E-mail: ecfs@fcc.gov.* Include MD Docket No. 15–121 in the subject line of the message.

• *Mail:* Commercial overnight mail (other than U.S. Postal Service Express Mail, and Priority Mail, must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington DC 20554.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), Report and Order, and Order, FCC 15–59, MD Docket No. 15–121, adopted on May 20, 2015 and released May 21, 2015. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, *http://www.bcpi.com,* or call 1–800–378–3160. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

I. Procedural Matters

A. Ex Parte Rules Permit-But-Disclose Proceeding

1. The *Notice of Proposed Rulemaking (FY 2015 NPRM), Report and Order,* and *Order* shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b). In proceedings governed by section 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must

be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

B. Comment Filing Procedures

2. *Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov.*
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

3. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available free online, via ECFS. Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.

4. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (''PDF'') at: *http://www.fcc.gov.*

C. Initial Paperwork Reduction Act

5. This *NPRM, Report and Order,* and *Order* document solicits possible proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the possible proposed information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

D. Initial Regulatory Flexibility Analysis

6. An initial regulatory flexibility analysis (''IRFA'') is contained in Attachment E. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on the *Notice of Proposed Rulemaking* (NPRM). The Commission will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

II. Introduction and Executive Summary

7. In this *Notice of Proposed Rulemaking,* we seek comment on the Federal Communications Commission's (FCC's or Commission's) proposed regulatory fees for fiscal year (FY) 2015 to collect $339,844,000.[1] In addition, we seek comment on the Puerto Rico Broadcasters Association's (PRBA's) request for relief from regulatory fee assessments on radio and television stations in Puerto Rico due to substantial financial hardships.[2]

III. Background

8. The Commission is required by Congress to assess regulatory fees each year in an amount that can reasonably be expected to equal the amount of its appropriation.[3] Regulatory fees, assessed each fiscal year, are to ''be derived by determining the full-time equivalent number of employees performing'' these activities, ''adjusted to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission's activities . . . .''[4] Regulatory fees recover direct costs, such as salary and expenses; indirect costs, such as overhead functions; and support costs, such as rent, utilities, or equipment.[5] Regulatory fees also cover the costs incurred in regulating entities that are statutorily exempt from paying regulatory fees,[6] entities whose regulatory fees are waived,[7] and entities that provide nonregulated services. Congress sets the amount the Commission must collect each year in the Commission's fiscal year appropriations, and section 9(a)(2) of the Communications Act of 1934, as amended (Communications Act or Act) requires the Commission to collect fees sufficient to offset the amount appropriated.[8] To calculate regulatory fees, the Commission allocates the total collection target, as mandated by Congress each year, across all regulatory fee categories. The allocation of fees to fee categories is based on the Commission's calculation of full time

[1] The proposed regulatory fees include a proposed five percent reduction in regulatory fees for submarine cable systems and bearer circuits, reflected in Table C.

[2] *See* Letter from Messrs. Francisco Montero, Esq. and Jonathan R. Markman, Esq., Counsel for the Puerto Rico Broadcasters Association, filed in Docket No. 14–92, to Marlene Dortch, Secretary, Federal Communications Commission (Dec. 10, 2014) (PRBA Letter).

[3] 47 U.S.C. 159(b)(1)(B).

[4] 47 U.S.C. 159(b)(1)(A).

[5] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2004,* Report and Order, 69 FR 41028 at 41030, para. 11 (July 7, 2004) (*FY 2004 Report and Order*).

[6] For example, governmental and nonprofit entities are exempt from regulatory fees under section 9(h) of the Act. 47 U.S.C. 159(h); 47 CFR 1.1162.

[7] 47 CFR 1.1166.

[8] 47 U.S.C. 159(a)(2).

employees (FTEs) [9] in each regulatory fee category. Historically, the Commission has classified FTEs as ''direct'' if the employee is in one of the four ''core'' bureaus; otherwise, that employee was considered an ''indirect'' FTE.[10] The total FTEs for each fee category includes the direct FTEs associated with that category, plus a proportional allocation of the indirect FTEs.

9. Section 9 of the Communications Act requires the Commission to make certain changes (*i.e.,* mandatory amendments) to the regulatory fee schedule if it ''determines that the Schedule requires amendment to comply with the requirements'' of section 9(b)(1)(A).[11] In addition, the Commission must add, delete, or reclassify services in the fee schedule to reflect additions, deletions, or changes in the nature of its services ''as a consequence of Commission rulemaking proceedings or changes in law.'' [12] These ''permitted amendments'' require Congressional notification.[13] The changes in fees resulting from both mandatory and permitted amendments are not subject to judicial review.[14]

10. The Commission continues to improve the regulatory fee process by ensuring a more equitable distribution of the regulatory fee burden among categories of Commission licensees under the statutory framework in section 9 of the Communications Act. For example, in 2013, the Commission updated the FTE allocations to more accurately align regulatory fees with the costs of Commission oversight and regulation,[15] as recommended in the GAO Report, a report issued by the Government Accountability Office (GAO) in 2012.[16] The Commission also reallocated some FTEs from the International Bureau as ''indirect.'' [17] Subsequently, in the *FY 2014 Report and Order,* the Commission adopted the new toll free number regulatory fee category [18] and, in the accompanying *FY 2014 Further Notice of Proposed Rulemaking,* the Commission sought additional comment on a new regulatory fee category for DBS.[19] In our *Report and Order,* we now add a subcategory for DBS providers in the cable television and IPTV regulatory fee category based on our finding that Media Bureau FTEs work on issues and proceedings that include DBS as well as other multichannel video programming distributors (MVPDs).

IV. Discussion

A. Notice of Proposed Rulemaking

1. Proposed Regulatory Fees

11. We propose to collect $339,844,000 in regulatory fees for FY 2015, pursuant to section 9 of the Communications Act.[20] Of this amount, we project approximately $21.3 million (6.28 percent of the total FTE allocation) in fees from the International Bureau regulatees; [21] $69.3 million (20.40 percent of the total FTE allocation) in fees from the Wireless Telecommunications Bureau regulatees; [22] $131.1 million (38.57 percent of the total FTE allocation) from Wireline Competition Bureau regulatees; [23] and $118.1 million (34.75 percent of the total FTE allocation) from the Media Bureau regulatees.[24]

12. These regulatory fees are mandated by Congress and are collected ''to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.'' [25] We seek comment on the proposed regulatory fee schedule in Table C.

13. This proposed fee schedule in Table C includes a new regulatory fee for DBS (a subcategory in the cable television and IPTV category) adopted in the *Report and Order* portion of this document.[26] We estimate the number of payment units to be 34,000,000 and propose setting the initial rate at 12 cents per year, or one cent per month.[27] Because DBS regulatory fees offset cable television and IPTV fees, the cable television and IPTV rate would be reduced from $1.01 to $0.95 per subscriber at this rate for DBS. We seek comment on this rate. We also seek comment on whether setting the initial rate for DBS at one cent per customer per month would address DIRECTV and DISH's contention that a ''fee increase will cause rate shock.'' [28]

14. The proposed fee schedule also includes fees for toll free numbers (a subcategory in the ITSP category) adopted in our *FY 2014 Report and Order.*[29] We estimate the number of assessable toll-free numbers to be 36.5 million and propose setting the rate at 12 cents per year, or one cent per month.[30] Because toll-free number

[9] One FTE, a ''Full Time Equivalent'' or ''Full Time Employee,'' is a unit of measure equal to the work performed annually by a full time person (working a 40 hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget.

[10] The core bureaus are the Wireline Competition Bureau (172 FTEs), Wireless Telecommunications Bureau (91 FTEs), Media Bureau (155 FTEs), and part of the International Bureau (28 FTEs), totaling 446 ''direct'' FTEs. The ''indirect'' FTEs are the employees from the following bureaus and offices: Enforcement Bureau, Consumer & Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, Chairman and Commissioners' offices, Office of the Managing Director, Office of General Counsel, Office of the Inspector General, Office of Communications Business Opportunities, Office of Engineering and Technology, Office of Legislative Affairs, Office of Strategic Planning and Policy Analysis, Office of Workplace Diversity, Office of Media Relations, and Office of Administrative Law Judges, totaling 1,037 ''indirect'' FTEs. These totals are as of Oct. 1, 2014 and exclude auctions FTEs.

[11] 47 U.S.C. 159(b)(3).

[12] 47 U.S.C. 159(b)(3).

[13] 47 U.S.C. 159(b)(4)(B).

[14] 47 U.S.C. 159(b)(3). *But see Comsat Corp.* v. *FCC,* 114 F.3d 223, 227 (D.C. Cir. 1997) (''Where, as here, we find that the Commission has acted outside the scope of its statutory mandate, we also find that we have jurisdiction to review the Commission's action.'')

[15] *Assessment and Collection of Regulatory Fees for Fiscal Year 2013,* Report and Order, MD Docket No. 13–140, 78 FR 52433, at 52436–52437 at paras. 10–15 (August 23, 2013) (*FY 2013 Report and Order*).

[16] In 2012, the GAO concluded that the Commission should conduct an overall analysis of the regulatory fee categories and perform an updated FTE analysis by fee category. GAO ''Federal Communications Commission Regulatory Fee Process Needs to be Updated,'' GAO–12–686 (Aug. 2012) (GAO Report) at 36, (available at *http://www.gao.gov/products/GAO–12–686*).

[17] *FY 2013 Report and Order,* 78 FR 52433, 52436–52438 at paras. 12–21, (August 23, 2013) (*FY 2013 Report and Order*).

[18] *FY 2014 Report and Order,* 79 FR 54190 at 54195–54196 at paras. 28–31, (September 11, 2014) (*FY 2014 Report and Order*).

[19] *FY 2014 Further Notice of Proposed Rulemaking,* 79 FR 63883 at 63885–63886 at paras. 10–15, (October 27, 2014) (*FY 2014 Further Notice of Proposed Rulemaking*).

[20] 47 U.S.C. 159.

[21] Includes satellites, earth stations, submarine cable, and bearer circuits.

[22] Includes Commercial Mobile Radio Service (CMRS), CMRS messaging, Broadband Radio Service/Local Multipoint Distribution Service (BRS/LMDS), and multi-year wireless licensees.

[23] Includes Interstate Telecommunications Service Providers (ITSP) and toll free numbers.

[24] Includes AM radio, FM radio, television, low power/FM, cable and IPTV, DBS, and Cable Television Relay Service (CARS) licenses.

[25] 47 U.S.C. 159(a).

[26] *See* section III.B.3.

[27] When the Commission added IPTV to the cable television category, it set the initial rate for IPTV equal to the cable television rate. *See FY 2013 Report and Order,* 78 FR 52433 at 52443–52444 at paras. 35–36, (August 23, 2013) (*FY 2013 Report and Order*). Last year, we invited ''further comment on whether regulatory fees paid by DBS providers should be included in the cable television and IPTV category and assessed in the same manner.'' *FY 2014 NPRM,* 79 FR 37982 at 37991 at para. 49 (July 3, 2014) (*FY 2014 Notice of Proposed Rulemaking*). In the *FY 2014 Further Notice of Proposed Rulemaking,* we sought comment on ''whether DBS providers should pay a regulatory fee . . . at a much lower rate than that for other MVPDs, such as one-tenth of the anticipate revenue if DBS were combined with MVPD.'' *FY 2014 Further Notice of Proposed Rulemaking,* 79 FR 63883 at 63886 at para. 13 (October 27, 2014) (*FY 2014 Further Notice of Proposed Rulemaking*).

[28] DIRECTV and DISH Comments at 11.

[29] *See FY 2014 Report and Order,* 79 FR 54190 at 54195 at paras. 28–31 (September 11, 2014) (*FY 2014 Report and Order*).

[30] When the Commission first sought comment on assessing Responsible Organizations (or RespOrgs),

regulatory fees offset ITSP fees, the ITSP rate would be reduced from 0.00340 to 0.00329. We seek comment on this estimate and this rate.

15. In addition, the annual regulatory fees eliminated in the *FY 2014 Report and Order* will no longer be included in the regulatory fee schedule, *i.e.*, the annual regulatory fee for Broadcast Auxiliaries and Satellite TV Construction Permit, and one multi-year regulatory fee category (218–219 MHz). The projected revenues that would otherwise have been collected from the three regulatory fee categories that were eliminated last year are allocated proportionally to their respective service categories in the proposed regulatory fees in Table C. Specifically, the projected revenues from the 218–219 MHz fee category are proportionally allocated to the wireless service categories and the Satellite Television Construction Permit and Broadcast Auxiliary fee categories are proportionally allocated to the media service categories.

16. We also seek comment on revising the apportionment between International Bureau licensees to reduce the proportion paid by the submarine cable/terrestrial and satellite bearer circuits fee categories by approximately five percent. In the *FY 2014 Report and Order*, we concluded that the regulatory fee assessment for the submarine cable/terrestrial and satellite bearer circuits fee categories did not fairly take into account the Commission's minimal oversight and regulation of the industry and we reduced the regulatory fee apportionment by five percent and stated that we would revisit the issue to determine if additional adjustment is warranted.[31] Currently, the submarine cable and bearer circuit category is allocated 31.36 percent of the International Bureau regulatory fees. We propose a five percent decrease based on our tentative conclusion that the fee remains excessive relative to the minimal Commission oversight and regulation of this industry.

17. We also seek comment on whether the Commission should review the apportionment of regulatory fees among broadcasters. First, we expect to collect $28,356,435 from radio broadcasters and $23,650,250 from television broadcasters in fiscal year 2015. We estimate that 10,226 radio broadcasters and 4,754 television broadcasters will pay these regulatory fees[32] and note that among the broadcasters that are statutorily exempt from paying fees, noncommercial education (NCE) radio stations significantly outnumber NCE television stations.[33] Nonetheless, should the Commission reexamine the number of FTEs devoted to the regulation of radio versus television broadcasters and adjust the fee paid by radio and television broadcasters to more accurately take into account factors related to ''the benefits provided to the payor of the fee by the Commission's activities''? [34] Second, we currently assess regulatory fees on television broadcasters based on the ranking of the market they serve (market nos. 1–10; 11–25; 26–50; 51–100; >100) but assess regulatory fees on radio broadcasters based on the population they serve (<25,000; 25,001–75,000; 75,001–150,000; 150,001–500,000; 500,001–1,200,000; 1,200,001–3,000,000; >3,000,000). Do the dividing points for higher fee levels for both television and radio broadcasters remain appropriate? Should we adjust the dividing points for radio broadcasters to account for demographic change? Should we assess radio broadcasters based on market served rather than population served, which may provide more stability and predictability for radio broadcasters? Third, we currently divide radio broadcasters into six categories by type and class of service (AM class A; AM class B; AM class C; AM class D; FM classes A, B1, & C3; FM classes B, C, C0, C1, & C2). We note that FM class B stations pay more than FM class A stations at every population level because FM class A stations serve the smallest areas of all FM station classes, whereas this relationship is inverted among the AM stations since AM class A stations serve the largest areas among AM stations. But no single ratio apportions regulatory fees among AM and FM radio categories; for example, AM class A stations sometimes pay more than FM class A stations (when they serve fewer than 500,000 people) but other times pay more (when they serve more than 500,000 people).[35] Should we consolidate these categories and reapportion the regulatory fees paid by each category such that regulatory fees collected are based either on population served or rank of market served? We seek comment on these and related questions concerning the apportionment of regulatory fees among broadcasters. We tentatively conclude that changes made to the assessment of regulatory fees on broadcasters would constitute a permitted amendment[36] and therefore would not likely apply to FY 2015 regulatory fees.

18. In addition, we seek comment generally on other regulatory fee reform measures we can adopt.[37] For example, should we raise the earth station regulatory fees and thereby reduce satellite fees? [38] Are there specific divisions within bureaus or offices that should be allocated as direct instead of indirect? [39] We welcome comment on these issues and other proposals for regulatory fee reform.

2. Puerto Rico Broadcasters Association's Request for Regulatory Fee Relief

19. On December 10, 2014, PRBA filed a letter seeking regulatory fee relief for the radio broadcasters in the Commonwealth of Puerto Rico. PRBA requests that the Commission take into consideration significant population declines and economic factors when determining the regulatory fees owed by radio station operators in Puerto Rico. In particular, PRBA requests that the Commission use more recent figures to determine the radio station population

it discussed a rate of one penny per month per number and estimated that regulatory fees for toll-free numbers would approximate $4 million at that rate. *See FY 2014 NPRM,* 79 FR 37982 at 37993 at para 57 (July 3, 2014) (*FY 2014 Notice of Proposed Rulemaking*).

[31] We adopted a reallocation for submarine cable systems and bearer circuits in the *FY 2014 Report and Order* and indicated that we would revisit this issue in future proceedings to determine if additional adjustment would be warranted. *See FY 2014 Report and Order*, 79 FR 54190 at 54192–54193 at para. 14 (September 11, 2014) (*FY 2014 Report and Order*).

[32] *See* Table B, AM Class, A, B, C, D, and FM categories, total 10,226; TV digital markets 1–100 + remaining markets + the LPTV category, total 4,754.

[33] As of March 31, 2015, there were 5110 licensed NCE (including low power FM) radio stations and 395 licensed NCE television stations. *See Broadcast Station Totals as of March 31, 2015*, News Release (rel. Apr. 9, 2015).

[34] 47 U.S.C. 159(b)(1)(A) (providing for adjustment of the FTE allocation to ''take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities, including such factors as service area coverage, shared use versus exclusive use, and other factors that the Commission determines are necessary in the public interest.'')

[35] Or compare AM class B and class D stations. In areas with fewer than 25,000 people, class B stations pay $25 less than class D stations. In areas with 25,001–75,000, they pay $300 more. Less again at 75,001–150,000 people; more again above that. *See* Table C.

[36] 47 U.S.C. 159(b)(3).

[37] These issues here were raised in an ex parte filed by SIA. *See* Letter from Tom Stroup, President, Satellite Industry Association, to Marlene H. Dortch, Secretary, FCC (Apr. 30, 2015). We welcome any suggestions from commenters on regulatory fee reform.

[38] Earth station fees were increased by 7.5 percent last year. *See FY 2014 Report and Order*, 79 FR 54190 at 54193 at para. 15 (September 11, 2014) (*FY 2014 Report and Order*).

[39] This issue was raised previously; *see FY 2014 NPRM*, 79 FR 37982 at 37987–37988 at paras. 28–33 (July 3, 2014) (*FY 2014 Notice of Proposed Rulemaking*).

count for radio stations in Puerto Rico.[40] PRBA argues that economic challenges[41] and population decline[42] in Puerto Rico warrant regulatory relief. Specifically, PRBA contends that Puerto Rico has an unprecedented unemployment rate of almost 14 percent, well above the overall United States unemployment rate and much higher than the two states with the next highest unemployment rates.[43] In addition, PRBA asserts that the per capita income in Puerto Rico[44] is half of the per capita income of the state with the lowest per capita income[45] and over one-third of the households in Puerto Rico receive food stamps.[46] PRBA argues that due to the economic hardship in the territory, the population has decreased in the past nine years by almost six percent because of migration to the mainland United States and a declining birthrate.[47] Finally, PRBA contends that the radio listening market is limited because it is restricted to listeners within the boundaries of the island.[48]

20. Every ten years the Commission updates its radio station population counts to reflect nationwide changes in the population using the ''block level census data'' from the U.S. Census. PRBA asks the Commission to examine population data every five years instead of every 10 years to increase the accuracy of the population counts in Puerto Rico. We are unable to adopt PRBA's suggestion because the ''block level census data'' is only available from the U.S. Census Bureau every 10 years. Further, even if such figures were available every five years, they would be unlikely to provide a basis for fee relief for radio stations in Puerto Rico because fees on AM and FM radio stations are not assessed at granular levels but instead over a wide strata of the population.[49]

21. PRBA requests that the Commission provide relief through the reduction of regulatory fees for Puerto Rico radio broadcasters due to economic hardship, unique geography, and declining population. We seek comment on this proposal and on whether the unique circumstances described by PRBA should result in one of the following actions: (i) Moving the Puerto Rico market stations to a different rate (*e.g.*, reducing them down to a lower population strata) because of the downward trend in the population and other factors; (ii) creating a separate fee category for the Puerto Rico market at a lower rate; or (iii) adopting a special provision in our rules for economically depressed geographic areas to seek a ''fast track'' waiver of regulatory fees. For any of these actions, commenters should also discuss how such a process could satisfy the requirement to demonstrate that compelling and extraordinary circumstances outweigh the public interest in recouping the Commission's regulatory costs.

22. We recognize that fee relief is ordinarily processed through a waiver request.[50] PRBA has not identified whether every station in Puerto Rico is financially unable to pay the regulatory fee, and although we recognize that preparing and filing waiver requests, including supporting financial information for each radio station in Puerto Rico, may be administratively and financially burdensome, granting across-the-board relief for Puerto Rican stations may shift the burden of regulatory fees from stations better able to afford them to those less able. Therefore, we also seek comment on whether the ordinary waiver process is sufficient here, making clear that a regulatee may raise the same issues that PRBA has raised whenever it files a waiver request.

V. Procedural Matters

A. Payment of Regulatory Fees

1. Revised Credit Card Transaction Levels

23. In accordance with U.S. Treasury Announcement No. A–2014–04 (July 2014), the amount that can be charged on a credit card for transactions with federal agencies has been reduced to $24,999.99.[51] Previously, the credit card limit was $49,999.99. This lower transaction amount is effective June 1, 2015. Transactions greater than $24,999.99 will be rejected. This limit applies to single payments or bundled payments of more than one bill. Multiple transactions to a single agency in one day may be aggregated and treated as a single transaction subject to the $24,999.99 limit. Customers who wish to pay an amount greater than $24,999.99 should consider available electronic alternatives such as Visa or MasterCard debit cards, Automated Clearing House (ACH) debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in Fee Filer. Further details will be provided regarding payment methods and procedures at the time of FY 2015 regulatory fee collection.

24. Customers who owe an amount on a bill, debt, or other obligation due to the federal government are prohibited from splitting the total amount due into multiple payments. Splitting an amount owed into several payment transactions violates the credit card network and Fiscal Service rules. An amount owed that exceeds the Fiscal Service maximum dollar amount, $24,999.99, may not be split into two or more payment transactions in the same day by using one or multiple cards. Also, an amount owed that exceeds the Fiscal Service maximum dollar amount may not be split into two or more transactions over multiple days by using one or more cards.

2. De Minimis Regulatory Fees

25. Regulatees whose total FY 2015 regulatory fee liability, including all categories of fees for which payment is due, is $500 or less, are exempted from payment of FY 2015 regulatory fees. The *de minimis* threshold of $500 or less applies only to filers of annual regulatory fees (not regulatory fees paid through multi-year filings) between October 1 and September 30. If the sum

[40] PRBA Letter at 2–4.

[41] PRBA Letter at 2–3.

[42] PRBA Letter at 3–4.

[43] PRBA Letter at 2; *http://www.ncsl.org/research/labor-and-employment/state-unemployment-update.aspx* for the December 2014 unemployment rates for each state. The unemployment rate for Puerto Rico is 13.7 percent; the next highest unemployment rates are those of the District of Columbia (7.3 percent), Mississippi (7.2 percent), and California, (7 percent).

[44] *See http://www.census.gov/newsroom/press-releases/2014/cb14-17.html* (Puerto Rico median household income 2010–2012 was $19,518.)

[45] *See https://www.census.gov/hhes/www/income/data/statemedian/* (Mississippi median income 2010–2013 was $41,664).

[46] PRBA Letter at 2–3. Instead of the Supplemental Nutrition Assistance Program (SNAP), qualifying Puerto Rican residents receive Nutrition Assistance for Puerto Rico (NAP).

[47] PRBA Letter at 3.

[48] PRBA Letter at 5.

[49] The regulatory fee rate starts at population counts of 25,000 and below, and then increases to population counts of 25,001–75,000; 75,001–150,000; 150,001–500,000; 500,001–1,200,000; 1,200,001–3,000,000; and above 3,000,000.

[50] Fees may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of the fee would promote the public interest. 47 U.S.C. 159(d); 47 CFR 1.1166. Fee relief may be granted based on a ''sufficient showing of financial hardship.'' *See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion and Order, 60 FR 34902 at 34903 at para. 12 (July 5, 1995) (*FY 1994 Regulatory Fees Memorandum of Opinion and Order*). In such matters, however, ''[m]ere allegations or documentation of financial loss, standing alone,'' do not suffice and ''it [is] incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fee and to maintain its service to the public.'' *Id.*

[51] Treasury Financial Manual, Announcement No. A–2014–04 (July 2014).

total of all annual regulatory fee obligations is $500 or less, the regulatee is exempt from paying regulatory fees for that fiscal year. This *de minimis* status is not a permanent exemption from regulatory fees. Rather, each regulatee will need to reevaluate their total fee liability each fiscal year to determine whether they meet the *de minimis* exemption.

3. Standard Fee Calculations and Payment Dates

26. The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

• *Media Services:* Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2014 for AM/FM radio stations, VHF/UHF full service television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2014. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date.

• *Wireline (Common Carrier) Services:* Regulatory fees must be paid for authorizations that were granted on or before October 1, 2014. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date. Audio bridging service providers are included in this category.[52]

• *Wireless Services:* CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2014. The number of subscribers, units, or telephone numbers on December 31, 2014 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date.

• The first eight regulatory fee categories in our Schedule of Regulatory Fees (*see* Table C) pay ''small multi-year wireless regulatory fees.'' Entities pay these regulatory fees in advance for the entire amount period covered by the five-year or ten-year terms of their initial licenses, and pay regulatory fees again only when the license is renewed or a new license is obtained. We include these fee categories in our rulemaking (*see* Table C) to publicize our estimates of the number of ''small multi-year wireless'' licenses that will be renewed or newly obtained in FY 2015.

• *Multichannel Video Programming Distributor Services (cable television operators, IPTV providers, DBS providers, and CARS licensees):* Regulatory fees must be paid for the number of basic cable tier subscribers, IPTV subscribers, and DBS subscribers as of December 31, 2014.[53] Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2014. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date.

• *International Services:* Regulatory fees must be paid for (1) earth stations and (2) geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2014. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date.

• *International Services: Submarine Cable Systems:* Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on circuit capacity as of December 31, 2014. In instances where a license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2015 will be 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

• *International Services: Terrestrial and Satellite Services:* Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31, 2014 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier. When calculating the number of such active circuits, the facilities-based common carriers must include circuits held by themselves or their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit they and their affiliates hold and each circuit sold or leased to any customer, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. ''Active circuits'' for these purposes include backup and redundant circuits as of December 31, 2014. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits. In instances where a permit or license is transferred or assigned after October 1, 2014, responsibility for payment rests with the holder of the permit or license as of the fee due date. For regulatory fee purposes, the allocation in FY 2015 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

VI. Additional Tables

TABLE A—LIST OF COMMENTERS

Commenter	Abbreviation
Initial Comments	
DIRECTV, LLC and DISH Network, L.L.C.	DIRECTV and DISH.
ITTA—The Voice of Mid-Size Communications Companies	ITTA.
National Cable and Telecommunications Association and the American Cable Association	NCTA and ACA.
Satellite Industry Association	SIA.
SMS/800, Inc.	SMS/800.

[52] Audio bridging services are toll teleconferencing services.

[53] Cable television system operators, DBS providers, and IPTV providers should compute their number of basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. **Note:** Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators/providers may base their count on ''a typical day in the last full week'' of December 2014, rather than on a count as of December 31, 2014.

TABLE A—LIST OF COMMENTERS—Continued

Commenter	Abbreviation
Reply Comments	
CenturyLink	CenturyLink.
DIRECTV, LLC and DISH Network, L.L.C.	DIRECTV and DISH.
Hypercube Telecom, LLC	Hypercube.
National Cable and Telecommunications Association and the American Cable Association	NCTA and ACA.

TABLE B—CALCULATION OF FY 2015 REVENUE REQUIREMENTS AND PRO-RATA FEES

[Regulatory fees for the first seven categories below are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	FY 2015 Payment units	Years	FY 2014 Revenue estimate	Pro-rated FY 2015 revenue requirement	Computed FY 2015 regulatory fee	Rounded FY 2015 regulatory fee	Expected FY 2015 revenue
PLMRS (Exclusive Use)	1,800	10	595,000	543,780	30	30	540,000
PLMRS (Shared use)	31,000	10	3,000,000	3,121,700	10	10	3,100,000
Microwave	12,000	10	2,550,000	2,537,640	20	20	2,520,000
Marine (Ship)	6,300	10	780,000	951,615	15	15	945,000
Aviation (Aircraft)	4,200	10	420,000	422,940	10	10	420,000
Marine (Coast)	490	10	165,000	172,701	35	35	171,500
Aviation (Ground)	460	10	153,000	162,127	35	35	161,000
AM Class A [4]	65	1	274,700	278,184	4,280	4,275	277,875
AM Class B [4]	1,505	1	3,410,900	3,447,842	2,291	2,300	3,461,500
AM Class C [4]	889	1	1,212,750	1,230,932	1,385	1,375	1,222,375
AM Class D [4]	1,492	1	4,033,300	4,169,282	2,794	2,800	4,177,600
FM Classes A, B1 & C3 [4]	3,132	1	8,466,575	8,594,443	2,744	2,750	8,613,000
FM Classes B, C, C0, C1 & C2 [4]	3,143	1	10,437,175	10,444,503	3,323	3,325	10,450,475
AM Construction Permits [1]	29	1	17,700	17,110	590	590	17,110
FM Construction Permits [1]	182	1	138,750	136,500	750	750	136,500
Satellite TV	127	1	196,850	198,228	1,561	1,550	196,850
Digital TV Markets 1–10	134	1	6,161,700	6,223,883	46,447	46,450	6,224,300
Digital TV Markets 11–25	137	1	5,809,800	5,871,584	42,858	42,850	5,870,450
Digital TV Markets 26–50	181	1	4,909,450	4,959,846	27,402	27,400	4,959,400
Digital TV Markets 51–100	283	1	4,524,000	4,570,532	16,150	16,150	4,570,450
Digital TV Remaining Markets	379	1	1,805,000	1,822,393	4,808	4,800	1,819,200
Digital TV Construction Permits [1]	2	1	23,750	9,600	4,800	4,800	9,600
LPTV/Translators/Boosters/Class A TV	3,640	1	1,570,300	1,576,156	433	435	1,583,400
CARS Stations	300	1	196,625	196,365	655	655	196,500
Cable TV Systems, including IPTV	64,500,000	1	64,746,000	61,054,410	.94658	.95	61,275,000
Direct Broadcast Satellite (DBS)	34,000,000	1	.....	4,108,560	.12	.12	4,080,000
Interstate Telecommunication Service Providers	38,800,000,000	1	131,369,000	127,764,132	0.0032929	0.00329	127,652,000
Toll Free Numbers	36,500,000	1	.....	4,410,660	0.1208	0.12	4,380,000
CMRS Mobile Services (Cellular/ Public Mobile)	347,000,000	1	60,300,000	59,404,386	0.1712	0.17	58,990,000
CMRS Messag. Services	2,600,000	1	232,000	208,000	0.0800	0.080	208,000
BRS [2]							
LMDS	890	1	643,500	560,144	629	630	560,700
	375	1	135,850	236,016	629	630	236,250
Per 64 kbps Int'l Bearer Circuits							
Terrestrial (Common) & Satellite (Common & Non-Common) [5]	3,800,000	1	941,640	840,033	.2211	.22	836,000
Submarine Cable Providers (see chart in Table C) [3 5]	39.19	1	6,586,731	5,934,424	151,437	151,425	5,933,967
Earth Stations [5]	3,300	1	1,003,000	1,129,854	342	340	1,122,000
Space Stations (Geostationary) [5]	95	1	11,505,600	12,713,879	133,830	133,825	12,713,375
Space Stations (Non-Geostationary) [5]	5	1	797,100	881,125	176,225	176,225	881,125
****** Total Estimated Revenue to be Collected	.....	.....	339,847,246	340,905,507	.....	.....	340,512,502
****** Total Revenue Requirement	.....	.....	339,844,000	339,844,000	.....	.....	339,844,000
Difference	.....	.....	3,246	1,061,507	.....	.....	668,502

Notes on Table B.

[1] The AM and FM Construction Permit revenues and the Digital (VHF/UHF) Construction Permit revenues were adjusted to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. The reductions in the AM and FM Construction Permit revenues were so small that there was no need to offset them with increases in the revenue totals for AM and FM radio stations, respectively. Reductions in the Digital (VHF/UHF) Construction Permit revenues, however, were offset by increases in the revenue totals for various Digital television stations by market size, respectively.

[2] MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands*, Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, para. 6 (2004).

[3] The chart at the end of Table C lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order, 24 FCC Rcd 4208 (2009).

[4] The fee amounts listed in the column entitled ''Rounded New FY 2015 Regulatory Fee'' constitute a weighted average media regulatory fee by class of service. The actual FY 2015 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table C.

[5] As a continuation of our regulatory fee reform for the submarine cable and bearer circuit fee categories, the allocation percentage for these two categories, in relation to the satellite (GSO and NGSO) and earth station fee categories, was reduced by approximately 5 percent. This allocation reduction of 5 percent resulted in an increase in the allocation for the satellite and earth station fee categories, and a fee rate increase from FY 2014.

TABLE C—PROPOSED REGULATORY FEES; FY 2015 SCHEDULE OF REGULATORY FEES

[Regulatory fees for the first eight categories below are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	Annual regulatory fee (U.S. $)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	30.
Microwave (per license) (47 CFR part 101)	20.
Marine (Ship) (per station) (47 CFR part 80)	15.
Marine (Coast) (per license) (47 CFR part 80)	35.
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10.
PLMRS (Shared Use) (per license) (47 CFR part 90)	10.
Aviation (Aircraft) (per station) (47 CFR part 87)	10.
Aviation (Ground) (per license) (47 CFR part 87)	35.
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.17.
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08.
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	630.
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	630.
AM Radio Construction Permits	590.
FM Radio Construction Permits	750.
Digital TV (47 CFR part 73) VHF and UHF Commercial:	
Markets 1–10	46,450.
Markets 11–25	42,850.
Markets 26–50	27,400.
Markets 51–100	16,150.
Remaining Markets	4,800.
Construction Permits	4,800.
Satellite Television Stations (All Markets)	1,550.
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	435.
CARS (47 CFR part 78)	655.
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	.95.
Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act)	.12.
Interstate Telecommunication Service Providers (per revenue dollar)	.00329.
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	.12.
Earth Stations (47 CFR part 25)	340.
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100).	133,825.
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	176,225.
International Bearer Circuits—Terrestrial/Satellites (per 64KB circuit)	.22.
International Bearer Circuits—Submarine Cable	See Table Below.

FY 2015 RADIO STATION REGULATORY FEES

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	$775	$645	$590	$670	$750	$925
25,001–75,000	1,550	1,300	900	1,000	1,500	1,625
75,001–150,000	2,325	1,625	1,200	1,675	2,050	3,000
150,001–500,000	3,475	2,750	1,800	2,025	3,175	3,925
500,001–1,200,000	5,025	4,225	3,000	3,375	5,050	5,775
1,200,001–3,000,00	7,750	6,500	4,500	5,400	8,250	9,250
>3,000,000	9,300	7,800	5,700	6,750	10,500	12,025

FY 2015 SCHEDULE OF REGULATORY FEES

[International Bearer Circuits—Submarine Cable]

Submarine cable systems (capacity as of December 31, 2014)	Fee amount
<2.5 Gbps	$9,475
2.5 Gbps or greater, but less than 5 Gbps	18,925
5 Gbps or greater, but less than 10 Gbps	37,850
10 Gbps or greater, but less than 20 Gbps	75,725
20 Gbps or greater	151,425

In order to calculate individual service fees for FY 2015, we adjusted FY 2014 payment units for each service to more accurately reflect expected FY 2015 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. The databases we consulted include our Universal Licensing System (ULS), International Bureau Filing System (IBFS), Consolidated Database System (CDBS) and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast.*

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2015 estimates with actual FY 2014 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2015 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2015 payment units are based on FY 2014 actual payment units, it does not necessarily mean that our FY 2015 projection is exactly the same number as in FY 2014. We have either rounded the FY 2015 number or adjusted it slightly to account for these variables.

TABLE D—SOURCES OF PAYMENT UNIT ESTIMATES FOR FY 2015

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, Marine (Ship & Coast), Aviation (Aircraft & Ground), Domestic Public Fixed.	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 14 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 14 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2014 payment units.
Digital TV Stations (Combined VHF/UHF units)	Based on CDBS data, adjusted for exemptions, and actual FY 2014 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2014 payment units.
LPTV, Translators and Boosters, Class A Television.	Based on CDBS data, adjusted for exemptions, and actual FY 2014 payment units.
BRS (formerly MDS/MMDS)	Based on WTB reports and actual FY 2014 payment units.
LMDS	Based on WTB reports and actual FY 2014 payment units.

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),[54] the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (*NPRM*). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this *NPRM.* The Commission will send a copy of the *NPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[55] In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.[56]

A. Need for, and Objectives of, the NPRM

2. The *NPRM* seeks comment regarding the Commission's proposed amendment of its schedule of regulatory fees in the amount of $339,844,000, the amount that Congress has required the Commission to recover. The Commission seeks to collect the necessary amount through its proposed schedule of regulatory fees in a manner that will not administratively burden the public. The Commission also seeks comment on a request by the Puerto Rico Broadcasters Association to provide regulatory fee relief to radio stations in Puerto Rico; revising the apportionment between International Bureau licensees to reduce the regulatory fees for the submarine cable/bearer circuit category; revising the apportionment of regulatory fees among radio and television broadcasters; raising the earth station regulatory fees and lowering the regulatory fees for space stations; and other proposals for regulatory fee reform.

B. Legal Basis

3. This action, including publication of proposed rules, is authorized under Sections (4)(i) and (j), 9, and 303(r) of

[54] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104–121, Title II, 110 Stat. 847 (1996).

[55] 5 U.S.C. 603(a).

[56] *Id.*

the Communications Act of 1934, as amended.[57]

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.[58] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [59] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[60] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[61]

5. Small Entities. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected by the proposals under consideration.[62] As of 2009, small businesses represented 99.9 percent of the 27.5 million businesses in the United States, according to the SBA.[63] In addition, a ''small organization is generally any not-for-profit enterprise which is independently owned and operated and not dominant in its field.[64] Nationwide, as of 2007, there were approximately 1,621,215 small organizations.[65] Finally the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.[66] Census Bureau data for 2011 indicate that there were 90,056 local governmental jurisdictions in the United States.[67] We estimate that, of this total, as many as 89,327 entities may qualify as ''small governmental jurisdictions.'' [68] Thus, we estimate that most local government jurisdictions are small.

6. Wired Telecommunications Carriers. The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' [69] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[70] Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.[71] Thus, under this size standard, the majority of firms in this industry can be considered small.

7. Local Exchange Carriers (LECs). Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[72] According to Commission data, census data for 2007 shows that there were 3,188 establishments that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.[73] The Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the *Notice of Proposed Rulemaking.*

8. Incumbent LECs. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[74] According to Commission data, 3,188 firms operated in that year. 1,307 carriers reported that they were incumbent local exchange service providers.[75] Of this total, 3,144 operated with fewer than 1,000 employees.[76] Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies proposed in the *NPRM.* Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.[77] Of this total, an estimated 1,006 have 1,500 or fewer employees.[78]

9. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[79] U.S. Census data for 2007 indicate that 3,188 firms

[57] 47 U.S.C. 154(i) and (j), 159, and 303(r).

[58] 5 U.S.C. 603(b)(3).

[59] 5 U.S.C. 601(6).

[60] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[61] 15 U.S.C. 632.

[62] *See* 5 U.S.C. 601(3)–(6).

[63] *See* SBA, Office of Advocacy, ''Frequently Asked Questions'', available at *http://www.sba.gov/faqs/faqindex.cfm?arealD=24.*

[64] 5 U.S.C. 601(4).

[65] *See* Independent Sector, The New Nonprofit Almanac and Desk Reference (2010).

[66] 5 U.S.C. 601(5).

[67] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' available at *http.www.sba.gov/sites/default/files.FAQ* March 201_Opdf.

[68] The 2011 Census Data for small governmental organizations are not presented based on the size of the population in each organization. As stated above, there were 90,056 local governmental organizations in 2011. As a basis for estimating how many of these 90,056 local organizations were small, we note that there were a total of 729 cities and towns (incorporated places and civil divisions) with populations over 50,000. *See http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk.* If we subtract the 729 cities and towns that exceed the 50,000 population threshold, we conclude that approximately 789, 237 are small.

[69] *See http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[70] See 13 CFR 120.201, NAICS Code 517110.

[71] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.*

[72] 13 CFR 121.201, NAICS code 517110.

[73] *See id.*

[74] 13 CFR 121.201, NAICS code 517110.

[75] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

[76] *See id.*

[77] *See id.*

[78] *Id.*

[79] 13 CFR 121.201, NAICS code 517110.

operated during that year. Of that number, 3,144 operated with fewer than 1,000 employees.[80] Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.[81] Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.[82] In addition, 72 carriers have reported that they are Other Local Service Providers.[83] Of this total, 70 have 1,500 or fewer employees.[84] Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the proposals in this *NPRM.*

10. Interexchange Carriers (IXCs). Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 6 of this IRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[85] According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[86] Of this total, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.[87] Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the *Notice of Proposed Rulemaking.*

11. Prepaid Calling Card Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate NAICS Code category for prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Mobile virtual networks operators (MVNOs) are included in this industry.[88] Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[89] U.S. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.[90] Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.[91] All 193 carriers have 1,500 or fewer employees.[92] Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules adopted pursuant to the *NPRM.*

12. Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[93] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.[94] Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.[95] Of this total, an estimated 211 have 1,500 or fewer employees.[96] Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the proposals in this *NPRM.*

13. Toll Resellers. The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers, and the SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[97] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees.[98] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.[99] Of this total, an estimated 857 have 1,500 or fewer employees.[100] Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our proposals in the *NPRM.*

14. Other Toll Carriers. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[101] Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 operated with fewer than 1,000 employees.[102] Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.[103] Of these, an estimated 279 have 1,500 or fewer employees.[104] Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules and policies adopted pursuant to the *NPRM.*

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[80] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=%20table.*

[81] *See Trends in Telephone Service,* at tbl. 5.3.

[82] *Id.*

[83] *Id.*

[84] *Id.*

[85] 13 CFR 121.201, NAICS code 517110.

[86] *See Trends in Telephone Service,* at tbl. 5.3.

[87] *Id.*

[88] *http://www.census.gov/cgi-bin/ssd/naics/naicsrch.*

[89] 13 CFR 121.201, NAICS code 517911.

[90] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_51SSSZ5&prodType=table.*

[91] *See Trends in Telephone Service,* at tbl. 5.3.

[92] *Id.*

[93] 13 CFR 121.201, NAICS code 517911.

[94] *Id.*

[95] *See Trends in Telephone Service,* at tbl. 5.3.

[96] *Id.*

[97] 13 CFR 121.201, NAICS code 517911.

[98] *Id.*

[99] *Trends in Telephone Service,* at tbl. 5.3.

[100] *Id.*

[101] 13 CFR 121.201, NAICS code 517110.

[102] *Id.*

[103] *Trends in Telephone Service,* at tbl. 5.3.

[104] *Id.*

15. Wireless Telecommunications Carriers (except Satellite). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.[105] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census Data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services.[106] Of this total, an estimated 261 have 1,500 or fewer employees.[107] Consequently, the Commission estimates that approximately half of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

16. Cable Television and other Subscription Programming.[108] Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers. That category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' [109] The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees.[110] Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 had fewer than 1,000 employees.[111] Thus under this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules adopted pursuant to the *NPRM.*

17. Cable Companies and Systems. The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide.[112] Industry data indicate that at the end of June 2012, of 1,141 cable companies were in operation; of this total, all but ten cable operators are small under this size standard.[113] In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[114] Industry data indicate that of 4,945 systems nationwide, 4,380 systems have fewer than 20,000 subscribers.[115] Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the *NPRM.*

18. All Other Telecommunications. ''All Other Telecommunications'' is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.[116] The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less.[117] For this category, census data for 2007 show that there were 2,383 firms that operated for the entire year. Of these firms, a total of 2,346 had gross annual receipts of less than $25 million.[118] Thus, a majority of ''All Other Telecommunications'' firms potentially affected by the proposals in the *NPRM* can be considered small.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

19. This *NPRM* does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements.

[105] NAICS Code 517210. *See http://www.census.gov/cgi-bin/ssd/naics/naicsrch.*

[106] *Trends in Telephone Service,* at tbl. 5.3.

[107] *Id.*

[108] In 2014, ''Cable and Other Subscription Programming,'' NAICS Code 515210, replaced a prior category, now obsolete, which was called ''Cable and Other Program Distribution.'' Cable and Other Program Distribution, prior to 2014, were placed under NAICS Code 517110, Wired Telecommunications Carriers. Wired Telecommunications Carriers is still a current and valid NAICS Code Category. Because of the similarity between ''Cable and Other Subscription Programming'' and ''Cable and other Program Distribution,'' we will, in this proceeding, continue to use Wired Telecommunications Carrier data based on the U.S. Census. The alternative of using data gathered under Cable and Other Subscription Programming (NAICS Code 515210) is unavailable to us for two reasons. First, the size standard established by the SBA for Cable and Other Subscription Programming is annual receipts of $38.5 million or less. Thus to use the annual receipts size standard would require the Commission either to switch from existing employee based size standard of 1,500 employees or less for Wired Telecommunications Carriers, or else would require the use of two size standards. No official approval of either option has been granted by the Commission as of the time of the release of this Regulatory Fees NPRM and its associated Report and Order and Order. Second, the data available under the size standard of $38.5 million dollars or less is not applicable at this time, because the only currently available U.S. Census data for annual receipts of all businesses operating in the NAICS Code category of 515210 (Cable and other Subscription Programming) consists only of total receipts for all businesses operating in this category in 2007 and of total annual receipts for all businesses operating in this category in 2012. Hence the data do not provide any basis for determining, for either year, how many businesses were small because they had annual receipts of $38.5 million or less. *See http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51I2&prodType=table.*

[109] U.S. Census Bureau, 2007 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' (partial definition), (Full definition stated in paragraph 6 of this IRFA) available at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[110] 13 CFR 121.201, NAICS code 517110.

[111] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US-51SSSZ5&prodType=Table.*

[112] *See* 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. *See Implementation of Sections of the 1992 Cable Television Consumer Protection and Competition Act: Rate Regulation,* MM Docket Nos. 92–266, 93–215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408, para. 28 (1995).

[113] These data are derived from R.R. BOWKER, BROADCASTING & CABLE YEARBOOK 2006, ''Top 25 Cable/Satellite Operators,'' pages A–8 & C–2 (data current as of June 30, 2005); WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, ''Ownership of Cable Systems in the United States,'' pages D–1805 to D–1857.

[114] *See* 47 CFR 76.901(c).

[115] WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, ''U.S. Cable Systems by Subscriber Size,'' page F–2 (data current as of Oct. 2007). The data do not include 851 systems for which classifying data were not available.

[116] *http://www.census.gov/cgi-bin/ssssd/naics/naicsrch.*

[117] 13 CFR 121.201; NAICs Code 517919.

[118] *http://factfinder.census.gov/faces/tableservices.jasf/pages/productview.xhtml?pid+ECN_2007_US.51SSSZ4&prodType=table.*

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

20. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[119]

21. This *NPRM* seeks comment on the Commission's regulatory fee collection for Fiscal Year 2015. Our regulatory fee rules now have a significantly higher *de minimis* threshold ($500) than in previous years ($10), which takes into account the differing needs of smaller entities. With the increase in the *de minimis* threshold, entities that have total annual fees below the threshold will not have to submit payment, which reduces the administrative burden on small entities, as well as on the Commission. The threshold was raised to $500 to reduce the financial and administrative burden on small entities, as well as the burden that the previous $10 threshold placed on the Commission to process payments, and when applicable, to pursue non-payers whose total regulatory fee obligation exceeded $10. In the future, the Commission may increase the *de minimis* threshold to a higher level. In addition, the Commission is also seeking comment on additional regulatory fee relief for the radio stations in Puerto Rico.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

22. None.

[119] 5 U.S.C. 603(c)(1)–(c)(4).

VII. Ordering Clauses

23. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, and 303(r), this Report and Order, Notice of Proposed Rulemaking, and Order IS HEREBY ADOPTED.

24. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer.

[FR Doc. 2015–15971 Filed 6–29–15; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 80, No. 125
Tuesday, June 30, 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

Forest Service

Forest Resource Coordinating Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to renew the charter for the Forest Resource Coordinating Committee and call for nominations.

SUMMARY: The Secretary of Agriculture (Secretary) intends to renew the charter for the Forest Resource Coordinating Committee (Committee) pursuant to section 8005 of the Food, Conservation, and Energy Act of 2008 (Act) (Pub. L. 110–246), and the Federal Advisory Committee Act (FACA), (5 U.S.C. App. 2). The Act passed into law as an amendment to the Cooperative Forestry Assistance Act of 1978 on June 18, 2008. The Committee is being renewed to continue coordinating non-industrial private forestry activities within the U.S. Department of Agriculture (USDA), State Agencies, and the private sector. The Secretary has determined that the work of the Committee is in the public interest and relevant to the duties of the USDA. Therefore, the Secretary is seeking nominations to fill vacancies on the Committee. Additional information concerning the Committee can be found on the Committee's Web site at: *http://www.fs.fed.us/spf/coop/frcc/*.

DATES: Written nominations must be received on or before August 14, 2015. Nominations must contain a completed application packet that includes the nominee's name, resume, and a completed Form AD–755 (Advisory Committee or Research and Promotion Background Information). The package must be sent to the address below.

ADDRESSES: Laurie Schoonhoven, USDA Forest Service, Cooperative Forestry Staff, 201 14th Street SW., Mail Stop 1123, Washington, DC 20024; by express mail or overnight courier service. Nominations sent via the U.S. Postal Service must be sent to the following address: USDA Forest Service; Cooperative Forestry Staff, State & Private Forestry; Mail Stop 1123; 1400 Independence Avenue SW., Washington, DC 20250–1123.

FOR FURTHER INFORMATION CONTACT: Laurie Schoonhoven, Committee Coordinator, by phone at 202–205–0929 or Andrea Bedell-Loucks, Designated Federal Officer (DFO), by phone at 202–205–1190. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 5 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of the FACA, the Secretary is renewing the Committee to continue providing direction and coordination of actions within the USDA, State Agencies, and the private sector; to effectively address the national priorities for private forest conservation, with specific focus on owners of non-industrial private forest land, as described in section 8005 of the Act. These priorities include:

1. Conserving and managing working forest landscapes for multiple values and use;

2. Protecting forests from threats, including catastrophic wildfires, hurricanes, tornadoes, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats; and

3. Enhancing public benefits from private forests, including air and water quality, soil conservation, biological diversity, carbon storage, forest products, forestry-related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.

The Committee will continue meeting on an annual basis and its primary duties will include:

1. Providing direction and coordination of actions within the USDA, State Agencies, and the private sector; to effectively address the national priorities, with specific focus on non-industrial private forest land;

2. Clarifying individual agency responsibilities of each represented on the Committee concerning the national priorities with specific focus on non-industrial private forest land;

3. Providing advice on the allocation of funds, including the competitive funds set-aside for Competitive Allocation of Funds Innovation Projects (sections 8007 and 8008 of the Act); and

4. Assisting the Secretary in developing and reviewing the report to Congress required by section 8001(d) of the Act.

Advisory Committee Organization

The Committee is comprised of not more than 20 members. The members appointed to the Committee will be fairly balanced in terms of points of view represented, functions to be performed, and will represent a broad array of expertise and relevancy to a membership category. The Committee composition is as follows:

(a) Chief of the Forest Service;

(b) Chief of the Natural Resources Conservation Service;

(c) Director of the Farm Service Agency;

(d) Director of the National Institute of Food and Agriculture;

(e) Three State foresters or equivalent State officials from geographically diverse regions of the United States;

(f) A representative of a State Fish and Wildlife Agency;

(g) Three owners of non-industrial private forest land;

(h) A forest industry representative;

(i) Three representatives from conservation organizations;

(j) A land-grant university or college representative;

(k) A private forestry consultant;

(l) A representative from a State Technical Committee;

(m) A representative of an Indian Tribe; and

(n) A representative from a Conservation District.

The Committee members will serve staggered terms up to three years and will meet annually, or as often as necessary, at the times designated by the DFO. The appointment of members to the Committee will be made by the Secretary.

Vacancies

Representatives from the following categories will be appointed by the Secretary with staggered terms up to 3 years:

1. Conservation Organization;

2. State Fish and Wildlife agency;
3. Tribal; and
4. Non-industrial Private Forest Landowner.

The nominees must be associated with such an organization and be willing to represent that sector as it relates to non-industrial private forestry. Vacancies will be filled in the manner in which the original appointment was made.

Nomination and Application Instructions

The appointment of members to the Committee is made by the Secretary. Any individual or organization may nominate one or more qualified persons to represent the above vacancy on the Committee. To be considered for membership, nominees must submit:

1. Resume describing your qualifications to represent the vacancy;
2. Cover letter with a rationale for serving on the Committee and what you can contribute; and
3. A completed Form AD–755, Advisory Committee or Research and Promotion Background Information. The form AD–755 may be obtained from the Forest Service contacts or from the following Web site: *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.*
4. Letters of recommendation are welcome.

All nominations will be vetted by the USDA. Individuals may also nominate themselves. A list of qualified applicants from which the Secretary shall appoint to the Committee will be prepared. Applicants are strongly encouraged to submit nominations via overnight mail or delivery to ensure timely receipt by the USDA.

Members of the Committee will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Committee, subject to approval by the DFO.

Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendation of the Committee have taken into account the needs of the diverse groups served by the Department, membership includes to the extent practicable, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

Dated: June 22, 2015.

Gregory L. Parham,

Assistant Secretary for Administration.

[FR Doc. 2015–15991 Filed 6–29–15; 8:45 am]

BILLING CODE 3411–15–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: Bureau of Industry and Security.

Title: Statement by Ultimate Consignee and Purchaser.

Form Number(s): BIS–711.

OMB Control Number: 0694–0021.

Type of Request: Regular submission.

Burden Hours: 76 hours.

Number of Respondents: 286 respondents.

Average Hours per Response: 16 minutes per response.

Needs and Uses: This collection is required by Section 748.11 of the Export Administration Regulations (EAR). The Form BIS–711 or letter puts the importer on notice of the special nature of the goods proposed for export and conveys a commitment against illegal disposition. In order to effectively control commodities, BIS must have sufficient information regarding the end-use and end-user of the U.S. origin commodities to be exported. The information will assist the licensing officer in making the proper decision on whether to approve or reject the application for the license.

Affected Public: Businesses and other for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain benefits.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the 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 24, 2015.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2015–15939 Filed 6–29–15; 8:45 am]

BILLING CODE 3510–33–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: Economic Development Administration (EDA), Department of Commerce.

Title: Comprehensive Economic Development Strategies (CEDS).

OMB Control Number: 0610–0093.

Form Number(s): None.

Type of Request: Regular submission.

Number of Respondents: 527.

Average Hours per Response: 480 hours for the initial CEDS for a District organization or other planning organization funded by EDA; 160 hours for the CEDS revision required at least every 5 years from and EDA-funded District or other planning organization; 40 hours per applicant for EDA Public Works or Economic Adjustment Assistance with a project deemed by EDA to merit further consideration that is not located in an EDA-funded District.

Burden Hours: 31,640.

Needs and Uses: In order to receive investment assistance under EDA's Public Works and Economic Adjustment programs, applicants must undertake a planning process that results in a Comprehensive Economic Development Strategy (CEDS). A CEDS also is a prerequisite for a region's designation by EDA as an Economic Development District (EDD) (see 13 CFR 303, 305.2, and 307.2 of EDA's regulations). The CEDS planning process and resulting CEDS is designed to build capacity and guide the economic prosperity and resiliency of an area or region. It is a key component in establishing and maintaining a robust economic ecosystem by helping to build regional capacity (through hard and soft infrastructure) that contributes to individual, firm, and community success. This collection of information is required to insure that recipients of EDA funds understand and are able to comply with EDA's CEDS requirements.

Affected Public: Not-for-profit institutions; Federal government; State, local or tribal government; Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

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.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2015–16018 Filed 6–29–15; 8:45 am]

BILLING CODE 3510–34–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: Bureau of Industry and Security.

Title: Licensing Responsibilities and Enforcement.

Form Number(s): N/A.

OMB Control Number: 0694–0122.

Type of Request: Regular.

Burden Hours: 78,576 hours.

Number of Respondents: 1,821,891 respondents.

Average Hours per Response: 5 seconds to 2 hours per response.

Needs and Uses: This information collection supports the various collections, notifications, reports, and information exchanges that are needed by the Office of Export Enforcement and Customs to enforce the Export Administration Regulations and maintain the National Security of the United States.

Affected Public: Businesses and other for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain benefits.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the 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 24, 2015.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2015–15940 Filed 6–29–15; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–43–2015]

Foreign-Trade Zone 33—Pittsburgh, Pennsylvania Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Regional Industrial Development Corporation of Southwestern Pennsylvania, grantee of FTZ 33, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on June 23, 2015.

FTZ 33 was approved by the FTZ Board on November 9, 1977 (Board Order 124, 42 FR 59398, 11/17/1977) and expanded on March 16, 1981 (Board Order 172, 46 FR 18063, 3/23/1981); May 14, 1998 (Board Order 981, 63 FR 29179, 5/28/1998); February 23, 2010 (Board Order 1667, 75 FR 13488–13489, 3/22/2010); and, November 5, 2012 (Board Order 1867, 77 FR 69591, 11/20/2012).

The current zone includes the following sites: *Site 1* (45 acres)—RIDC Park West, Park West Drive, Findlay Township, Allegheny County; *Site 2* (5,352 acres)—Pittsburgh International Airport Complex, Imperial, Allegheny County; *Site 3* (125 acres)—Leetsdale 500 W Park Road, Leetsdale, Allegheny County; *Site 4* (59 acres)—Westmoreland Business and Research Park, 115 Hunt Valley Road, New Kensington, Westmoreland County; *Site 5* (18.746 acres)—Millennium Business Park, 154 and 360 Keystone Drive, New Castle, Lawrence County; *Site 10* (19 acres)—RIDC Industrial Park, 560–570 Alpha Drive, O'Hara Township, Allegheny County; and, *Site 18* (336 acres)—RIDC Westmoreland, 1001 Technology Drive, Mt. Pleasant, Westmoreland County.

The grantee's proposed service area under the ASF would be Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, Pennsylvania, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Pittsburgh Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its zone to include existing Sites 1, 2 and 18 as ''magnet'' sites and existing Sites 3, 4, 5 and 10 as ''usage-driven'' sites. The applicant is requesting that Sites 1, 3 and 10 be modified to reduce the sites' boundaries. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The application would have no impact on FTZ 33's previously authorized subzones.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 31, 2015. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 14, 2015.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: June 23, 2015.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2015–16104 Filed 6–29–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Preliminary Results of the Changed Circumstances Review of Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 16, 2014, the Department of Commerce (Department) initiated a changed circumstance review (CCR) of the antidumping duty (AD) order on fresh garlic from the People's Republic of China (PRC) in response to a request from Jining Yongjia Trade Co., Ltd. (Yongjia), an exporter of fresh and peeled garlic from the People's Republic of China (PRC), on behalf of its garlic supplier, Jinxiang County Shanfu Frozen Co., Ltd. (Shanfu II).[1] Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216, the Department preliminarily determines that Shanfu II is not the successor-in-interest to the entity of the same name (Shanfu I). Interested parties are invited to comment on these preliminary results.

DATES: Effective date June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Hilary E. Sadler, Esq., AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4340.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1994, the Department published the AD order on fresh garlic from the PRC in the **Federal Register**.[2] On October 8, 2014, Yongjia requested that the Department conduct a CCR pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(b) to determine that Shanfu II, its garlic supplier, is the successor-in-interest to Shanfu I for purposes of the *Order*.[3] On November 4, 2014, petitioners [4] submitted comments opposing initiation of this review,[5] contending that Shanfu II is not the successor-in-interest to Shanfu I based on Shanfu I's dissolution in June 2012.[6]

The Department initiated this CCR regarding Yongjia and Shanfu II on December 16, 2014.[7] On February 6, 2015, the Department issued its initial CCR questionnaire to Yongjia.[8] Yongjia timely responded to the Department's questionnaire.[9] On March 23, 2015, the petitioners rebutted Yongjia's questionnaire response.[10]

Scope of the Order

The merchandise covered by this order is all grades of garlic, whether whole or separated into constituent cloves. The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 0703.20.0000, 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, 0703.20.0005, 2005.99.9700 and 0703.20.0015. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

A complete description of the scope of the order is contained in the Preliminary Decision Memorandum.[11] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and ACCESS is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Methodology

In accordance with section 751(b)(1) of the Act, we are conducting this changed circumstances review based upon the information contained in Yongjia's submissions.[12] In making a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base.[13] While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations of the successor are not materially dissimilar to that of its predecessor.[14] Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.[15] For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

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[1] *See Fresh Garlic from the People's Republic of China: Initiation of Changed Circumstances Review of Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.,* (December 22, 2014) (Yongjia CCR Initiation Notice).

[2] *See Antidumping Duty Order: Fresh Garlic from the People's Republic of China,* 59 FR 59209 (November 16, 1994) (*Order*).

[3] *See* Letter from Yongjia, ''Request for Changed Circumstances Review pursuant to 19 CFR 251.216 on behalf of Jining Yongjia Trade Co., Ltd.,'' (October 8, 2014) (Yongjia CCR Request).

[4] The petitioners are the Fresh Garlic Producers Association and its individual members: Christopher Ranch L.L.C., The Garlic Company, Valley Garlic, Inc., and Vessey and Company, Inc. Effective April 8, 2015, the lead petitioner is The Garlic Company.

[5] *See* Letter from Petitioners, ''Request for Changed Circumstances Review Under the Antidumping Order on Fresh Garlic from the People's Republic of China—Petitioners' Opposition to Initiation of Review,'' (November 4, 2014).

[6] *See* Letter from the Petitioners, ''Changed Circumstances Review Involving Status of Jinxiang County Shanfu Frozen Co., Ltd. Under Antidumping Order on Fresh Garlic from the People's Republic of China—Petitioners' Comments on Initial Re: Questionnaire Response,'' (March 23, 2015) (Petitioners' Questionnaire Rebuttal).

[7] *See Yongjia CCR Initiation Notice.*

[8] *See* Letter to Yongjia from Mark Hoadley, Program Manager, AD/CVD Operations, Office VII Enforcement and Compliance, ''Changed Circumstances Review of Fresh Garlic from the People's Republic of China Initial Questionnaire of Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.,'' (February 6, 2015) (Initial Questionnaire).

[9] *See* Letter from Yongjia, ''Response to Initial Questionnaire in Changed Circumstances Review filed on behalf of Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.,'' (February 27, 2015) (Yongjia Questionnaire Response).

[10] *See* Petitioners' Questionnaire Rebuttal.

[11] *See* ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Changed Circumstances Review of Fresh Garlic from the People's Republic of China: Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.,'' dated concurrently and hereby adopted in this notice.

[12] *See* Yongjia CCR Request and Yongjia CCR Questionnaire Response.

[13] *See, e.g., Certain Activated Carbon From the People's Republic of China: Notice of Initiation of Changed Circumstances Review,* 74 FR 19934, 19935 (April 30, 2009).

[14] *See, e.g., Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India,* 71 FR 327, 327 (January 4, 2006).

[15] *See, e.g., Fresh and Chilled Atlantic Salmon From Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 64 FR 9979, 9980 (March 1, 1999).

Preliminary Results of the Changed Circumstances Review

Based on the evidence reviewed, we preliminarily determine that Shanfu II is not the successor-in-interest to Shanfu I. Specifically, we find that material changes occurred after Shanfu I dissolved and Shanfu II was registered. These were changes in management, business scope, production facilities, supplier relationships, and ownership/legal structure with respect to the production and sale of the subject merchandise.[16] Thus, we preliminarily determine that Shanfu II does not operate as the same business entity as Shanfu I with respect to the subject merchandise. A list of topics discussed in the Preliminary Decision Memorandum appears in the Appendix to this notice.

If the Department upholds these preliminary results in the final results, Yongjia and Shanfu will be assigned the cash deposit rate currently assigned to the PRC-wide entity with respect to the subject merchandise (*i.e.,* the $4.71 per kilogram cash deposit rate currently assigned to the PRC-wide entity).[17] If these preliminary results are adopted in the final results of this changed circumstances review, we will instruct U.S. Customs and Border Protection to suspend liquidation of entries of fresh garlic made by Shanfu II and exported by Yongjia, effective on the publication date of the final results, at the cash deposit rate assigned to the PRC-wide entity.

Public Comment

Interested parties may submit written comments by no later than 30 days after the date of publication of these preliminary results of review in the **Federal Register**.[18] Rebuttals, limited to issues raised in the written comments, may be filed by no later than five days after the written comments are filed.[19] Parties that submit written comments or rebuttals are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[20] All briefs are to be filed electronically using ACCESS.[21] An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the day on which it is due.[22]

Any interested party may submit a request for a hearing to the Assistant Secretary of Enforcement and Compliance using ACCESS within 30 days of publication of this notice in the **Federal Register**.[23] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed.[24] Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[25]

Final Results of the Review

In accordance with 19 CFR 351.216(e), the Department intends to issue the final results of this changed circumstances review not later than 270 days after the date on which the review is initiated.

Notification to Parties

The Department issues and publishes these results in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221.

Dated: June 23, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2015–16082 Filed 6–29–15; 8:45 am]

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[16] *See* Preliminary Decision Memorandum at 4.

[17] *See Fresh Garlic from the People's Republic of China: Final Results and Rescission, In Part, of Twelfth New Shipper Reviews,* 73 FR 56550 (September 29, 2008).

[18] *See* 19 CFR 351.309(c)(1)(ii).

[19] *See* 19 CFR 351.309(d)(1).

[20] *See* 19 CFR 351.309(c)(2) & (d)(2).

[21] *See* 19 CFR 351.303(b) and (f).

[22] *See* 19 CFR 351.303(b)

[23] *See* 19 CFR 351.310(c).

[24] *Id.*

[25] *See* 19 CFR 351.310(d).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–027, C–533–864, C–475–833, C–580–879, C–583–857]

Certain Corrosion-Resistant Steel Products From the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo at (202) 482–2371 (the People's Republic of China, and the Republic of Korea); Matt Renkey or Jerry Huang at (202) 482–2312 and (202) 482–4047, respectively (India); Robert Palmer at (202) 482–9068 (Italy); Kristen Johnson at (202) 482–4793 (Taiwan), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On June 3, 2015, the Department of Commerce (Department) received countervailing duty (CVD) petitions concerning imports of certain corrosion-resistant steel products (corrosion-resistant steel) from the People's Republic of China (PRC), India, Italy, the Republic of Korea (Korea), and Taiwan, filed in proper form on behalf of United States Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., ArcelorMittal USA, LLC, AK Steel Corporation, and California Steel Industries, (collectively, Petitioners). The CVD petitions were accompanied by antidumping duty (AD) petitions also concerning imports of corrosion-resistant steel from all of the above countries.[1] Petitioners are domestic producers of corrosion-resistant steel.[2]

On June 9 and 10, 2015, the Department requested information and clarification for certain areas of the Petitions.[3] Petitioners filed responses to

[1] *See* ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports: Certain Corrosion-Resistant Steel Products from the People's Republic of China, India Italy, the Republic of Korea, and Taiwan,'' dated June 3, 2015 (Petitions).

[2] *See* Volume I of the Petitions, at I–2 and Exhibit I–1.

[3] *See* Letter from the Department to Petitioners entitled ''Petition for the Imposition of Countervailing Duties on Imports of Certain Corrosion-Resistant Steel Products from the People's Republic of China (PRC): Supplemental

Continued

these requests on June 12, 2015.[4] In addition, Petitioners filed a new subsidy allegation with respect to Korea as an Amendment to Volume V of the petition.[5]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that the Governments of the PRC (GOC), India (GOIn), Italy (GOIt), and Korea (GOK) and the Taiwan Authorities (TA) are providing countervailable subsidies (within the meaning of sections 701 and 771(5) of the Act) to imports of corrosion-resistant steel from the PRC, India, Italy, Korea and Taiwan, respectively, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 702(b)(1) of the Act, the Petitions are accompanied by information reasonably available to Petitioners supporting their allegations.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that Petitioners demonstrated sufficient industry support with respect to the initiation of the CVD investigations that Petitioners are requesting.[6]

Period of Investigations

The period of investigations is January 1, 2014, through December 31, 2014.[7]

Scope of the Investigations

The product covered by these investigations is corrosion-resistant steel from the PRC, India, Italy, Korea and Taiwan. For a full description of the scope of these investigations, *see* the ''Scope of the Investigations'' in Appendix I of this notice.

Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, Petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.[8]

As discussed in the preamble to the Department's regulations,[9] we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. All such comments must be filed by 5:00 p.m. Eastern Time (ET) on July 13, 2015, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 23, 2015, which is 10 calendar days after the initial comments deadline.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of the PRC, India, Italy, Korea, and Taiwan CVD investigations, as well as the concurrent PRC, India, Italy Korea, and Taiwan AD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, the Department notified representatives of the GOC, GOIn, GOIt, GOK, and TA of the receipt of the Petitions. Also, in accordance with section 702(b)(4)(A)(ii) of the Act, the Department provided representatives of the GOC, GOIn, GOIt, GOK, and TA the opportunity for consultations with respect to the Petitions.[10] Consultations were held with the TA on June 17, 2015,

Questions,'' dated June 9, 2015 (PRC Questionnaire); Letter from the Department to Petitioners entitled ''Petition for the Imposition of Countervailing Duties on Imports of Certain Corrosion-Resistant Steel Products from India: Supplemental Questions,'' dated June 9, 2015 (India Questionnaire); Letter from the Department to Petitioners entitled ''Petition for the Imposition of Countervailing Duties on Imports of Certain Corrosion-Resistant Steel Products from Italy: Supplemental Questions,'' dated June 9, 2015 (Italy Questionnaire); Letter from the Department to Petitioners entitled ''Petition for the Imposition of Countervailing Duties on Imports of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Supplemental Questions,'' dated June 9, 2015 (Korea Questionnaire); Letter from the Department to Petitioners entitled ''Petition for the Imposition of Countervailing Duties on Imports of Certain Corrosion-Resistant Steel Products from Taiwan: Supplemental Questions,'' dated June 10, 2015 (Taiwan Questionnaire); Letter from the Department to Petitioners entitled ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Supplemental Questions,'' dated June 9, 2015 (General Issues Questionnaire).

[4] *See* Letter from Petitioners entitled ''Certain Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, India, Italy, and Taiwan: Response to the Department's June 9, 2015 Questionnaire Regarding Volume I of the Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated June 12, 2015 (General Issues Supplement); Letter from Petitioners entitled ''Certain Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, India, Italy, and Taiwan: Response to the Department's June 9, 2015 Questionnaire Regarding Volume III of the Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated June 12, 2015 (PRC Supplement); Letter from Petitioners entitled ''Certain Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, India, Italy, and Taiwan: Response to the Department's June 9, 2015 Questionnaire Regarding Volume VII of the Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated June 12, 2015 (India Supplement); Letter from Petitioners entitled ''Certain Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, India, Italy, and Taiwan: Response to the Department's June 9, 2015 Questionnaire Regarding Volume IX of the Petitions for the Imposition of Countervailing Duties,'' dated June 12, 2015 (Italy Supplement); Letter from Petitioners entitled ''Certain Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, India, Italy, and Taiwan: Response to the Department's June 9, 2015 Questionnaire Regarding Volume V of the Petitions for the Imposition of Countervailing Duties,'' dated June 12, 2015 (Korea Supplement); Letter from Petitioners entitled ''Certain Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, India, Italy, and Taiwan: Response to the Department's June 10, 2015 Questionnaire Regarding Volume XI of the Petitions for the Imposition of Countervailing Duties,'' dated June 12, 2015 (Taiwan Supplement).

[5] *See* Letter from Petitioners entitled ''Certain Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, India, Italy, and Taiwan: New Subsidy Allegation Amendment to Volume V of the Petitions for the Imposition of Countervailing Duties,'' dated June 12, 2015 (Korea NSA).

[6] *See* the ''Determination of Industry Support for the Petitions'' section below.

[7] 19 CFR 351.204(b)(2).

[8] *See* General Issues Questionnaire; *see also* General Issues Supplement.

[9] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[10] *See* Letters of Invitation from the Department to the GOC (dated June 9, 2015), GOIn (dated June 5, 2015), GOIt (dated June 5, 2015), GOK (dated June 9, 2015), and the TA (dated June 4, 2015).

with the GOIt on June 19, 2015, and with the GOK and the GOC on June 22, 2015. All memoranda regarding these consultations are on file electronically *via* ACCESS.

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[11] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[12]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, Petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that corrosion-resistant steel constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.[13]

In determining whether Petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in Appendix I of this notice. Petitioners provided their shipments of the domestic like product in 2014, and estimated total shipments of the domestic like product for the entire domestic industry using data from the American Iron and Steel Institute and the ITC.[14] To establish industry support, Petitioners compared their own shipments to estimated total shipments of the domestic like product for the entire domestic industry.[15] Because data regarding total production of the domestic like product are not reasonably available to Petitioners and Petitioners have established that shipments are a reasonable proxy for production, we have relied on the shipment data provided by Petitioners for purposes of measuring industry support.[16]

On June 12, 2015, we received a submission from Thomas Steel Strip Corporation (Thomas) and Apollo Metals, Ltd. (Apollo), domestic producers of corrosion-resistant steel. In the submission, Thomas and Apollo state that they support the Petitions for the imposition of antidumping and countervailing duties on corrosion-resistant steel from the PRC, Korea, Italy and Taiwan. Thomas and Apollo do not express a view with respect to the Petitions for the imposition of antidumping and countervailing duties on corrosion-resistant steel from India. In addition, Thomas and Apollo provide their 2014 production of the domestic like product.[17]

We have relied on the data provided by Petitioners, Thomas, and Apollo for purposes of measuring industry support.[18]

Our review of the data provided in the Petitions, General Issues supplement, the submission from Thomas and Apollo, and other information readily available to the Department indicates that Petitioners have established industry support for all of the Petitions.[19] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[20] Second, the domestic

[11] S*ee* section 771(10) of the Act.

[12] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[13] For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from the People's Republic of China (PRC CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan (Attachment II); Countervailing Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from India (India CVD Initiation Checklist), at Attachment II; Countervailing Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from Italy (Italy CVD Initiation Checklist), at Attachment II; Countervailing Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from the Republic of Korea (Korea CVD Initiation Checklist), at Attachment II; and Countervailing Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from Taiwan (Taiwan CVD Initiation Checklist). These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[14] *See* Volume I of the Petitions, at 2–3 and Exhibits I–3 to I–5; *see also* General Issues Supplement, at 12–14 and Exhibits Supp. I–3, Supp. I–40 to Supp. I–42, and Supp. I–45.

[15] *Id.*

[16] For further discussion, *see* PRC CVD Initiation Checklist, India CVD Initiation Checklist, Italy CVD Initiation Checklist, Korea CVD Initiation Checklist, and Taiwan CVD Initiation Checklist, at Attachment II.

[17] *See* Letter to the Department from Thomas Steel Strip Corporation and Apollo Metals, Ltd., entitled ''Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, Italy, and Taiwan: Statement of Support for the Petitions and Comments Concerning Nickel-Plated Steel Products,'' dated June 12, 2015.

[18] *See* PRC CVD Initiation Checklist, India CVD Initiation Checklist, Italy CVD Initiation Checklist, Korea CVD Initiation Checklist, and Taiwan CVD Initiation Checklist, at Attachment II.

[19] *See* PRC CVD Initiation Checklist, India CVD Initiation Checklist, Italy CVD Initiation Checklist, Korea CVD Initiation Checklist, and Taiwan CVD Initiation Checklist, at Attachment II.

[20] *See* section 702(c)(4)(D) of the Act; *see also* PRC CVD Initiation Checklist, India CVD Initiation Checklist, Italy CVD Initiation Checklist, Korea CVD Initiation Checklist, and Taiwan CVD Initiation Checklist, at Attachment II.

producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act for all of the Petitions because the domestic producers (or workers) who support each of the Petitions account for at least 25 percent of the total production of the domestic like product.[21] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act for all of the Petitions because the domestic producers (or workers) who support each of the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[22] Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigations that they are requesting the Department initiate.[23]

Injury Test

Because the PRC, India, Italy, Korea, and Taiwan are ''Subsidies Agreement Countries'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC, India, Italy, Korea, and/or Taiwan materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. Petitioners allege that subject imports exceed the negligibility threshold of three percent provided for under section 771(24)(A) of the Act.[24] In CVD petitions, section 771(24)(B) of the Act provides that imports of subject merchandise from least developed countries must exceed the negligibility threshold of four percent. Petitioners also demonstrate that subject imports from India, which has been designated as a least developed country under section 771(36)(B) of the Act, exceed the negligibility threshold provided for under section 771(24)(B) of the Act.[25]

Petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; oversupply and inventory overhang in the U.S. market; and adverse impact on domestic industry performance.[26] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[27]

Initiation of Countervailing Duty Investigations

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to Petitioners supporting the allegations.

Petitioners allege that producers/exporters of corrosion-resistant steel in the PRC, India, Italy, Korea, and Taiwan benefited from countervailable subsidies bestowed by the governments/authorities of these countries, respectively. The Department examined the Petitions and finds that they comply with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating CVD investigations to determine whether manufacturers, producers, or exporters of corrosion-resistant steel from the PRC, India, Italy, Korea, and Taiwan receive countervailable subsidies from the governments/authorities of these countries, respectively.

The PRC

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 47 of the 48 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the PRC CVD Initiation Checklist.

India

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 52 of the 53 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the India CVD Initiation Checklist.

Italy

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 12 of the 14 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the Italy CVD Initiation Checklist.

Korea

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 39 of the 41 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the Korea CVD Initiation Checklist.

Taiwan

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 20 of the 22 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the Taiwan CVD Initiation Checklist.

A public version of the initiation checklist for each investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of this initiation.

Respondent Selection

Petitioners named 146 companies as producers/exporters of corrosion-resistant steel from the PRC, 26 from India, 7 from Italy, 11 from Korea, and 35 from Taiwan.[28] Following standard

[21] *See* PRC CVD Initiation Checklist, India CVD Initiation Checklist, Italy CVD Initiation Checklist, Korea CVD Initiation Checklist, and Taiwan CVD Initiation Checklist, at Attachment II.

[22] *Id.*

[23] *Id.*

[24] *See* Volume I of the Petitions, at 24 (footnote 87) and Exhibit I–27.

[25] *Id.*

[26] *See* Volume I of the Petitions, at 17–19, 24–43 and Exhibits I–5, I–12 and I–18 through I–27; *see also* General Issues Supplement, at 1 and Exhibits Supp. I–18, Supp. I–25, Supp. I–26, and Supp. I–28.

[27] *See* PRC CVD Initiation Checklist, India CVD Initiation Checklist, Italy CVD Initiation Checklist, Korea CVD Initiation Checklist, and Taiwan CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan.

[28] *See* Volume I of the Petitions, at Exhibits I–7 to I–11. For Taiwan, *see also* Volume XI at Exhibit XI–1.

practice in CVD investigations, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of corrosion-resistant steel during the periods of investigation under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000. We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five-business days of publication of this **Federal Register** notice. The Department invites comments regarding respondent selection within seven days of publication of this **Federal Register** notice.

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS, by 5 p.m. ET by the date noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://enforcement.trade.gov/apo.*

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOC, GOIn, GOIt, GOK and TA *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each known exporter (as named in the Petitions), consistent with 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of corrosion-resistant steel from the PRC, India, Italy, Korea, and Taiwan are materially injuring, or threatening material injury to, a U.S. industry.[29] A negative ITC determination for any country will result in the investigation being terminated with respect to that country;[30] otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in these investigations.

Extension of Time Limits Regulation

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[31] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[32] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: June 23, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Attachment I

Scope of the Investigation

The products covered by this investigation are certain flat-rolled steel products, either

[29] *See* section 703(a) of the Act.

[30] *Id.*

[31] *See* section 782(b) of the Act.

[32] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin free steel''), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%–60%–20% ratio.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

[FR Doc. 2015–16067 Filed 6–29–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–832, A–533–863, A–570–026, A–580–878, A–583–856]

Certain Corrosion-Resistant Steel Products From Italy, India, the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Julia Hancock or Susan Pulongbarit at (202) 482–1394 and (202) 482–4031, respectively (Italy), Alexis Polovina at (202) 482–3927 (India); David Lindgren at (202) 482–3870 (the People's Republic of China (PRC)); David Lindgren at (202) 482–3870 (the Republic of Korea (Korea)); or Brendan Quinn or Paul Stolz at (202) 482–5848 and (202) 482–4474, respectively (Taiwan), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On June 3, 2015, the Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of certain corrosion-resistant steel products (corrosion-resistant steel) from Italy, India, the PRC, Korea, and Taiwan, filed in proper form on behalf of United States Steel Corporation, Nucor Corporation, ArcelorMittal USA, AK Steel Corporation, Steel Dynamics, Inc., and California Steel Industries, Inc., (Petitioners).[1] The AD petitions were accompanied by five countervailing duty (CVD) petitions.[2] Petitioners are domestic producers of corrosion-resistant steel.[3]

On June 9, 2015, and June 10, 2015, the Department requested additional information and clarification of certain areas of the Petitions.[4] Petitioners filed

[1] *See* Petitions for the Imposition of Antidumping Duties on Imports of Certain Corrosion-Resistant Steel Products from Italy, India, the PRC, Korea, and Taiwan, dated June 3, 2015 (the Petitions).

[2] *See* the Petitions for the Imposition of Countervailing Duties on Imports of Certain Corrosion-Resistant Steel Products from Italy, India, the PRC, Korea, and Taiwan, dated June 3, 2015.

[3] *See* Volume I of the Petitions, at 2, and Exhibit I–1.

[4] *See* Letter from the Department to Petitioners entitled ''Re: Petitions for the Imposition of

responses to these requests on June 12, 2015.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that imports of corrosion-resistant steel from Italy, India, the PRC, Korea, and Taiwan, are being, or are likely to be, sold in the United States at less-than-fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to Petitioners supporting their allegations.

The Department finds that Petitioners filed these Petitions on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that Petitioners demonstrated sufficient industry support with respect to the initiation of the AD investigations that Petitioners are requesting.[6]

Periods of Investigation

Because the Petitions were filed on June 3, 2015, the periods of investigation (POI) are, pursuant to 19 CFR 351.204(b)(1), as follows: April 1, 2014, through March 31, 2015, for Italy, India, Korea, and Taiwan, and October 1, 2014, through March 31, 2015, for the PRC.

Scope of the Investigations

The product covered by these investigations is corrosion-resistant steel from Italy, India, the PRC, Korea, and Taiwan. For a full description of the scope of these investigations, *see* the ''Scope of the Investigations,'' in Appendix I of this notice.

Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, Petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.[7]

As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. All such comments must be filed by 5:00 p.m. Eastern Daylight Time (EDT) on Tuesday, July 14, 2015, which is 21 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. EDT on Friday, July 24, 2015, which is 10 calendar days after the initial comments.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[8] An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of corrosion-resistant steel to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe corrosion-resistant steel, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all comments must be filed by 5:00 p.m. EDT on Tuesday, July 14, 2015, which is 21 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. EDT on Tuesday, July 21, 2015. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Italy, India, the PRC, Korea, and Taiwan less-than-fair-value investigations.

Antidumping Duties on Imports of Certain Corrosion-Resistant Steel Products from Italy, India, the PRC, Korea, and Taiwan, and Countervailing Duties on Imports of Certain Corrosion-Resistant Steel Products from Italy, India, the PRC, Korea, and Taiwan: Supplemental Questions'' dated June 9, 2015, and June 10, 2015; (General Issues Supplemental Questionnaire), and Letters from the Department to Petitioners entitled ''Re: Petition for the Imposition of Antidumping Duties on Imports of Certain Corrosion-Resistant Steel Products from {country}: Supplemental Questions'' on each of the country-specific records, dated June 9, 2015.

[5] *See* Response to the Department's June 9, 2015 Questionnaire Regarding Volume I of the Petitions for the Antidumping and Countervailing Duties, dated June12, 2015 (General Issues Supplement); *see also* Response to the Department's June 9, 2015 Questionnaires Regarding Volumes II, IV, VI, VIII, X, of the Petitions for the Antidumping and Countervailing Duties, dated June 12, 2015.

[6] *See* the ''Determination of Industry Support for the Petitions'' section below.

[7] *See* General Issues Supplemental Questionnaire; *see also* General Issues Supplement.

[8] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[9] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[10]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, Petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that corrosion-resistant steel constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.[11]

In determining whether Petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in Appendix I of this notice. Petitioners provided their shipments of the domestic like product in 2014, and estimated total shipments of the domestic like product for the entire domestic industry using data from the American Iron and Steel Institute and the ITC.[12] To establish industry support, Petitioners compared their own shipments to estimated total shipments of the domestic like product for the entire domestic industry.[13] Because data regarding total production of the domestic like product are not reasonably available to Petitioners and Petitioners have established that shipments are a reasonable proxy for production, we have relied on the shipment data provided by Petitioners for purposes of measuring industry support.[14]

On June 12, 2015, we received a submission from Thomas Steel Strip Corporation (Thomas) and Apollo Metals, Ltd. (Apollo), domestic producers of corrosion-resistant steel. In the submission, Thomas and Apollo state that they support the Petitions for the imposition of antidumping and countervailing duties on corrosion-resistant steel from the PRC, Korea, Italy and Taiwan. Thomas and Apollo do not express a view with respect to the Petitions for the imposition of antidumping and countervailing duties on corrosion-resistant steel from India. In addition, Thomas and Apollo provide their 2014 production of the domestic like product.[15]

We have relied on the data provided by Petitioners, Thomas, and Apollo for purposes of measuring industry support.[16]

Our review of the data provided in the Petitions, General Issues Supplement, submission from Thomas and Apollo, and other information readily available to the Department indicates that Petitioners have established industry support for all of the Petitions.[17] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[18] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act for all of the Petitions because the domestic producers (or workers) who support each of the Petitions account for

[9] *See* section 771(10) of the Act.

[10] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[11] For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from the People's Republic of China (PRC AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan (Attachment II); Antidumping Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from India (India AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from Italy (Italy AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from Taiwan (Taiwan AD Initiation Checklist). These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[12] *See* Volume I of the Petitions, at 2–3 and Exhibits I–3 to I–5; *see also* General Issues Supplement, at 12–14 and Exhibits Supp. I–3, Supp. I–40 to Supp. I–42, and Supp. I–45.

[13] *Id.*

[14] For further discussion, *see* PRC AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Taiwan AD Initiation Checklist, at Attachment II.

[15] *See* Letter to the Department from Thomas Steel Strip Corporation and Apollo Metals, Ltd., entitled ''Corrosion-Resistant Steel Products from the People's Republic of China, the Republic of Korea, Italy, and Taiwan: Statement of Support for the Petitions and Comments Concerning Nickel-Plated Steel Products,'' dated June 12, 2015.

[16] *See* Italy AD Initiation Checklist, India AD Initiation Checklist, PRC AD Initiation Checklist, Korea AD Initiation Checklist, and Taiwan AD Initiation Checklist, at Attachment II.

[17] *See* Italy AD Initiation Checklist, India AD Initiation Checklist, PRC AD Initiation Checklist, Korea AD Initiation Checklist, and Taiwan AD Initiation Checklist, at Attachment II.

[18] *See* section 732(c)(4)(D) of the Act; *see also* Italy AD Initiation Checklist, India AD Initiation Checklist, PRC AD Initiation Checklist, Korea AD Initiation Checklist, and Taiwan AD Initiation Checklist, at Attachment II.

at least 25 percent of the total production of the domestic like product.[19] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act for all of the Petitions because the domestic producers (or workers) who support each of the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[20] Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the AD investigations that they are requesting the Department initiate.[21]

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[22] Petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; oversupply and inventory overhang in the U.S. market; and adverse impact on domestic industry performance.[23] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[24]

Allegations of Sales at Less-Than-Fair Value

The following is a description of the allegations of sales at less-than-fair value upon which the Department based its decision to initiate investigations of imports of corrosion-resistant steel from Italy, India, the PRC, Korea, and Taiwan. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

Export Price

For Italy, India, Korea, the PRC and Taiwan, Petitioners based EP U.S. prices on price quotes/offers for sales of corrosion-resistant steel produced in, and exported from, the subject country.[25] Petitioners made deductions from U.S. price for movement expenses consistent with the delivery terms.[26] Where applicable, Petitioners also deducted from U.S. price trading company/distributor/reseller mark-ups estimated using Petitioners' knowledge of the U.S. industry.[27]

Normal Value

For Italy, India, Korea, and Taiwan Petitioners provided home market price information obtained through market research for corrosion-resistant steel produced in and offered for sale in each of these countries.[28] For each country, Petitioners provided an affidavit or declaration from a market researcher for the price information.[29] Additionally, Petitioners made deductions for movement expenses consistent with the terms of delivery, where applicable.[30] For India, Petitioners made a distributor mark-up adjustment to the price.[31] Petitioners made no other adjustments to the prices. For India, Petitioners based NV on the adjusted price. For Italy, Korea and Taiwan, Petitioners alleged that sales of corrosion-resistant steel in the respective home markets were made at prices below the cost of production. See below for discussion of NV based on constructed value.

With respect to the PRC, Petitioners stated that the Department has long treated the PRC as a non-market economy (NME) country.[32] In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act. In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners claim that South Africa is an appropriate surrogate country because it is a market economy that is at a level of economic development comparable to that of the PRC, it is a significant producer of the merchandise under consideration, and the data for valuing FOPs, factory overhead, selling, general and administrative (SG&A) expenses and profit are both available and reliable.[33]

Based on the information provided by Petitioners, we believe it is appropriate to use South Africa as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.[34]

Factors of Production

Petitioners based the FOPs for materials, labor, and energy on a petitioning U.S. producer's consumption rates for producing corrosion-resistant steel as they did not have access to the consumption rates of PRC producers of the subject

[19] *See* Italy AD Initiation Checklist, India AD Initiation Checklist, PRC AD Initiation Checklist, Korea AD Initiation Checklist, and Taiwan AD Initiation Checklist, at Attachment II.

[20] *Id.*

[21] *Id.*

[22] *See* Volume I of the Petitions, at 24 (footnote 87) and Exhibit I–27.

[23] *See* Volume I of the Petitions, at 17–19, 24–43 and Exhibits I–5, I–12 and I–18 through I–27; *see also* General Issues Supplement, at 1 and Exhibits Supp. I–18, Supp. I–25, Supp. I–26, and Supp. I–28.

[24] *See* PRC AD Initiation Checklist, India AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, and Taiwan AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan.

[25] *See* Italy AD Initiation Checklist; India AD Initiation Checklist; Korea AD Initiation Checklist; PRC AD Initiation Checklist, and Taiwan AD Initiation Checklist.

[26] *Id.*

[27] *Id.*

[28] *See* AD Italy Initiation Checklist; India AD Initiation Checklist; Korea AD Initiation Checklist; and Taiwan AD Initiation Checklist.

[29] *Id; see also* Memorandum to the File, ''Telephone Call to Foreign Market Researcher,'' on each of the country-specific records, dated June 10, 2015.

[30] *Id.*

[31] *See* AD India Initiation Checklist.

[32] *See* Volume II of the Petitions, at 1–2.

[33] *Id.* at 2.

[34] Note that 19 CFR 351.301(c)(3)(i) is the revised regulation published on April 1, 2013. *See http://www.gpo.gov/fdsys/pkg/CFR-2013-title19-vol3/html/CFR-2013-title19-vol3.htm.*

merchandise.[35] Petitioners note that the selected U.S. producer was chosen because, like the Chinese producer of the U.S. price offers, the U.S. producer is a large, integrated producer of subject merchandise.[36] Petitioners value the estimated factors of production using surrogate values from South Africa.[37]

Valuation of Raw Materials

Petitioners valued the FOPs for raw materials (*e.g.,* coke, iron ore, aluminum, zinc) using reasonably available, public import data for South Africa from the Global Trade Atlas (GTA) for the period of investigation.[38] Petitioners excluded all import values from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries. In addition, in accordance with the Department's practice, the average import value excludes imports that were labeled as originating from an unidentified country. The Department determines that the surrogate values used by Petitioners are reasonably available and, thus, are acceptable for purposes of initiation.

Valuation of Labor

Petitioners valued labor using South African labor data published by the International Labor Organization (ILO).[39] Specifically, Petitioners relied on industry-specific wage rate data from Chapter 5A of the ILO's ''Labor Cost in Manufacturing'' publication as South African wage information was not available in Chapter 6A of the ILO's ''Yearbook of Labor Statistics'' publication.[40] As the South African wage data are monthly data from 2012 in South African Rand, Petitioners converted the wage rates to hourly, adjusted for inflation and then converted to U.S. Dollars using the average exchange rate during the POI.[41] Petitioners then applied that resulting labor rate to the labor hours expended by the U.S. producer of corrosion-resistant steel.[42]

Valuation of Energy

Petitioners used public information, as compiled by Eskom (a South African electricity producer), to value electricity.[43] This 2014–2015 Eskom price information was converted to U.S. Dollars and from kilowatt hours to thousand kilowatt hours in order to be compared to the U.S producer factor usage rates.[44] The cost of natural gas in South Africa was calculated from the average unit value of imports of liquid natural gas for the period, as reported by GTA.[45] Using universal conversion factors, Petitioners converted that cost to the U.S. producer-reported factor unit of million British thermal units to ensure the proper comparison.[46]

Valuation of Factory Overhead, Selling, General and Administrative Expenses, and Profit

Petitioners calculated surrogate financial ratios (*i.e.,* manufacturing overhead, SG&A expenses, and profit) using the 2013 audited financial statement of EVRAZ Highveld Steel and Vanadium, a South African producer of comparable merchandise (*i.e.,* flat-rolled steel).[47]

Sales-Below-Cost Allegation

For Italy, Korea, and Taiwan, Petitioners provided information demonstrating reasonable grounds to believe or suspect that sales of corrosion-resistant steel in the respective home markets were made at prices below the fully-absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct country-wide sales-below-cost investigations.[48] For India, Petitioners did not make a sales-below-cost allegation.

With respect to sales-below-cost allegations in the context of investigations, the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act states that an allegation of sales below COP need not be specific to individual exporters or producers.[49] The SAA states further that ''Commerce will consider allegations of below-cost sales in the aggregate for a foreign country . . . on a country-wide basis for purposes of initiating an antidumping investigation.'' [50] Consequently, the Department intends to consider Petitioners' allegations on a country-wide basis for each respective country for purposes of this initiation.

Finally, the SAA provides that section 773(b)(2)(A) of the Act retains the requirement that the Department have ''reasonable grounds to believe or suspect that below-cost sales have occurred before initiating such an investigation.'' [51] ''Reasonable grounds'' will exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.[52] As explained below, we find reasonable grounds exist that indicate home market sales in Italy, Korea, and Taiwan, were at below-cost prices.

Cost of Production

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); SG&A expenses; financial expenses; and packing expenses. Petitioners calculated COM based on Petitioners' experience adjusted for known differences between their industry in the United States and the industries of the respective country (*i.e.,* Italy, Korea, and Taiwan), during the proposed POI.[53] Using publicly-available data to account for price differences, Petitioners multiplied their usage quantities by the submitted value of the inputs used to manufacture corrosion-resistant steel in each country.[54] For Italy and Korea, to determine factory overhead, SG&A, and financial expense rates, Petitioners relied on financial statements of producers of comparable merchandise operating in the respective foreign country.[55] For Taiwan, Petitioners used the factory overhead rate experienced at its own factory. To determine SG&A and financial expense rates for Taiwan, Petitioners relied on financial statements of a producer of comparable merchandise operating in Taiwan.

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the most comparable product, we find reasonable grounds to believe or suspect that sales of the foreign like products were made at prices that are below the COP, within the meaning of section

[35] *See* Volume II of the Petitions, at Exhibit II–14 (page 1).

[36] *Id.*

[37] *Id.,* at Exhibit II–14.

[38] *See* Volume II of the Petitions, at Exhibit II–14(D).

[39] *Id.,* at Exhibit II–14 (page 5 and Exhibit II–14(E)).

[40] *Id.*

[41] *Id.*

[42] *Id.,* at Exhibit II–14(I).

[43] *Id.,* at Exhibit II–14(F).

[44] *Id.,* at Exhibit II–14 (page 7 and Exhibit II–14(F)).

[45] *Id.,* at Exhibit II–14(G).

[46] *Id.,* at Exhibit II–14 (page 7).

[47] *Id.,* at Exhibit II–14 (page 8 and Exhibit II–14(H)).

[48] *See* Italy AD Initiation Checklist; Korea AD Initiation Checklist; and Taiwan AD Initiation Checklist.

[49] *See* SAA, H.R. Doc. No. 103–316, at 833 (1994).

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] *See* Italy AD Initiation Checklist; Korea AD Initiation Checklist; and Taiwan AD Initiation Checklist.

[54] *Id.*

[55] *Id.*

773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating country-wide cost investigations on sales of corrosion-resistant steel from Italy, Korea, and Taiwan.

Normal Value Based on Constructed Value

For Italy, Korea, and Taiwan, because they alleged sales below cost, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, Petitioners calculated NV based on constructed value (CV). Petitioners calculated CV using the same average COM, SG&A, and financial expenses, to calculate COP.[56] Petitioners relied on the financial statements of the same producers that they used for calculating manufacturing overhead, SG&A, and financial expenses to calculate the profit rate.[57]

Fair Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of corrosion-resistant steel from Italy, India, the PRC, Korea, and Taiwan, are being, or are likely to be, sold in the United States at less-than-fair value. Based on comparisons of EP to NV in accordance with section 773(a) of the Act, the estimated dumping margin(s) for corrosion-resistant steel range from: (1) Italy range from 119.68 to 126.75 percent; [58] (2) India is 71.09 percent; [59] (3) Korea range from 46.80 to 86.34 percent; [60] (4) Taiwan is 86.17 percent.[61]

Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margins for corrosion-resistant steel from the PRC range from 114.06 to 126.34 percent.[62]

Initiation of Less-Than-Fair-Value Investigations

Based upon the examination of the AD Petitions on corrosion-resistant steel from Italy, India, the PRC, Korea, and Taiwan, we find that Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of corrosion-resistant steel from Italy, India, the PRC, Korea, and Taiwan, are being, or are likely to be, sold in the United States at less-than-fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

Petitioners named seven companies from Italy, 26 companies from India, 11 companies from Korea, and eight companies from Taiwan, as producers/exporters of corrosion-resistant steel.[63] Following standard practice in AD investigations involving ME countries, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate HTSUS numbers listed in the ''Scope of Investigations'' section above. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice and make our decision regarding respondent selection within 20 days of publication of this notice.

We invite interested parties to comment on this issue. Parties wishing to comment must do so within five days of the publication of this notice in the **Federal Register**. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. EDT by the date noted above.

With respect to the PRC, Petitioners named 147 companies as producers/exporters of corrosion-resistant steel.[64] In accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity-and-value (Q&V) questionnaires to each potential respondent and base respondent selection on the responses received. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance Web site at *http://www.trade.gov/enforcement/news.asp.*

Exporters/producers of corrosion-resistant steel from the PRC that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement and Compliance Web site. The Q&V response must be submitted by all PRC exporters/producers no later than July 7, 2015, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[65] The specific requirements for submitting a separate-rate application in the PRC investigation are outlined in detail in the application itself, which is available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[66] Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that respondents from the PRC submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[67]

[56] *Id.*

[57] *Id.*

[58] *See* Italy AD Initiation Checklist.

[59] *See* India AD Initiation Checklist.

[60] *See* Korea AD Initiation Checklist.

[61] *See* Taiwan AD Initiation Checklist.

[62] *See* PRC AD Initiation Checklist.

[63] *See* the Volume I of the Petitions, at 15 and Exhibit 1–8 through I–11.

[64] *See* the Volume I of the Petitions, at 15 and Exhibit 1–8.

[65] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[66] Although in past investigations this deadline was 60 days, consistent with section 351.301 (a) of the Department's regulations, which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[67] *See* Policy Bulletin 05.1 at 6 (emphasis added).

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the Taiwan Authorities and the governments of Italy, India, the PRC, and Korea via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of corrosion-resistant steel from Italy, India, the PRC, Korean, and/or Taiwan are materially injuring or threatening material injury to a U.S. industry.[68] A negative ITC determination for any country will result in the investigation being terminated with respect to that country;[69] otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under Part 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this segment.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[70] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[71] The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 23, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigations

The products covered by these investigations are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of these investigations are products in which: (1) Iron predominates, by weight, over each

[68] *See* section 733(a) of the Act.

[69] *Id.*

[70] *See* section 782(b) of the Act.

[71] *See Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of these investigations unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of these investigations:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin free steel''), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%–60%–20% ratio.

The products subject to the investigations are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigations may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigations is dispositive.

[FR Doc. 2015–16061 Filed 6–29–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648–XA756]

Marine Mammals; File No. 15537

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

ACTION: Notice; request for comment on permit amendment.

SUMMARY: Notice is hereby given that NMFS is considering an amendment to Permit No. 15337 issued to the Institute for Marine Mammal Studies (IMMS), P.O. Box 207, Gulfport, MS 39502 (Dr. Moby Solangi, Responsible Party). This permit authorizes the acquisition of stranded, releasable California sea lions (*Zalophus californianus*) from the National Marine Mammal Health and Stranding Response Program for the purposes of public display. The permit amendment is in response to a court decision to remand this permit to NMFS for reconsideration.

DATES: Written, telefaxed, or email comments must be received on or before July 30, 2015.

ADDRESSES: The current permit and related documents are available for review online at *http://www.nmfs.noaa.gov/pr/permits/review.htm* or upon written request or by appointment in the following office:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The permit was issued on October 5, 2011, under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216). NMFS received several comments from members of the Marine Mammal Stranding Network and animal welfare organizations during the 30-day public comment period for the application that objected to animals undergoing rehabilitation and deemed fit for return to the wild being placed in public display, which commenters said contradicts the goals and mission of the Marine Mammal Stranding Network. Based in part on those comments and as explained in the memorandum documenting the decision on this permit, we included the following conditions in the permit:

> Condition B.2: This permit does not guarantee that the Permit Holder will be able to obtain any releasable sea lions from rehabilitation facilities, and does not require NMFS to direct any rehabilitation facilities to provide the Permit Holder with releasable sea lions. Thus, NMFS will not make arrangements for animals to be provided to IMMS, and rehabilitation facilities are under no obligation to provide animals to fulfill this permit. And Condition B.3: The Permit Holder is solely responsible for entering into cooperative agreements with partnering rehabilitation facilities, and must work directly with the facilities to be notified of any potential candidate animals to be acquired under this Permit.

After NMFS issued the permit, IMMS challenged the above provisions in U.S. District Court. As described in the Court's opinion, the Court remanded the permit to NMFS for reconsideration. *IMMS* v. *NMFS, No. 1:11CV318–LG–JMR* (S.D. Miss. 2014). NMFS is, therefore, proposing to remove Permit Condition B.3 and amend Permit Condition B.2 of the issued permit to state the following:

> Condition B.2: This permit does not guarantee that the Permit Holder will be able to obtain any releasable sea lions from rehabilitation facilities, and does not require NMFS to direct or make arrangements for any rehabilitation facilities to provide the Permit Holder with releasable sea lions. Since NMFS does not maintain real-time information regarding releasable sea lions in the stranding network, the Permit Holder should work initially with the rehabilitation facilities to be notified of any potential candidate animals to be acquired under this Permit. Final decisions with respect to use of rehabilitated marine mammals for public display purposes in lieu of take from the wild are at the ultimate discretion of the Office Director in accordance with 50 CFR 216.27(b)(4).

In accordance with NMFS' Memorandum in Opposition to Motion to Alter or Amend the Court's Judgment

in the aforementioned case, NMFS is seeking comments from the public specifically on these proposed revisions. In addition, NMFS is proposing to extend the permit for one additional year, to expire on October 5, 2017, since the permit has been in litigation, was never initially signed by the applicant, and, therefore, was never invoked.

In compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment (EA) was prepared for issuance of the original permit, which resulted in a finding of no significant impact. An initial determination has been made that no further NEPA analysis is necessary as the changes requested in the proposed amendment will not change the effects to the human environment in a manner not previously considered in the EA for Permit No. 15337.

Dated: June 24, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–16009 Filed 6–29–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel; Membership Solicitation

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of membership solicitation for Hydrographic Services Review Panel.

SUMMARY: In accordance with the Hydrographic Service Improvements Act of 1998, as amended (33 U.S.C. 892 *et seq.*), the National Oceanic and Atmospheric Administration (NOAA) is soliciting nominations for membership on its Hydrographic Services Review Panel (HSRP). The HSRP, a Federal advisory committee, advises the Administrator on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act and such other appropriate matters as the Administrator refers to the Panel for review and advice. Those responsibilities and authorities include, but are not limited to: Acquiring and disseminating hydrographic data and providing hydrographic services, as those terms are defined in the Act; promulgating standards for hydrographic data and services; ensuring comprehensive geographic coverage of hydrographic services; and testing, developing, and operating vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services.

The Act states that ''voting members of the Panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator.'' As such, the NOAA Administrator welcomes applications from individuals with expertise in marine navigation, port administration, marine shipping or other intermodal transportation industries, cartography and geographic information systems, geospatial data management, geodesy, physical oceanography, coastal resource management, including coastal resilience and emergency response, and other related fields. As a Federal Advisory Committee, NOAA seeks to balance the HSRP composition to ensure a range of membership viewpoints, expertise, and geographic representation.

To apply for membership on the Panel, applicants are asked to provide: (1) A cover letter that responds to the five ''Short Response Questions'' listed below as a statement of interest to serve on the Panel, and to highlight specific areas of expertise relevant to the purpose of the Panel; (2) the nominee's area(s) of expertise from the list above; (3) a current resume; and (4) the nominee's full name, title, institutional affiliation, and contact information. Applications should be submitted electronically to the email address specified below or use the nomination form at the following address, *http://www.nauticalcharts.noaa.gov/ocs/hsrp/hsrp.htm.* The entire package should be 6 pages or fewer in total. NOAA is an equal opportunity employer.

Short Response Questions

(1) List the area(s) of expertise, as listed above, which you would best represent on this Panel.

(2) List the geographic region(s) of the country with which you primarily associate your expertise.

(3) Describe your leadership or professional experiences which you believe will contribute to the effectiveness of this Panel.

(4) Describe your familiarity and experience with NOAA navigation data, products, and services.

(5) Generally describe the breadth and scope of stakeholders, users, or other groups whose views and input you believe you can represent on the Panel.

DATES: Cover letter, responses, and current resume materials should be submitted electronically or sent to the address specified below under further contact information. All materials must be received by August 10, 2015.

ADDRESSES: Submit your cover letter, responses, and current resume materials electronically to *Hydroservices.panel@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Lynne Mersfelder-Lewis, HSRP Program Manager, NOAA National Ocean Service, Office of Coast Survey, NOAA (N/CS), 1315 East West Highway, SSMC3 Rm 6864, Silver Spring, Maryland 20910; Telephone: 301–713–2705 x199, Email: *Hydroservices.panel@noaa.gov* or *Lynne.Mersfelder@noaa.gov*; or visit the NOS HSRP Web site at *http://www.nauticalcharts.noaa.gov/ocs/hsrp/hsrp.htm.*

SUPPLEMENTARY INFORMATION: Under 33 U.S.C. 883a, *et seq.,* NOAA's National Ocean Service (NOS) is responsible for providing nautical charts and related information for safe navigation. NOS collects and compiles hydrographic, tidal and current, geodetic, and a variety of other data in order to fulfill this responsibility. The HSRP provides advice on current and emerging oceanographic and marine science technologies relating to operations, research and development; and dissemination of data pertaining to:

(a) Hydrographic surveying;
(b) shoreline surveying;
(c) nautical charting;
(d) water level measurements;
(e) current measurements;
(f) geodetic measurements;
(g) geospatial measurements;
(h) geomagnetic measurements; and
(i) other oceanographic/marine related sciences.

The Panel has fifteen voting members appointed by the NOAA Administrator in accordance with 33 U.S.C. 892c. Members are selected on a standardized basis, in accordance with applicable Department of Commerce guidance. In addition, there are four non-voting members that serve on the Panel: The Co-Directors of the NOAA-University of New Hampshire Joint Hydrographic Center/Center for Coastal and Ocean

Mapping, and the Directors of NOAA's Office of National Geodetic Survey and NOAA's Center for Operational Oceanographic Products and Services. The Director, NOAA Office of Coast Survey, serves as the Designated Federal Official (DFO).

This solicitation requests applications to fill five voting member vacancies on the Panel as of January 1, 2016. Additional appointments may be made to fill vacancies left by any members who choose to resign during 2016. Some voting members whose terms expire January 1, 2016, may be reappointed for another full term if eligible.

Full-time officers or employees of the United States may not be appointed as a voting member. Any voting member of the Panel who is an applicant for, or beneficiary of (as determined by the Administrator) any assistance under 33 U.S.C. 892c shall disclose to the Panel that relationship, and may not vote on any matter pertaining to that assistance.

Voting members of the Panel serve a four-year term, except that vacancy appointments are for the remainder of the unexpired term of the vacancy. Members serve at the discretion of the Administrator and are subject to government ethics standards. Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may continue to serve until his or her successor has taken office. The Panel selects one voting member to serve as the Chair and another to serve as the Vice Chair. Meetings occur at least twice a year, and at the call of the Chair or upon the request of a majority of the voting members or of the Administrator. Voting members receive compensation at a rate established by the Administrator, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when engaged in performing duties for the Panel. Members are reimbursed for actual and reasonable expenses incurred in performing such duties.

Individuals Selected for Panel Membershp

Upon selection and agreement to serve on the HSRP, individuals who are appointed will become Special Government Employees (SGE) of the United States Government. According to 18 U.S.C. 202(a), an SGE is an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a fulltime or intermittent basis. Please be advised that applicants selected to serve on the Panel must complete the following actions before they can be appointed as a Panel member:

(a) Background Security Check and fingerprinting conducted through NOAA Workforce Management); and

(b) Confidential Financial Disclosure Report—As an SGE, you are required to file a Confidential Financial Disclosure Report to avoid involvement in a real or apparent conflict of interest. You may find the Confidential Financial Disclosure Report at the following Web site. *http://www.usoge.gov/forms/form_450.aspx.*

Dated: June 21, 2015.

Rear Admiral Gerd F. Glang,

Director, NOAA, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–16153 Filed 6–29–15; 8:45 am]

BILLING CODE P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No.: CFPB–2015–0030]

Request for Information Regarding the Consumer Complaint Database: Data Normalization

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice and request for information.

SUMMARY: The Consumer Financial Protection Bureau (''Bureau'') established under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''), maintains the Consumer Complaint Database (''Database'') as a part of its efforts to provide consumers with timely and understandable information to help enable them to make responsible financial decisions and to enhance market efficiency and transparency.

The purpose of this request for information is to solicit and collect input from the public on how data are presented in the Database.

The Bureau is requesting feedback on best practices for ''normalizing'' the raw complaint data it makes available via the Database so they are easier for the public to use and understand. To normalize data is to transform ''raw'' data so that they may be compared in meaningful ways. This transformation increases the interoperability of ''raw'' data—that is, the extent to which different users can share and make use of the data because they have a common understanding of its meaning. Commenters offered various suggestions on how to approach normalization during the public comment period leading up to the establishment of the Database; the comments' variety highlighted differing and sometimes conflicting perspectives and concerns. In an effort to continue dialogue on easier ways to compare complaint handling performance, the Bureau requests specific suggestions from market participants, consumers, and other stakeholders on data normalization and its proper implementation within the Database.

DATES: Written comments are encouraged and must be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2015–0030, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20006.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

Instructions: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. Please note the number associated with any question to which you are responding at the top of each response (you are not required to answer all questions to receive consideration of your comments). In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: For submission process questions please contact Monica Jackson, Office of Executive Secretary, at 202–435–7275. For inquires related to the substance of this request, please contact Christopher Johnson, Acting Assistant Director of the Office of Consumer Response at 202–435–7455 or *Christopher.Johnson@cfpb.gov.*

Authority: 12 U.S.C. 5511(c).

SUPPLEMENTARY INFORMATION: The Bureau hears directly from the American public about their experiences with the nation's consumer financial marketplace. An important aspect of the Bureau's mission is the handling of individual consumer complaints about financial products and services. Indeed, ''collecting, investigating, and responding to consumer complaints,'' is one of six statutory ''primary functions'' of the Bureau as prescribed in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'').[1]

The Bureau considers consumer complaints and gathers information as it monitors markets for risks to consumers and, subject to certain legal constraints, may publish information of which it is made aware.[2] In June 2012, the Bureau began making individual-level complaint data available on its Web site.[3] Since then, the Database has been expanded multiple times to include additional financial products and data fields.[4] Most recently, the Bureau published a final policy statement on disclosure of consumer complaint narrative data.[5] The Bureau is committed to the continued improvement of the Database in terms of both the fields of data made publicly available as well as the usefulness of, and appropriate formats for, that data. Consistent with these goals, the Bureau is seeking best practices for normalizing relevant data in the Database.

Data Normalization. Throughout the Database's launch and expansion, the Bureau has solicited feedback on ways to make raw complaint data more meaningful by supplementing that data with a context more useful for consumers and other market participants. For example, providing the total number of complaints against an issuer of credit cards may offer limited opportunities to analyze that company against other credit card issuers. However, additional information on the size of the issuer's credit card business as compared to others provides another aspect from which consumers may make better informed decisions. This process of giving context to data is commonly referred to as ''normalization'' in statistical applications. (''Normalization'' as discussed here should not be confused with the term ''database normalization,'' which refers to the technical process of designing an efficient way to store data in a computerized database.)

In its initial proposed policy statement to launch the Database with credit card complaint data, the Bureau expressed the benefits of normalization for both consumers and other stakeholders.[6] Several commenters responding to the proposal echoed the need for normalized values in the credit card complaint data. One commenter noted the need to distinguish between consumers complaining about open, as opposed to closed, accounts in weighing credit card complaints against an issuer's overall credit card business. Other commenters suggested that normalized values could be achieved by providing an issuer's complaint rate according to their market share. Notably, the comments provided did not coalesce around a single appropriate normalization metric.

In the same issue of the **Federal Register** containing the finalized credit card disclosure policy statement, the Bureau proposed expanding the Database beyond credit card complaint information.[7] Commenters provided additional feedback on normalization in response to the proposal.[8] For example, one trade association representing debt collectors suggested the Database include the number of accounts held by the company, annual number of contacts made by the company, and the annual number of complaints made against the company. Additional commenters suggested that the database include information on numbers of transactions or accounts, information on closed or unopened accounts, and portfolio size. One trade association recommended that the normalizing metric be provided by independently verified data.

In the proposed policy statement regarding the expansion of the Database to include consumer narratives, the Bureau again received feedback on the issue of normalization. Several companies, trade associations, and consumer groups submitted comments that reiterated the request for normalization to provide context to the available data. Both large and small institutions expressed concern that failure to indicate the relative share of complaints would cause confusion for consumers, resulting in unfair reputational harm. Commenters requested that complaint data and narratives be normalized to reflect institution size as measured by volume of customers or total transactions.

The Bureau now requests specific suggestions for metrics it might implement in the Database to assist in normalizing the complaint data. Specifically, the Bureau is interested in responses to the general questions below:

1. Is data normalization worthwhile, if so, how should the Bureau normalize data?

2. How should ''categories'' be defined for the purpose of normalizing consumer complaint data? Should we normalize by product, sub-product, issue, geography, or another category?

3. How should a ''market'' be defined for the purpose of normalizing consumer complaint data? How can ''market share'' be adequately evaluated and framed? What metrics should be used to evaluate market share? What factors within those metrics are we trying to normalize for, *e.g.,* industry size, company market share, and population?

4. Would normalized data allow for meaningful company-to-company comparisons within a market?

5. Do the answers to the questions above differ based on the various categories reflected in the Database?

6. What metrics would be required to normalize the data, *e.g.,* number of accounts per financial institution, population by ZIP code or other geographic area, etc.? Can these metrics be reliably obtained? Should the Bureau seek to independently verify any normalizing metric that it might use? How could it most reliably and effectively do so?

The Bureau does not anticipate publishing a proposed policy statement

[1] 12 U.S.C. 5511(c)(2). The Dodd-Frank Act additionally instructs the Bureau to create a ''Specific Functional Unit'' whose function is ''Collecting and Tracking Complaints.'' 12 U.S.C. 5493(b)(3).

[2] 12 U.S.C. 5511(c) and 5512(c).

[3] Disclosure of Certain Credit Card Complaint Data (Final policy statement), 77 FR 37558 (June 22, 2012).

[4] See, *e.g.,* Disclosure of Consumer Complaint Data (Final policy statement), 78 FR 21218 (Apr. 10, 2013).

[5] Disclosure of Consumer Complaint Narrative Data (Final policy statement), 80 FR 15572 (Mar. 24, 2015). The final policy statement on consumer complaint narratives is separate and distinct from this request for information.

[6] Disclosure of Certain Credit Card Complaint Data (Notice of proposed policy statement), 76 FR 76628, 76631 (Dec. 8, 2011).

[7] Disclosure of Consumer Complaint Data (Notice of proposed policy statement), 77 FR 37616 (June 22, 2012).

[8] Disclosure of Consumer Complaint Data (Final policy statement), 78 FR 21218, 21222 (Apr. 10, 2013).

on the subject of this request. The Bureau is committed to the continued improvement of the Database to help consumers make informed decisions about the financial marketplace. Consistent with these goals, the Bureau is seeking best practices for normalizing relevant data in the Database.

Dated: June 24, 2015.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2015–16096 Filed 6–29–15; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of open committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the USMA Board of Visitors (BoV). This meeting is open to the public. For more information about the BoV, its membership and its activities, please visit the BoV Web site at *http://www.usma.edu/bov/SitePages/Home.aspx.*

DATES: The USMA BoV will meet from 2:00 p.m. until 5:00 p.m. on Monday, July 20, 2015. Members of the public wishing to attend the meeting will be required to show a government photo ID upon entering West Point in order to gain access to the meeting location. All members of the public are subject to security screening.

ADDRESSES: West Point Club, 603 Cullum Road, Hudson Room, West Point, NY 10996.

FOR FURTHER INFORMATION CONTACT: Mrs. Deadra K. Ghostlaw, the Designated Federal Officer for the committee, in writing to: Secretary of the General Staff, ATTN: Deadra K. Ghostlaw, 646 Swift Road, West Point, NY 10996, by email at *deadra.ghostlaw@usma.edu* or *BoV@usma.edu* or by telephone at (845) 938–4200.

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: This is the 2015 Summer Meeting of the USMA BoV. Members of the Board will be provided updates on Academy issues.

Proposed Agenda: The Board Chair will discuss the following Topics: The next meeting date: November 16, 2015, Washington, DC and give a summary of discussion topics; the Superintendent will then give the following updates: Class of 2019 Admissions Update, Sexual Assault/Harassment Statistics, Sexual Assault and Prevention Response Office (SAPRO) Visit, Faculty Demographic Statistics, Faculty Operational Experience Update, Cadet Summer Training Highlights (Academic Individual Advanced Development/Military Individual Advanced Development (AIAD/MIAD) Maps), Construction Update.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mrs. Ghostlaw, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public attending the committee meeting will not be permitted to present questions from the floor or speak to any issue under consideration by the committee. Because the meeting of the committee will be held in a Federal Government facility on a military post, security screening is required. A government photo ID is required to enter post. Please note that security and gate guards have the right to inspect vehicles and persons seeking to enter and exit the installation. The United States Military Academy, West Point Club is fully handicap accessible. Wheelchair access is available at the front of the building south side (right side facing the building) and leads up to the main entrance. For additional information about public access procedures, contact Mrs. Ghostlaw, the committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee, in response to the stated agenda of the open meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Official at least seven business days prior to the meeting to be considered by the committee. The Designated Federal Official will review all timely submitted written comments or statements with the committee Chairperson, and ensure the comments are provided to all members of the committee before the meeting. Written comments or statements received after this date may not be provided to the committee until its next meeting.

The committee Designated Federal Official and Chairperson may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer, in consultation with the committee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2015–15955 Filed 6–29–15; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Grant Exclusive Patent License to Nano-C, Inc.; Westwood, MA

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: In compliance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i), the Department of the Army hereby gives notice of its intent to grant to Nano-C, Inc.; a corporation having its principle place of business at 33 Southwest Park, Westwood, MA 02090, exclusive license relative to the following U.S. Patent Application Titled '' Optically Transparent, Radio Frequency, Planar Transmission Lines'': United States Utility Patent Application Serial No. US 14/247,380.

DATES: The prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the U.S. Army Research Laboratory receives written objections including evidence and

argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by the U.S. Army Research Laboratory within fifteen (15) days from the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Send written objections to U.S. Army Research Laboratory Technology Transfer Office, RDRL–DPP/ Thomas Mulkern, Building 321 Room 110, Aberdeen Proving Ground, MD 21005–5425.

FOR FURTHER INFORMATION CONTACT: Thomas Mulkern, (410) 278–0889, Email: *ORTA@arl.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2015–15957 Filed 6–29–15; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0065]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 31, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of Family Readiness Policy, ATTN: Program Manager, Spouse Education & Career Opportunities Program, 4800 Mark Center Drive Suite 03G15, Alexandria, VA 22350–2300.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Spouse Education and Career Opportunities Program (SECO); OMB Control Number 0704–XXXX.

Needs and Uses: This information collection requirement is necessary to allow eligible military spouses to access education and employment resources.

Affected Public: Individuals or households.

Annual Burden Hours: 19,500.

Number of Respondents: 26,000.

Responses per Respondent: 1.

Annual Responses: 26,000.

Average Burden per Response: 45 minutes.

Frequency: On occasion.

The DoD Spouse Education and Career Opportunities (SECO) Program is the primary source of education, career and employment counseling for all military spouses who are seeking post-secondary education, training, licenses and credentials needed for portable career employment. The SECO system delivers the resources and tools necessary to assist spouses of service members with career exploration/ discovery, career education and training, employment readiness, and career connections at any point within the spouse career lifecycle.

Dated: June 25, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–16004 Filed 6–29–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–HA–0066]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 31, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name, docket

number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Naval Health Research Center, Deployment Health Research Department, ATTN: LCDR Rachel Lee, 140 Sylvester Rd., San Diego, CA 92106–3521 or call (619) 553–8983.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: ACAM2000® Myopericarditis Registry; OMB Control Number 0720–0054.

Needs and Uses: The information collection requirement is necessary to address Food and Drug Administration requirements to establish several Phase IV post-licensure studies to evaluate the long-term safety of ACAM2000® smallpox vaccine. Among the required post-licensure studies is the establishment of a myopericarditis registry. The ACAM2000® Myopericarditis Registry is designed to study the natural history of myopericarditis following receipt of the ACAM2000® vaccine, including evaluating factors that may influence disease prognosis, thus addressing the FDA post-licensure requirement and ensuring the continued licensing of this vaccine.

Affected Public: Individuals or households; federal government.

Annual Burden Hours: 10.

Number of Respondents: 10.

Responses per Respondent: 2.

Average Burden per Response: 30 minutes.

Frequency: Semi-annually.

Eligible respondents are civilians who are former Active Duty or active Guard/Reserve in the U.S. Military that received the ACACM2000® smallpox vaccine while in the military and subsequently developed signs or symptoms of myopericarditis. The information collected will illuminate the natural history of post-vaccine myopericarditis and evaluate factors that may influence disease prognosis. Inclusion of civilians who were formerly in the military in addition to current military members is imperative in order to obtain information on those who may have separated from the military due to their medical condition. Conducting this Registry will ensure the continued licensure of this military relevant vaccine.

Dated: June 25, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–16014 Filed 6–29–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 15–41]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

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

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

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 15–41 with attached Policy Justification and Sensitivity of Technology.

Dated: June 24, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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

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

JUN 19 2015

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 15-41, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost $69 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

for J. W. Rixey
Vice Admiral, USN
Director

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

Transmittal No. 15–41

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

(i) *Prospective Purchaser:* Australia

(ii) *Total Estimated Value:*

Major Defense Equipment *	$35 million
Sustainment	34 million
Total	$69 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* up to fourteen (14) AGM–88B High Speed Anti-Radiation Missiles (HARM) Tactical Missiles, sixteen (16) AGM–88E Advanced Anti-Radiation Guided Missiles (AARGM) Tactical Missiles, four (4) CATM–88B Captive Air Training Missiles, eight (8) CATM–88E Advanced Anti-Radiation Guided Missiles (AARGM) Captive Air Training Missiles, six (6) AARGM Guidance Sections, five (5) AARGM Control Sections, and two (2) AARGM Tactical Telemetry Missiles (for live fire testing), containers, spares and repair parts, support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical, and logistics support services, and other elements of logistics and program support.

(iv) *Military Department:* Navy (AZN, Amendment #1)

(v) *Prior Related Cases:* FMS case AZN-$37M–12June2013

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

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 19 June 2015

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

POLICY JUSTIFICATION

Australia—AGM–88B High Speed Anti-Radiation Missiles

The Government of Australia has requested possible sale of up to fourteen (14) AGM–88B High Speed Anti-Radiation Missiles (HARM) Tactical Missiles, sixteen (16) AGM–88E Advanced Anti-Radiation Guided Missiles (AARGM) Tactical Missiles, four (4) CATM–88B Captive Air Training Missiles, eight (8) CATM–88E Advanced Anti-Radiation Guided Missiles (AARGM) Captive Air Training Missiles, six (6) AARGM Guidance Sections, five (5) AARGM Control Sections, and two (2) AARGM Tactical Telemetry Missiles (for live fire testing), containers, spares and repair parts, support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering, technical, and logistics support services, and other elements of logistics and program support. The estimated cost is $69 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of Australia, a major contributor to political stability, security, and economic development in Southeast Asia. Australia is an important ally and partner that contributes significantly to peacekeeping and humanitarian operations around the world. It is vital to the U.S. national interest to assist our ally in developing and maintaining a strong and ready self-defense capability. This proposed sale is consistent with those objectives and facilitates burden sharing with a key ally.

The proposed sale will improve Australia's capability in current and future coalition efforts. Australia will use this capability as a deterrent to regional threats and to strengthen its homeland defense. Australia will have no difficulty absorbing these missiles into its armed forces.

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

The principal contractor will be Orbital ATK Defense Electronics Systems in Northridge, California. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of contractor representatives to Australia.

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

Transmittal No. 15–41

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

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AGM–88E Advanced Anti-Radiation Guided Missile (AARGM) weapon system is an air-to-ground missile intended to suppress or destroy land or sea-based radar emitters associated with enemy air defenses and provides tactical air forces with a lethal countermeasure to enemy radar directed, surface-to-air missiles, and air defense artillery weapons systems. Destruction or suppression of enemy radars denies the enemy the use of air defense systems, thereby improving the survivability of our tactical aircraft. It uses a multimode seeker that incorporates global positioning system/inertial measurement unit (GPS/IMU) midcourse guidance, a radio frequency (RF) radiation homing receiver, an active millimeter wave seeker, an Integrated Broadcast Service Receiver (IBS–R) and a Weapons Impact Assessment (WIA) transmitter. The AARGM AGM–88E when assembled is classified Secret. The AARGM Guidance Section (seeker hardware) and Control Section with the Target Detector is classified Confidential.

2. The AGM–88 High Speed Anti-Radiation Missiles (HARM) weapon system is an air-to-ground missile intended to suppress or destroy land or sea-based radar emitters associated with enemy air defenses and provides tactical air forces with a lethal countermeasure to enemy radar directed, surface-to-air missiles, and air defense artillery weapons systems. Destruction or suppression of enemy radars denies the enemy the use of air defense systems, thereby improving the survivability of our tactical aircraft. The AGM–88B HARM when assembled is classified Confidential. The HARM Guidance Section (seeker hardware), and Control Section with the Target Detector are classified Confidential. The HARM Control Section with the Target Detector is classified Confidential.

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

4. A determination has been made that the Government of Australia can provide substantially the same degree of protection for the technology being released as the US Government. The sale is necessary in furtherance of the US foreign policy and national security objectives as outlined in the policy justification of the notification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to Australia.

[FR Doc. 2015–15923 Filed 6–29–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–HA–0161]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 29, 2015.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Assistance Reporting Tool (ART); OMB Control Number 0720–TBD.

Type of Request: Proposed collection.

Number of Respondents: 254,000.

Responses Per Respondent: 1.

Annual Responses: 254,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 63,500.

Needs and Uses: The ART is a secure web-based system that captures feedback on and authorization related to TRICARE benefits. Users are comprised of Military Health System (MHS) customer service personnel, to include Beneficiary Counseling and Assistance Coordinators, Debt Collection Assistance Officers, personnel, family support, recruiting command, case managers, and others who serve in a customer service support role. The ART is also the primary means by which DHA-Great Lakes staff capture medical authorization determinations and claims assistance information for remotely located service members, line of duty care, and for care under the Transitional

Care for Service-related Conditions benefit. ART data reflects the customer service mission within the MHS: It helps customer service staff users prioritize and manage their case workload; it allows users to track beneficiary inquiry workload and resolution, of which a major component is educating beneficiaries on their TRICARE benefits. Personal health information (PHI) and personally identifiable information (PII) entered into the system is received from individuals via a verbal or written exchange and is only collected to facilitate beneficiary case resolution. Authorized users may use the PII/PHI to obtain and verify TRICARE eligibility, treatment, payment, and other healthcare operations information for a specific individual. All data collected is voluntarily given by the individual. At any time during the case resolution process, individuals may object to the collection of PHI and PII via verbal or written notice. Individuals are informed that without PII/PHI the authorized user of the system may not be able to assist in case resolution, and that answers to questions/concerns would be generalities regarding the topic at hand.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, *Oira_submission@omb.eop.gov.*

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: June 24, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–15995 Filed 6–29–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0085]

Agency Information Collection Activities; Comment Request; Recent Graduates Employment and Earnings Survey (RGEES) Standards and Survey Form

AGENCY: Federal Student Aid (FSA), 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 31, 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–0085 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 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

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: Recent Graduates Employment and Earnings Survey (RGEES) Standards and Survey Form.

OMB Control Number: 1845–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 22,123.

Total Estimated Number of Annual Burden Hours: 1,770.

Abstract: The National Center for Education Statistics (NCES) of the U.S. Department of Education (Department) is required by regulation to develop an earnings survey to support gainful employment (GE) program evaluations. The regulations specify that the Secretary of Education will publish in the **Federal Register** the survey and the standards required for its administration. NCES has developed the Recent Graduates Employment and Earnings Survey (RGEES) Standards and Survey Form. The RGEES can be used in a debt-to-earnings (D/E) ratio appeal under the GE regulations as an alternative to the Social Security administration earnings data.

Institutions that choose to submit alternate earnings appeal information will survey all Title IV funded students who graduated from GE programs during the same period that the Department used to calculate the D/E ratios, or a comparable period as defined in 668.406(b)(3) of the regulations. The survey will provide an additional source of earnings data for the Department to consider before determining final D/E ratios for programs subject to the gainful

employment regulations. Programs with final D/E ratios that fail to meet the minimum threshold may face sanctions, including the possible loss of Title IV federal student financial aid program funds.

Dated: June 24, 2015.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–15953 Filed 6–29–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

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

DATES: Thursday, July 16, 2015 6:00 p.m.

ADDRESSES: Barkley Centre, 111 Memorial Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Jennifer Woodard, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825.

SUPPLEMENTARY INFORMATION:

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

Tentative Agenda

- Call to Order, Introductions, Review of Agenda.
- Administrative Issues.
- Public Comments (15 minutes).
- Adjourn.

Breaks Taken As Appropriate.

Public Participation: The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jennifer Woodard as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jennifer Woodard at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Jennifer Woodard at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.pgdpcab.energy.gov/2015Meetings.html.*

Issued at Washington, DC, on June 24, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–16039 Filed 6–29–15; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0034; FRL–9929–89–OEI]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Voluntary Aluminum Industrial Partnership (VAIP) (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 30, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0034, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket Information Center, 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sally Rand, Climate Change Division, Office of Atmospheric Programs (6207J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–343–9739; fax number: 202–343–2202; email address: *rand.sally@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 16, 2012 (77 FR 9233), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0034, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute.

Title: Voluntary Aluminum Industrial Partnership (VAIP) (Renewal).

ICR numbers: EPA ICR No. 1867.06, OMB Control No. 2060–0411.

ICR Status: This ICR is scheduled to expire on June 30, 2015. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA's Voluntary Aluminum Industrial Partnership (VAIP) was initiated in 1995 and is an important voluntary program contributing to the overall reduction in emissions of greenhouse gases. This program focuses on reducing direct greenhouse gas emissions including perfluorocarbon (PFC) and carbon dioxide (CO_2) emissions from the production of primary aluminum. PFCs are very potent greenhouse gases with global warming potentials several thousand times that of carbon dioxide, and they persist in the atmosphere for thousands of years. CO_2 is emitted from consumption of the carbon anode. The Partnership effectively promotes the adoption of emission reduction technologies and practices associated with decreasing the frequency and duration of anode effects. Participants voluntarily agree to designate a VAIP liaison, and to undertake and share information on technically feasible and cost-effective actions to reduce PFC and direct CO_2 emissions. The information contained in the annual reports of VAIP members is used by EPA to assess the success of the program in achieving its goals and to advance Partner efforts to reduce greenhouse gas emissions.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 40 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Primary Production of Aluminum.

Estimated Number of Respondents: 6.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 240.

Estimated Total Annual Cost: $22,668, includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is no change in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–16041 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0104; FRL–9929–79–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Polyvinyl Chloride and Copolymer Production Area Sources (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Polyvinyl Chloride and Copolymer Production Area Sources (40 CFR part 63, subpart DDDDDD) (Renewal)'' (EPA ICR No. 2454.02, OMB Control No. 2060–0684) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 30, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0104, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

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

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

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

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart DDDDDD. Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Form Numbers: None.

Respondents/affected entities: Polyvinyl chloride and copolymer production area source facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart DDDDDD).

Estimated number of respondents: 3 (total).

Frequency of response: Initially, semiannually and annually.

Total estimated burden: 69,200 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $7,770,000 (per year), includes $806,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the estimated burden as currently identified in the OMB Inventory of Approved Burdens. In consulting with the Vinyl Institute during the renewal of this ICR, EPA received comprehensive comments on the burden associated with specific reporting and recordkeeping requirements, including, but not limited to, performance test, monitor installation, resin and wastewater sampling, equipment leak and process vent monitoring. We have updated the burden items to more accurately reflect the costs incurred by the industry. The update results in a substantial increase in the respondent labor hours, labor costs, and capital/O&M costs. There is also a small increase in the number of responses as we have updated the number of subject area sources from two to three based on data provided by the Vinyl Institute.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–16037 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0098; FRL–9929–18–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Nine Metal Fabrication and Finishing Sources (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Nine Metal Fabrication and Finishing Sources (40 CFR part 63, subpart XXXXXX) (Renewal)'' (EPA ICR No. 2298.04, OMB Control No. 2060–0622), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 30, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0098, to: (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

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

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

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

Abstract: The regulation applies to nine metal fabrication and finishing area source categories: (1) Electrical and Electronic Equipment Finishing Operations; (2) Fabricated Metal Products; (3) Fabricated Plate Work (Boiler Shops); (4) Fabricated Structural Metal Manufacturing; (5) Heating Equipment, except Electric; (6) Industrial Machinery and Equipment Finishing Operations; (7) Iron and Steel Forging; (8) Primary Metal Products Manufacturing; and (9) Valves and Pipe Fittings. The final rule establishes emission standards in the form of management practices and equipment standards for new and existing operations of dry abrasive blasting, machining, dry grinding and dry polishing with machines, spray painting and other spray coating, and welding operations. These standards reflect EPA's determination regarding the generally achievable control technology and/or management practices for the nine area source categories.

Form Numbers: None.

Respondents/affected entities: Owners and operators of facilities in the nine metal fabrication and finishing source categories.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart XXXXXX).

Estimated number of respondents: 5,800 (total).

Frequency of response: Initially, occasionally and annually.

Total estimated burden: 35,700 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $3,600,000 (per year), which includes $0 for both annualized capital and operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the estimated burden as currently identified in the OMB Inventory of Approved Burdens. The previous ICR incorrectly carried over burdens and costs from initial activities and divided the total number of respondents by three. This ICR is corrected to reflect the annual, on-going burden and costs for existing facilities. In addition, the use of more updated labor rates results in an increase in total labor costs. The overall result is an increase in burden hours and costs.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–16036 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0094; FRL–9929–76–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Other Solid Waste Incineration Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for Other Solid Waste Incineration Units (40 CFR part 60, subpart EEEE) (Renewal)'' (EPA ICR No. 2163.05, OMB Control No. 2060–0563) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 30, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0094, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

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

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

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

Abstract: The NSPS applies to very small municipal waste combustion units and institutional waste incineration units that commenced construction after December 9, 2005 or commenced reconstruction or modification on or after June 16, 2006. In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

Form Numbers: None.

Respondents/affected entities: Owners and operators of other solid waste incinerator units.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart EEEE)

Estimated number of respondents: Zero (total).

Frequency of response: Initially, semiannually and annually.

Total estimated burden: Zero hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $0 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. At present, there are no OSWI units subject to the regulations, and no new units are expected to be constructed or operated over the next three years. It is assumed that potential respondents would use alternative methods of waste disposal that are more economical, *e.g.* landfills, rather than replacing existing OSWI units. As a result, no respondent or agency burdens or costs have been estimated, and no annual burden is expected.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–16033 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2015–0185; FRL–9929–43]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from May 1, 2015 to May 29, 2015.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before July 30, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0183, and the specific PMN number or TME number for the chemical related to your comment, 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:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 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 technical information contact: Jim Rahai, IMD (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 202–564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply. Although others may be affected, this action applies directly to the submitter of the PMNs addressed in 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.*

II. What action is the Agency taking?

This document provides receipt and status reports, which cover the period from May 1, 2015 to May 29, 2015, and consists of the PMNs and TMEs both pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. What is the Agency's authority for taking this action?

Section 5 of TSCA requires that EPA periodical publish in the **Federal Register** receipt and status reports, which cover the following EPA activities required by provisions of TSCA section 5.

EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.* Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

In Table I. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: The EPA case number assigned to the PMN, the date the PMN was received by EPA, the projected end date for EPA's review of the PMN, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the PMN, and the chemical identity.

TABLE I–50 PMNS RECEIVED FROM MAY 1, 2015 TO MAY 29, 2015

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–15–0387	4/6/2015	7/5/2015	CBI	(G) Industrial coating polymer	(G) Modified fluoroalkyl acrylate copolymer.
P–15–0448	5/1/2015	7/30/2015	CBI	(G) Additive in toner formulations ..	(G) trimethoxysilyl alkyl ester acrylate..
P–15–0449	5/4/2015	8/2/2015	CBI	(G) Acrylic resin for waterborne exterior coatings.	(G) Alkyl methacrylate polymer with styrene, amino acrylate and acrylic acid.
P–15–0450	5/4/2015	8/2/2015	CBI	(G) Mixed metal oxide for batteries	(G) Lithium mixed metal oxide.
P–15–0451	5/5/2015	8/3/2015	Alberdingk Boley, Inc.	(S) Wood coatings	(G) Castor oil, dehydrated, polymer with alkyldioic acid, polymer with alkyl diols, hydroxy (hydroxymethyl)alkylylpropanoic acid, methylenebis [isocyanatocycloalkane] and alkyl glycol.
P–15–0451	5/5/2015	8/3/2015	Alberdingk Boley, Inc.	(S) Plastic coatings	(G) Castor oil, dehydrated, polymer with alkyldioic acid, polymer with alkyl diols, hydroxy (hydroxymethyl)alkylylpropanoic acid, methylenebis [isocyanatocycloalkane] and alkyl glycol.

TABLE I–50 PMNS RECEIVED FROM MAY 1, 2015 TO MAY 29, 2015—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–15–0451	5/5/2015	8/3/2015	Alberdingk Boley, Inc.	(S) Leather and textile impregnation.	(G) Castor oil, dehydrated, polymer with alkyldioic acid, polymer with alkyl diols, hydroxy (hydroxymethyl)alkylylpropanoic acid, ethylenebis [isocyanatocycloalkane] and alkyl glycol.
P–15–0452	5/5/2015	8/3/2015	Alberdingk Boley, Inc.	(G) Wood coatings and plastic coatings leather textile impregnation.	(G) Castor oil dehydrated, polymer with di-alkyl carbonate, alkyl diamine, alkyl diol, dihydroxy alkyl carboxylic acid and methylenebis [isocyanatocycloalkane]-, compd. with trialkylamine.
P–15–0453	5/5/2015	8/3/2015	Alberdingk Boley, Inc.	(G) Wood coatings and plastic coatings leather textile impregnation.	(G) Castor oil, dehydrated, polymer with alkyl diamine, dihydroxyalkyl carboxylic acid, aromatic azinetriamine, methylenebis[isocyanatocycloalkane]-,compds. with trialkylamine.
P–15–0454	5/5/2015	8/3/2015	Alberdingk Boley, Inc.	(G) Wood coatings and plastic coatings leather textile impregnation.	(G) Castor oil, dehydrated, polymer with alkyldioic acid, alkyldiamine, alkyldiol, dihydroxyalkyl carboxylic acid, methylenebis[isocyanato cyclohexane], alkyl glycol, and polyethylene glycol bis (hydroxymethyl)alkyl Me ether, compd. with triakyl amine.
P–15–0455	5/5/2015	8/3/2015	CBI	(G) Automotive parts	(S) 1,4-Cyclohexanedicarboxylic acid, 1,4-dimethyl ester, polymer with 1,4-cyclohexanedimethanol.
P–15–0456	5/6/2015	8/4/2015	CBI	(G) resin for use in electrocoats	(G) Amine functional epoxy, organic acid salt.
P–15–0457	5/6/2015	8/4/2015	Allnex USA, Inc	(S) Coating resin additive-curing catalyst.	(G) Substituted Alkanoic acid, metal complex.
P–15–0459	5/6/2015	8/4/2015	CBI	(G) Site-limited intermediate	(G) Siloxanes and Silicones, Me hydrogen, hydrolysis products with 1,1,3,3-tetramethyldisiloxane, distn. residues.
P–15–0460	5/7/2015	8/5/2015	Allnex USA, Inc	(S) Coating resin additive-curing catalyst.	(G) Substituted alkanoic acid-, metal salt.
P–15–0461	5/7/2015	8/5/2015	CBI	(G) HAPS free, silicone based resin for the manufacture of ambient curing industrial coatings, such as anticorrosion coating for mufflers, ovens, chimneys, oven inserts, barbeques and electric and gas heaters as well as other large industrial objects and equipment.	(G) Siloxanes and Silicones, alkoxy Me, polymers with Me silsesquioxanes, alkoxy-terminated.
P–15–0462	5/7/2015	8/5/2015	CBI	(S) Acrylic resin used in the manufacture of inks and coatings.	(G) Hexamethylene diisocyanate with caprolactone acrylate.
P–15–0463	5/11/2015	8/9/2015	CBI	(G) Foam component	(G) Bifunctional aromatic polyester polyol.
P–15–0464	5/11/2015	8/9/2015	CBI	(G) Foam component	(G) Polyfunctional aromatic polyester polyol.
P–15–0465	5/12/2015	8/10/2015	3M Company	(S) Reactive polymer in 2 part epoxy adhesive.	(G) Amine modified epoxy resin.
P–15–0466	5/12/2015	8/10/2015	CBI	(G) Intermediate	(G) Acrylic acid polymer.
P–15–0467	5/15/2015	8/13/2015	CBI	(G) Binder resin for printing ink (Open non-disperse use).	(G) Polyester type urethane polymer.
P–15–0468	5/15/2015	8/13/2015	CBI	(G) Printing ink additive	(G) Polycyclecarboxylic acid, hydroxy-(substituted phenyl) diazenyl, metal salt.
P–15–0469	5/15/2015	8/13/2015	CBI	(G) Surfactant	(G) Algal oil betaine surfactant.
P–15–0470	5/15/2015	8/13/2015	CBI	(G) Intermediate	(G) Algal oil amide.

TABLE I–50 PMNS RECEIVED FROM MAY 1, 2015 TO MAY 29, 2015—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–15–0474	5/19/2015	8/17/2015	xF Technologies	(S) Plasticizer	(S) 2-Furancarboxylic acid, 5-methyl-, ethyl ester.
P–15–0474	5/19/2015	8/17/2015	xF Technologies	(S) Organic solvent	(S) 2-Furancarboxylic acid, 5-methyl-, ethyl ester.
P–15–0475	5/19/2015	8/17/2015	xF Technologies	(G) Renewable organic solvent/plasticizer.	(S) 2-Furancarboxylic acid, 5-methyl-, methyl ester.
P–15–0476	5/19/2015	8/17/2015	xF Technologies	(G) Renewable organic solvent/plasticizer.	(S) 2-Furancarboxylic acid, 5-methyl-,1-methylethyl ester.
P–15–0477	5/19/2015	8/17/2015	xF Technologies	(G) Renewable organic solvent/plasticizer.	(S) 2-Furancarboxylic acid, 5-methyl-, tetradecyl ester.
P–15–0478	5/19/2015	8/17/2015	xF Technologies	(G) Renewable organic solvent/plasticizer.	(S) 2-Furancarboxylic acid, 5-methyl-, 2,2'-[ethanediylbis(oxy-2,1-ethanediyl) ester.
P–15–0479	5/19/2015	8/17/2015	xF Technologies	(G) Renewable organic solvent/plasticizer.	(S) 2-furancarboxylic acid, 5-methyl-, 2,2'-[oxybis(methyl-2,1-ethanediyl)] ester.
P–15–0481	5/19/2015	8/17/2015	CBI	(S) Curing agent for epoxy coating systems.	(G) Benzaldehyde, reaction products with polyalkylenepolyamines, hydrogenated, reaction products with alkyl ketone.
P–15–0482	5/20/2015	8/18/2015	CBI	(G) Lubricant additive	(G) Phenol, alkyl derivs.
P–15–0483	5/20/2015	8/18/2015	CBI	(G) Component in cleaning formulation.	(G) Alkyl phosphate ammonium salt.
P–15–0484	5/22/2015	8/20/2015	CBI	(G) Chemical intermediate	(G) Amino benzyl acrylic copolymer.
P–15–0485	5/22/2015	8/20/2015	CBI	(G) Additive for Industrial Coatings	(G) Bismuth Compound.
P–15–0487	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Use with materials to improve mechanical properties or electrical conductivities.	(G) Multi-walled carbon nanotubes.
P–15–0487	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Additive for heat transfer and thermal emissions in electronic devices and materials; use as a semi-conductor, conductive, or resistive element in electronic circuitry and devices.	(G) Multi-walled carbon nanotubes.
P–15–0487	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Use as an additive for electromagnetic interface (EMI) shielding in electronic devices; additive for electrodes in electronic materials and electronic devices.	(G) Multi-walled carbon nanotubes.
P–15–0487	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Use as a catalyst support in chemical manufacturing; Coating additive to improve corrosion resistance or conductive properties.	(G) Multi-walled carbon nanotubes.
P–15–0487	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Additive for fibers in structural and electrical applications; Additive for fibers in fabrics and textiles.	(G) Multi-walled carbon nanotubes.
P–15–0487	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Use as a filter additive to remove nanoscale materials; use as a semi-conducting compounding additive for high-voltage cable; use as an additive for super-hydrophobicity.	(G) Multi-walled carbon nanotubes.
P–15–0487	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Additive for weight reduction in materials.	(G) Multi-walled carbon nanotubes.
P–15–0487	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Use as a heat-generating element in heating devices and materials.	(G) Multi-walled carbon nanotubes.
P–15–0487	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Use as an additive for electrostatic discharge (ESD) in electronic devices, electronics, and materials.	(G) Multi-walled carbon nanotubes.
P–15–0488	5/22/2015	8/20/2015	Daewoo International USA Corp.	(G) Use as an additive for super—hydrophobcity.	(G) Multi-walled carbon nanotubes.

TABLE I–50 PMNS RECEIVED FROM MAY 1, 2015 TO MAY 29, 2015—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–15–0489	5/22/2015	8/20/2015	Daewoo International USA Corp.	(G) Use as an additive for super—hydrophobcity.	(G) Multi-walled carbon nanotubes.
P–15–0490	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Use as a heat-generating element in heating devices and materials.	(G) Multi-walled carbon nanotubes.
P–15–0491	5/22/2015	8/20/2015	Daewoo International USA Corp.	(S) Use as a heat-generating element in heating devices and materials.	(G) Multi-walled carbon nanotubes

In Table II. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received by EPA during this period: The EPA case number assigned to the TME, the date the TME was received by EPA, the projected end date for EPA's review of the TME, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the TME, and the chemical identity.

TABLE II—TMES RECEIVED FROM MAY 1, 2015 TO MAY 29, 2015

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
T–15–0009	5/20/2015	7/4/2015	CBI	(G) Component in cleaning formulation.	(G) Alkyl phosphate ammonium salt.

In Table III. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC, the date the NOC was received by EPA, the projected end date for EPA's review of the NOC, and chemical identity.

TABLE III—63 NOCS RECEIVED FROM MAY1, 2015 TO MAY 29, 2015

Case No.	Received date	Commencement notice end date	Chemical
P–12–0425	5/14/2015	5/5/2015	(S) Methanol, reaction products with 1,1,1,2,2,3,4,5,5,6,6,7,7,7-tetradecafluoro-3-heptene.*
P–13–0036	5/12/2015	5/7/2015	(G) Polymer of epoxy and aliphatic and aromatic acids.
P–13–0690	5/19/2015	5/11/2015	(G) Aluminum phosphate.
P–13–0860	5/11/2015	4/30/2015	(G) Alkanedicarboxylic acid, polymer with alkanediamine, alkanediol, hydroxy-(hydroxymethyl)-alkanecarboxylic acid and methylenebis[isocyanatocycloalkane] compd. with (dialkylamino)alkanol.
P–14–0100	5/19/2015	5/13/2015	(G) Polymerized fatty acid esters with aminoalcohol alkoxylates.
P–14–0110	5/10/2015	4/30/2015	(S) Cashew, nutshell liquid, polymer with formaldehyde, reaction products with diethanolamine and diisopropanolamine.*
P–14–0410	5/12/2015	4/16/2015	(G) Fatty acids, c18-unsatd., dimers, polymers with ammonia-ethanolamine reaction by-products.
P–14–0425	5/12/2015	4/13/2015	(G) Fatty acids, c18-unsatd., dimers, polymers with cashew nutshell liquid, glycidyl ethers.
P–14–0662	5/12/2015	5/10/2015	(S) D-Glucopyranose, oliogmeric, c-10-16-alkyl glycosides, polymers with epichlorohydrin, and oligomeric d-glucopyranose decyl octyl glycosides.*
P–14–0724	5/12/2015	5/9/2015	(S) D-glucopyranose, oligomeric, decyl, octyl glycosides, polymers with epichlorohydrin, 3-(dodecyldimethylammonio)-2-hydroxypropyl ethers, chloride.*
P–14–0726	5/27/2015	5/23/2015	(S) D-Glucopyranose, oligomeric, decyl octyl glycosides, polymers with epichlorohydrin, 3-(dimethyloctadecylammonio)-2-hydroxylpropyl ethers, chlorides.*
P–14–0749	5/22/2015	5/14/2015	(G) Substituted alkanoic acid, polymer with substituted alkanediol, polyalkylene polyol and substituted carbomonocycle, alkali metal salt.
P–14–0824	5/4/2015	4/28/2015	(G) Rape oil, reaction products with alkylamine.
P–14–0844	5/5/2015	4/9/2015	(G) Organosilane treated boron nitride.
P–14–0845	5/5/2015	4/9/2015	(G) Organosilane treated oxide ceramic.
P–14–0846	5/8/2015	4/29/2015	(G) Alkanoic acid, hydroxy-(hydroxyalkyl)-methyl-, polymer with diisocyanatoalkane, -hydro—hydroxypoly(oxy-alkanediyl) and isocyanato-1-(isocyanatoalkyl)-trimethylcycloalkane, tetrahydroxyalkanel triacrylate-blocked, compd. with trimethylamine.
P–15–0059	5/29/2015	5/6/2015	(S) Siloxanes and silicones, 3-[(2-aminoethyl)amino)propyl me, di-me, reaction products with cadmium zinc selenide sulfide, lauric acid and oleylamine.*
P–15–0060	5/29/2015	5/6/2015	(S) Dodecanoic acid, reaction products with cadmium zinc selenide sulfide and oleylamine.*
P–15–0104	5/29/2015	5/6/2015	(S) Phosphonic acid, p-tetradecyl-, reaction products with cadmium selenide (cdse).*
P–15–0129	5/12/2015	4/13/2015	(G) Ethoxylated alkyl chloroformate.

TABLE III—63 NOCS RECEIVED FROM MAY1, 2015 TO MAY 29, 2015—Continued

Case No.	Received date	Commencement notice end date	Chemical
P–15–0130	5/13/2015	4/16/2015	(G) Ethoxylated alkyl chloride.
P–15–0163	5/27/2015	5/22/2015	(G) Carboxypolyalkylene resin,oxidized, polymer with alkenoic acid, alkyl alkenoate, alkenedioic acid, polyalkylene glycol substituted dicarbomonocycle, substituted carbomonocycle, carbomonocyclic icarboxylic acid and anhydride, alkyl peroxide-initiated.
P–15–0168	5/27/2015	5/20/2015	(S) 2-Heptanol, 3,6-dimethyl-.*
P–15–0188	5/8/2015	5/7/2015	(G) Carbomoncycles, polymer with substituted heteromonocycle, 2- (2-alkyl-1-oxo-2-alkenyl) oxy] alkyl hydrogen alkanedioate.
P–15–0194	5/5/2015	4/27/2015	(G) Methacryloxyalkyl trialkoxysilane, reaction products with alkyl trialkoxysilane, epoxy modified alkoxy alkyl trialkoxysilane and mixed metal oxides.
P–15–0195	5/12/2015	4/27/2015	(G) Methacryloxyalkyl trialkoxysilane, reaction products with alkyl trialkoxysilane, epoxy modified alkoxy alkyl trialkoxysilane and mixed metal oxides.
P–15–0196	5/12/2015	4/27/2015	(G) Methacryloxyalkyl trialkoxysilane, reaction products with alkyl trialkoxysilane, epoxy modified alkoxy alkyl trialkoxysilane and mixed metal oxides.
P–15–0197	5/12/2015	4/27/2015	(G) Methacryloxyalkyl trialkoxysilane, reaction products with alkyl trialkoxysilane, epoxy modified alkoxy alkyl trialkoxysilane and mixed metal oxides.
P–15–0198	5/12/2015	4/26/2015	(G) Methacryloxyalkyl trialkoxysilane, reaction products with alkyl trialkoxysilane, epoxy modified alkoxy alkyl trialkoxysilane and mixed metal oxides.
P–15–0199	5/8/2015	4/24/2015	(G) Metallic salt of dicarboxylic acid.
P–15–0200	5/12/2015	4/27/2015	(G) Isocyanated alkyl trialkoxysilane, reaction products with epoxy modified cyclohexyl trialkoxysilane, alkylamine trialkoxysilane and mixed metal oxides.
P–15–0205	5/12/2015	4/26/2015	(G) Alkyldiamine alkyl trialkoxysilane, reaction products with methacrylate alkyl trialkoxysilane and mixed metal oxides.
P–15–0206	5/12/2015	4/26/2015	(G) Alkyldiamine alkyl trialkoxysilane, reaction products with methacrylate alkyl trialkoxysilane and mixed metal oxides.
P–15–0207	5/12/2015	4/26/2015	(G) Methacrylate alkyl trialkoxysilane, reaction products with metal oxides.
P–15–0209	5/12/2015	4/26/2015	(G) Epoxy modified alkoxy alkyl trialkoxysilane, reaction products with mixed metal oxides.
P–15–0210	5/12/2015	4/26/2015	(G) Alkyldiamine alkyl trialkoxysilane, reaction products with methacrylate alkyl trialkoxysilane and mixed metal oxides.
P–15–0211	5/12/2015	4/26/2015	(G) Methacryloxyalkyl trialkoxysilane, reaction products with alkyl trialkoxysilane, epoxy modified alkoxy alkyl trialkoxysilane and mixed metal oxides.
P–15–0212	5/12/2015	4/26/2015	(G) Isocyanated alkyl trialkoxysilane, reaction products with epoxy modified cyclohexyl trialkoxysilane, and mixed metal oxides.
P–15–0213	5/12/2015	4/27/2015	(G) Alkyl trialkoxysilane, reaction products with epoxy modified alkoxy alkyl trialkoxysilane, methacrylate alkyl trialkoxysilane and mixed metal oxides.
P–15–0214	5/12/2015	4/26/2015	(G) Alkyldiamine alkyl trialkoxysilane, reaction products with methacrylate alkyl trialkoxysilane and mixed metal oxides.
P–15–0215	5/12/2015	4/26/2015	(G) Epoxy modified alkoxy alkyl trialkoxysilane, reaction products with mixed metal oxides.
P–15–0216	5/12/2015	4/26/2015	(G) Isocyanated alkyl trialkoxysilane, reaction products with epoxy modified cyclohexyl trialkoxysilane, alkylamine trialkosysilane and mixed metal oxides.
P–15–0217	5/12/2015	4/26/2015	(G) Isocyanated alkyl trialkoxysilane, reaction products with epoxy modified cyclohexyl trialkoxysilane, alkylamine trialkoxysilane and mixed metal oxides.
P–15–0218	5/5/2015	4/26/2015	(G) Epoxy modified alkoxy alkyl trialkoxysilane, reaction products with mixed metal oxides.
P–15–0219	5/12/2015	4/26/2015	(G) Isocyanated alkyl trialkoxysilane, reaction products with epoxy modified cyclohexyl trialkoxysilane, alkylamine trialkoxysilane and mixed metal oxides.
P–15–0222	5/5/2015	4/27/2015	(G) Alkyl trialkoxysilane, reaction products with epoxy modified alkoxy alkyl trialkoxysilane, methacrylate alkyl trialkoxysilane and mixed metal oxides.
P–15–0223	5/5/2015	4/27/2015	(G) Alkyl trialkoxysilane, reaction products with methacrylate alkyl trialkoxysilane, epoxy modified alkoxy alkyl trialkoxysilane and mixed metal oxides.
P–15–0224	5/12/2015	4/27/2015	(G) Alkyl trialkoxysilane, reaction products with epoxy modified alkoxy alkyl trialkoxysilane, methacrylate alkyl trialkoxysilane and mixed metal oxides.
P–15–0225	5/12/2015	4/26/2015	(G) Methacryloxyalkyl trialkoxysilane, reaction products with alkyl trialkoxysilane, epoxy modified alkoxy alkyl trialkoxysilane and mixed metal oxides.
P–15–0226	5/12/2015	4/26/2015	(G) Alkyl amine trialkoxysilane, reaction products with isocyanated alkyl trialkoxysilane, epoxy modified cyclohexyl trialkoxysilane, and mixed metal oxides.
P–15–0227	5/5/2015	4/27/2015	(G) Alkyl trialkoxysilane, reaction products with epoxy modified alkoxy alkyl trialkoxysilane, methacrylate alkyl trialkoxysilane and mixed metal oxides.
P–15–0229	5/5/2015	4/26/2015	(G) Isocyanated alkyl trialkoxysilane, reaction products with epoxy modified cyclohexyl trialkoxysilane and mixed metal oxides.
P–15–0231	5/12/2015	4/26/2015	(G) Alkyl trialkoxysilane, reaction products with epoxy modified alkoxy alkyl trialkoxysilane, methacrylate alkyl trialkoxysilane and mixed metal oxides.
P–15–0233	5/12/2015	4/26/2015	(G) Isocyanated alkyl trialkoxysilane, reaction products with epoxy modified cyclohexyl trialkoxysilane, and mixed metal oxides.
P–15–0234	5/12/2015	4/26/2015	(G) Isocyanated alkyl trialkoxysilane, reaction products with epoxy modified cyclohexyl trialkoxysilane, alkylamine trialkoxysilane and mixed metal oxides.*
P–15–0235	5/12/2015	4/26/2015	(G) Epoxy modified cyclohexyl trialkoxysilane, reaction products with isocyanated alkyl trialkoxysilane, glass and mixed oxides.
P–15–0236	5/29/2015	4/29/2015	(G) Alkyl amine trialkoxysilane, reaction products with isocyanated alkyl trialkoxysilane, epoxy modified cyclohexyl trialkoxysilane, and mixed metal oxides.
P–15–0237	5/12/2015	4/26/2015	(G) Methacrylate alkyl trialkoxysilane, reaction products with metal oxides.

TABLE III—63 NOCS RECEIVED FROM MAY1, 2015 TO MAY 29, 2015—Continued

Case No.	Received date	Commencement notice end date	Chemical
P–15–0239	5/25/2015	4/26/2015	(G) Siloxanes and silicones, amino alkyl substituted alkyl hydroxyl, hydroxyl fluorinated alkyl, ester salts, reaction products with mixed metal oxides.
P–15–0242	5/7/2015	5/6/2015	(G) Heteropolycyclic, polymer with alkanedioic acid, di-alkenoate.
P–15–0264	5/27/2015	5/22/2015	(G) Carabomonocyclic dicarboxylic acid, polymer with alkanedioic acids, alkanediol, substituted heterpolycycle, alkanedioic acid, alkanediol, substituted carbomonocycle, alkyl alkenoate, alkanediols and alkenoic acid, alkyl ester, alkanoate, alkyl peroxide-initiated.
P–15–0265	5/27/2015	5/22/2015	(G) Carbomonocyclic dicarboxylic acid, polymer with alkanedioic acids, alkanediol, substituted heteropolycycle, alkanedioic acid, alkanediol, substituted carbomonocycle, alkyl alkanoate, alkanedioic acid, alkanediols and alkanoic acid, alkyl ester, alkanoate, alkyl peroxide-initiated.
P–15–0268	5/6/2015	5/1/2015	(G) Alkyl alkenoic acid, polymer with substituted alkyl alkenoate and alkyl alkenoate, reaction products with polyalkylene glycol substituted alkyl ether.

If you are interested in information that is not included in these tables, you may contact EPA as described in Unit III to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: June 24, 2015.

Chandler Sirmons,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2015–16047 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0044; FRL–9929–78–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Coke Oven Batteries (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Coke Oven Batteries (40 CFR part 63, subpart L) (Renewal)'' (EPA ICR No. 1362.10, OMB Control No. 2060–0253) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 30, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0044, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

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

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

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

Abstract: These standards apply to all coke oven batteries, whether existing, new, reconstructed, rebuilt, or restarted. It also applies to all batteries using the conventional by-product recovery, the non-recovery process, or any new recovery process. The 2005 amendments establish more stringent requirements for the control of hazardous air pollutants from coke oven batteries that chose to comply with maximum achievable control technology (MACT) standards under the 1993 rule.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. Any owner/operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the United States Environmental Protection Agency (EPA) regional office.

Form Numbers: None.

Respondents/affected entities: Coke oven batteries.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart L).

Estimated number of respondents: 19 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 80,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $8,020,000 (per year), includes no annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an adjustment decrease in the total estimated respondent labor burden as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. Rather, it was due to a discrepancy identified in the previous renewal, in which the number of by-product plants conducting daily leak inspections and bypass/bleeder stack/flare system inspections was overestimated. EPA has revised the estimates in this ICR to reflect the appropriate number of by-product plants. The net result of this adjustment was a decrease in respondent burden hours. There is also a small adjustment increase in the number of responses due to a correction. The previous ICR did not account for the notification of reconstruction, notification of battery closure, and malfunction report in calculating the number of responses.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–16031 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2011–0928; FRL–9929–94–OEI]

Proposed Information Collection Request; Comment Request; Fuel Use Requirements for Great Lake Steamships (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Fuel Use Requirements for Great Lakes Steamships'' (EPA ICR No. 2458.02, OMB Control No. 2060–0679) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through August 31, 2015. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

ADDRESSES: Submit your comments, referencing the Docket ID Number listed above online using *www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

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

FOR FURTHER INFORMATION CONTACT: Alan Stout, Office of Transportation and Air Quality, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105; telephone number: 734–214–4805; email address: *Stout.alan@Epa.gov.*

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

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

Abstract: The U.S. Environmental Protection Agency (EPA) adopted requirements for marine vessels operating in and around U.S. territorial waters to use reduced-sulfur diesel fuel. This requirement does not apply for steamships, but it would apply for steamships that are converted to run on diesel engines. A regulatory provision allows vessel owners to qualify for a waiver from the fuel-use requirements for a defined period for such converted vessels. EPA uses the data to oversee compliance with regulatory requirements, including communicating with affected companies and answering questions from the public or other industry participants regarding the waiver in question.

Form Numbers: None.

Estimated number of respondents: 2 (total).

Frequency of response: Once

Currently approved estimated burden: 14 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Currently approved estimated cost: $988 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: The final ICR will address all changes in the estimates over the past three years.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–16038 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–OW–2015–0346; FRL–9929–80–Region–8]

Proposed Issuance of NPDES General Permits for Wastewater Lagoon Systems Located in Indian Country in EPA Region 8

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability for comment.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is providing for comment the draft 2015 National Pollutant Discharge Elimination System (NPDES) lagoon general permits for

wastewater lagoon systems located in Indian country in Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming). These draft permits are similar to the existing permits and will authorize the discharge of wastewater from lagoons located in Region 8 Indian country in accordance with the terms and conditions described therein. EPA proposes to issue these permits for five (5) years and is seeking comment on the draft permits.

DATES: Comments must be received, in writing, on or before July 30, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OW–2015–0346, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* VelRey Lozano, Wastewater Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–W–WW, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* VelRey Lozano, Wastewater Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–W–WW, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OW–2015–0346. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, see Section I, General Information of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information 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 *http://www.regulations.gov* or in hard copy at the Wastewater Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: VelRey Lozano, Wastewater Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–W–WW, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6128, *lozano.velrey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the public notice and docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—Organize comments by referencing the part of the permit or fact sheet by section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. Background

These draft permits are similar to the current permits and will authorize the discharge of wastewater in accordance with the terms and conditions described therein. The fact sheet for the permits is provided for download concurrently with the permits and provides detailed information on; the decisions used to set limitations, the specific geographic areas covered by the permits, information on monitoring schedules, inspection requirements, and other regulatory decisions or requirements.

Issuance of the general permits will cover discharges from wastewater lagoon systems located in Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. The general permits are grouped geographically by state, with the permit coverage being for specified Indian reservations located within a state boundary [specific permit coverage areas below]; any land held in trust by the United States for an Indian tribe; and any other areas which are Indian country within the meaning of 18 U.S.C. 1151.

III. Summary of Permits

A. Colorado: COG587###

This permit covers the Southern Ute Reservation and the Ute Mountain Reservation, including those portions of the Reservation located in New Mexico and Utah.

B. Montana: MTG589###

This permit covers the Blackfeet Indian Reservation of Montana; the Crow Indian Reservation; the Flathead Reservation; the Fort Belknap Reservation of Montana; the Fort Peck Indian Reservation; the Northern Cheyenne Indian Reservation; and, the Rocky Boy's Reservation.

C. North Dakota: NDG589###

This permit covers the Fort Berthold Reservation; the Spirit Lake Indian Reservation; the Standing Rock Sioux Reservation; and, the Turtle Mountain Reservation.

This permit includes that portion of the Standing Rock Sioux Reservation and associated Indian country located within the State of South Dakota. It does not include any land held in trust by the United States for the Sisseton-Wahpeton Oyate or any other Indian country associated with that Tribe, which is covered under general permit SDG589###.

D. South Dakota: SDG589###

This permit covers the Cheyenne River Reservation; Crow Creek Reservation; the Flandreau Santee Sioux Indian Reservation; the Lower Brule Reservation; the Pine Ridge Reservation (including the entire Reservation, which is located in both South Dakota and Nebraska); the Rosebud Sioux Indian Reservation; and, the Yankton Sioux Reservation.

This permit includes any land in the State of North Dakota that is held in trust by the United States for the Sisseton-Wahpeton Oyate or any other Indian country associated with that Tribe. It does not include the Standing Rock Sioux Reservation or any associated Indian country, which is covered under general permit NDG589###.

E. Utah: UTG589###

This permit covers the Northwestern Band of Shoshoni Nation of Utah Reservation (Washakie); the Paiute Indian Tribe of Utah Reservation; the Skull Valley Indian Reservation; and Indian country lands within the Uintah & Ouray Reservation. It does not include any portions of the Navajo Nation or the Goshute Reservation.

F. Wyoming: WYG589###

This permit covers the Wind River Reservation.

Coverage under the general permits will be limited to lagoon systems treating primarily domestic wastewater and will include two categories of coverage; discharging lagoons (DIS), and lagoons expected to have no discharge (NODIS). The effluent limitations for discharging lagoons are based on the Federal Secondary Treatment Regulation (40 CFR part 133) and best professional judgement (BPJ). If more stringent and/or additional effluent limitations are considered necessary to comply with applicable water quality standards, etc., those limitations and their basis are explained in the permit fact sheets and will be imposed by written notification to the permittee. Lagoon systems under the no discharge category are required to have no discharge except in accordance with the bypass provisions of the permit. Self-monitoring requirements and routine inspection requirements are included in the permits.

Where the Tribes have Clean Water Act section 401(a)(1) certification authority; Flathead Indian Reservation, the Fort Peck Indian Reservation, Northern Cheyenne Indian Reservation, and the Ute Mountain Indian Reservation; EPA has requested certification that the permits comply with the applicable provisions of the Clean Water Act and tribal water quality standards.

IV. Other Legal Requirements

Economic Impact (Executive Order 12866): EPA has determined that the issuance of these general permits is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to formal OMB review prior to proposal.

Paperwork Reduction Act: EPA has reviewed the requirements imposed on regulated facilities in these proposed general permits under the Paperwork Reduction Act of 1980, 44 U.S.C. 501, *et seq.* The information collection requirements of these permits have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

Unfunded Mandates Reform Act: Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires federal agencies to assess the effects of their ''regulatory actions'' defined to be the same as ''rules'' subject to the Regulatory Flexibility Act (RFA) on tribal, state, local governments and the private sector. Since the permit proposed today is an adjudication, it is not subject to the RFA and is therefore not subject to the requirements of the UMRA.

Authority: Clean Water Act, 33 U.S.C. 1251, *et seq.*

Dated: June 9, 2015.

Darcy O'Connor,

Acting Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance.

[FR Doc. 2015–16042 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0062; FRL–9920–89–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Pesticide Active Ingredient Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Pesticide Active Ingredient Production (40 CFR part 63, subpart MMM) (Renewal)'' (EPA ICR No. 1807.08, OMB Control No. 2060–0370) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 30, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0062, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless

the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

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

Abstract: Respondents are owners and operators of pesticides active ingredient production operations. Respondents must submit one-time reports of initial compliance and either semiannual reports or quarterly reports of compliance. Recordkeeping of parameters related to process and air pollution control technologies is required. The reports and records will be used to demonstrate compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Owners and operators of pesticides active ingredient production operations.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart MMM).

Estimated number of respondents: 18 (total).

Frequency of response: Initially, quarterly, and semiannually.

Total estimated burden: 12,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,416,000 (per year), includes $236,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an adjustment decrease in the number of responses because this ICR removes leak detection and repair (LDAR) reports. The regulation requires subject sources to include LDAR information in periodic (*i.e.* semiannual or quarterly) reports. LDAR is not separately reported to EPA; therefore, no additional responses are associated with this activity.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–16032 Filed 6–29–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX]

Information Collection Being Reviewed by the Federal Communications Commission

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 Communications 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 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 PRA comments should be submitted on or before August 31, 2015. If you anticipate that you will submit comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Sections 96.17; 96.21; 96.23; 96.33; 96.35; 96.39; 96.41; 96.43; 96.45; 96.51; 96.57; 96.59; 96.61; 96.63; 96.67, Commercial Operations in the 3550–3650 MHz Band.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities, state, local, or tribal government and not for profit institutions.

Number of Respondents: 110,782 respondents; 136,432 responses.

Estimated Time per Response: 0 to .5 hours.

Frequency of Response: One-time and on occasion reporting requirements; other reporting requirements—as-needed basis for the equipment safety certifications, and consistently (likely daily) responses automated via the device.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 302(a), 303, 304, 307(e), and 316 of the Communications Act of 1934.

Total Annual Burden: 37,977 hours.

Total Annual Cost: $7,318,100.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The FCC adopted a Report and Order, FCC 15–47, that establishes rules for commercial use of 150 megahertz in the 3550–3700 MHz (3.5 GHz) band and created a new Citizens Broadband Radio Service, on April 17, 2015, published at 80 FR 36163 (June 23, 2015). The order creates a Spectrum Access System (SAS), an online database that will manage and coordinate frequency use in the band through registration and other technical information. The Commission seeks approval from the Office of Management and Budget (OMB) for the information collection requirements contained in FCC 15–47. The SAS will use the information to assign frequencies, manage interference, and authorize spectrum use. The Commission will use the information to authorize the SAS Administrator(s) and ESC operator(s).

The following is a description of the information collection requirements for which the Commission seeks OMB approval:

Section 96.17(d) requires that FSS Earth Station licensees register annually with the SAS to receive interference protection.

Section 96.21(a)(3) requires that existing commercial wireless broadband licensees operating in the band register in order to receive interference protection.

Sections 96.23(b); 96.33(b); 96.39(a)(1) and (c)–(e); 96.43(b); 96.45(d) require that the Citizens Broadband Radio Services Devices (CBSDs), which will operate on the Citizens Broadband Radio Service, must be registered with an SAS before use, provide specified information to the SAS, and adhere to certain operating parameters.

Section 96.35(e) requires that users operating Category B CBSDs must coordinate among each other and resolve interference through technological solutions or other agreements.

Sections 96.39(a) and (b) require that CBSDs report their geographic coordinates to an SAS automatically through the device or by a professional installer.

Sections 96.39(f) and (g) require that CBSDs incorporate sufficient security measures so that they are only able to communicate with the SAS and approved users and devices.

Section 96.41(d)(1) requires that licensees must report the use of an alternative Received Signal Strength Limit (RSSL) to the SAS.

Section 96.51 requires that manufacturers include a statement of compliance with the Commission's Radio Frequency (RF) safety rules with equipment authorization applications.

Sections 96.57(a)–(c); 96.59(a); 96.61 require that the SAS be capable of receiving registration and technical information from CBSDs, SASs, and ESCs, as well as employ secure communication protocols.

Section 96.63 requires that SAS Administrator applicants must demonstrate to the Commission that they are qualified to manage an SAS.

Section 96.67 requires that an Environmental Sensing Capability (ESC), used to protect federal radar systems from interference, may only operate after receiving Commission approval and be able to communicate information about the presence of a federal system and maintain security of the detected signals.

These rules which contain information collection requirements are designed to provide for flexible use of this spectrum, while managing three tiers of users in the band, and create a low-cost entry point for a wide array of users. The rules will encourage innovation and investment in mobile broadband use in this spectrum while protecting incumbent users. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2015–15999 Filed 6–29–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 24, 2015.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *BankFirst Capital Corporation*, Macon, Mississippi; to merge with Newton County Bancorporation, Inc., and thereby indirectly acquire Newton County Bank, both in Newton, Mississippi.

Board of Governors of the Federal Reserve System, June 25, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–16015 Filed 6–29–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 15, 2015.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Irving Moore Feldkamp, III, The Irving M. Feldkamp and Pamela Jo Feldkamp Family Trust of 2003, both of Redlands, California, Irving M. Feldkamp, IV, Paragold, LP, both of San Bernardino, California, and Burlington National Indemnity, Ltd.,* Grand Cayman, Cayman Island; to acquire voting shares of Seacoast Commerce Banc Holdings, and thereby indirectly acquire voting shares of Seacoast Commerce Bank, both in San Diego, California.

Board of Governors of the Federal Reserve System,

June 25, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–16016 Filed 6–29–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 141–0144]

Zimmer Holdings, Inc. and Biomet, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 24, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/zimmerbiometconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Zimmer Holdings, Inc. and Biomet, Inc.—Consent Agreement; File No. 141–0144'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/zimmerbiometconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Zimmer Holdings, Inc. and Biomet, Inc.—Consent Agreement; File No. 141–0144'' 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 D), 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 D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Christine Tasso, Bureau of Competition, (202–326–2232), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 24, 2015), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 24, 2015. Write ''Zimmer Holdings, Inc. and Biomet, Inc.—Consent Agreement; File No. 141–0144'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is 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).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/zimmerbiometconsent* 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 ''Zimmer Holdings, Inc. and Biomet, Inc.—Consent Agreement; File No. 141–0144'' 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 D), 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 D), 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 July 24, 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.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

Introduction

The Federal Trade Commission (''Commission'') has accepted from Zimmer Holdings, Inc. (''Zimmer''), subject to final approval, an Agreement Containing Consent Order (''Consent Agreement''), which is designed to remedy the anticompetitive effects likely to result from Zimmer's proposed acquisition of Biomet, Inc. (''Biomet''). Under the terms of the proposed Decision and Order (''Order'') contained in the Consent Agreement, Zimmer and Biomet must divest Zimmer's Unicompartmental High Flex Knee System (''ZUK'') business in the United States to Smith & Nephew, Inc. (''Smith & Nephew'') and divest Biomet's Discovery Elbow and Cobalt Bone Cement businesses in the United States to DJO Global, Inc. (''DJO'').

The Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

will again review the Consent Agreement and the comments received, and decide whether it should withdraw from the Consent Agreement, modify it, or make it final.

Pursuant to an agreement signed on April 24, 2014, Zimmer plans to acquire Biomet for approximately $13.35 billion (the ''Proposed Acquisition''). The Commission's Complaint alleges that the Proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition in the U.S. markets for: (1) Unicondylar knee implants; (2) total elbow implants; and (3) bone cement. The proposed Consent Agreement will remedy the alleged violations by preserving the competition that would otherwise be eliminated by the Proposed Acquisition.

The Parties

Zimmer, headquartered in Warsaw, Indiana, is the third-largest musculoskeletal medical device company in the United States and worldwide, specializing in the design, development, manufacture, and marketing of orthopedic reconstructive products. In 2013, Zimmer generated U.S. revenues of $2.42 billion.

Biomet, also headquartered in Warsaw, Indiana, is the fourth-largest musculoskeletal medical device company in the United States and the fifth-largest globally. In 2013, Biomet generated U.S. revenues of $1.86 billion.

The Relevant Products and Market Structures

Unicondylar Knee Implants

Unicondylar knee implants are medical devices that replace damaged bone and cartilage in only one of the knee's three condyles. The most common indication for a unicondylar knee implant is osteoarthritic damage in the medial condyle. In comparison to a total knee implant, which replaces all three condyles, a unicondylar knee implant requires less invasive surgery and allows a patient to have a more natural feeling knee upon recovery from surgery.

Unicondylar knee implants vary in a number of ways; however, one of the most important differences among the implants is whether they have a fixed or mobile bearing. In a fixed bearing implant, a plastic piece is fixed permanently to the end of the tibia. In a mobile bearing knee, the plastic piece moves and glides over the tibia as the knee moves. The mobile bearing places less stress on the bearing surface and may extend the longevity of the implant. Despite these differences, fixed bearing and mobile bearing implants are in the same product market because surgeons regularly substitute between them as they achieve comparable functional outcomes for the same indications.

The market for unicondylar knee implants is highly concentrated. Biomet, which markets the Oxford implant, is the market leader, with a share of at least 44%. Biomet's Oxford is the only mobile bearing knee implant currently on the market. Zimmer, the second-leading supplier of unicondylar knee implants, controls at least 23% of the market with its fixed bearing implant, ZUK. Stryker Corporation (''Stryker'') offers two unicondylar knee implants with fixed bearings: The Triathlon PKR and MAKOPlasty, a robotic-assisted surgery option. Stryker's market share is approximately 8%. Johnson & Johnson, through its DePuySynthes Companies (''J&J DePuy''), and Smith & Nephew both offer fixed bearing knee implants and are distant fourth and fifth competitors, maintaining approximately 6% and 3% shares of the market, respectively. Additionally, a number of small, fringe competitors each control a small share of the market, but individually and collectively have limited competitive significance. Absent a remedy, the Proposed Acquisition would produce a single firm controlling at least 67% of the unicondylar knee implant market and substantially increase market concentration.

Total Elbow Implants

Total elbow implants are medical devices that replace damaged bone and cartilage in the elbow joint caused by osteoarthritis or a severe elbow fracture. Total elbow implants replace the elbow joint with a metal hinge that affixes to stems implanted into the humerus and the ulna. There are two types of total elbow implants: Linked and unlinked. Linked total elbow implants connect the humeral stem to the ulnar stem with a pin and locking device, providing extra stability where the ligaments surrounding the elbow joint are weak. Unlinked total elbow implants do not connect the humeral stem to the ulnar stem mechanically; instead, they use the patient's natural ligaments to secure the implant. Linked and unlinked total elbow implants are viewed as reasonably interchangeable by health care providers because they treat the same indications and are priced similarly.

The market for total elbow implants is highly concentrated today, and the Proposed Acquisition would increase concentration in this market substantially. Zimmer and Biomet are the two largest suppliers of total elbow implants. Apart from the merging parties, Tornier, Inc. (''Tornier'') is the only other significant supplier of total elbow implants. Zimmer offers two products—the Coonrad/Morrey Total Elbow and the Nexel Total Elbow. The Coonrad/Morrey Total Elbow, developed at the Mayo Clinic, is a cemented, linked total elbow implant with twenty-four years of clinical history. In late 2013, Zimmer launched the Nexel Total Elbow, which updated the Coonrad/Morrey Total Elbow with, among other things, a revised linkage system and instrumentation, and an improved bearing surface. Biomet's Discovery Total Elbow is also a cemented, linked implant supported by over ten years of clinical history. Tornier launched its Latitude EV implant, a cemented total elbow system capable of converting between a linked and unlinked prosthesis, in the United States in 2013.

Bone Cement

Surgeons use bone cement in a wide variety of joint arthroplasties to affix implants to bones, including the vast majority of knee and elbow implants, as well as many hip and shoulder procedures. Bone cement is available in high, medium, and low viscosities and in non-antibiotic and antibiotic formulations. Surgeons select bone cement based on its viscosity, whether it has an antibiotic component, supporting clinical data, and familiarity. Because surgeons generally use the more expensive antibiotic bone cement only for patients with a high risk of infection, it may be appropriate to analyze the Proposed Acquisition in separate relevant markets for antibiotic and non-antibiotic bone cement. Most customers, however, purchase both types of bone cement through a single contract with a single vendor, and the market participants, competitive dynamics, and entry barriers are the same for both antibiotic and non-antibiotic bone cement. Thus, for convenience and efficiency, it is appropriate to analyze the impact of the Proposed Acquisition in a relevant market for all bone cement products.

Four primary suppliers serve the U.S. bone cement market: Stryker, Zimmer, J&J DePuy, and Biomet, which together account for approximately 98% of all bone cement sales in the United States. Stryker's Simplex is the market leader, with a share of approximately 40% of the market. Zimmer, the second-largest bone cement supplier, has a market share of approximately 30%. Zimmer

derives nearly all of its bone cement revenues from the sale of Palacos, which Zimmer distributes under license from Heraeus Holding. J&J DePuy takes approximately 18% of the market with its SmartSet bone cement, while Biomet's Cobalt has an approximate 10% market share. The Proposed Acquisition would reduce the number of major suppliers of bone cement in the United States from four to three and increase concentration in this market substantially.

The Relevant Geographic Market

The United States is the relevant geographic market in which to analyze the effects of the Proposed Acquisition. Medical devices sold outside of the United States are not viable alternatives for U.S. consumers, as they cannot turn to these products even in the event of a price increase for products currently available in the United States. Further, the U.S. Food and Drug Administration (''FDA'') must approve any medical device before it is sold in the United States, a process that generally takes a significant amount of time. Thus, suppliers of medical devices outside the United States cannot shift their product into the U.S. market quickly enough to be considered current market participants.

Entry

Entry or expansion into the markets for unicondylar knee implants, total elbow implants, and bone cement would not be timely, likely, or sufficient to counteract the likely anticompetitive effects of the Proposed Acquisition. To enter or effectively expand in any of these markets successfully, a supplier would need to design and manufacture an effective product, obtain FDA approval, and develop clinical history supporting the long-term efficacy of its product. The new entrant or putative expanding firm also would need to develop and foster product loyalty and establish a nationwide sales network capable of marketing the product and providing on-site service at hospitals throughout the country. Such development efforts are difficult, time-consuming, and expensive, and often fail to result in a competitive product reaching the market.

Effects of the Acquisition

Zimmer's acquisition of Biomet would likely result in substantial anticompetitive effects in the unicondylar knee implant market by eliminating substantial head-to-head competition between the two most successful implants. Zimmer's ZUK and Biomet's Oxford are particularly close competitors because of their well-documented clinical success records. As close competitors, customers currently leverage the Oxford and ZUK against each other to obtain better pricing. Additionally, Zimmer and Biomet continually improve features of their unicondylar knee implants in order to win business from physicians. Therefore, absent a remedy, the Proposed Acquisition would likely result in unilateral price effects and reduced innovation.

The Proposed Acquisition would also eliminate substantial competition between Zimmer and Biomet in the market for total elbow implants. Market participants indicate that Zimmer and Biomet total elbow implants are each other's next best alternative based upon design similarities and comparable clinical outcomes. As close substitutes, Zimmer and Biomet currently compete directly, including on price and service.

Zimmer's Palacos and Biomet's Cobalt Bone Cement products are particularly close substitutes that currently compete aggressively against each other. Absent a remedy, the Proposed Acquisition would result in the loss of substantial price competition between Zimmer and Biomet for the sales of their products.

The Consent Agreement

The Consent Agreement eliminates the competitive concerns raised by the Proposed Acquisition by requiring Zimmer and Biomet to divest all U.S. assets and rights related to Zimmer's ZUK unicondylar knee implant to Smith & Nephew and all U.S. assets and rights related to Biomet's Discovery Total Elbow implant and Cobalt Bone Cement to DJO. This divestiture will preserve the competition that currently exists in each of the relevant markets.

Smith & Nephew is a global specialty pharmaceutical company headquartered in London, United Kingdom. Smith & Nephew employs more than 14,000 employees worldwide with approximately 6,225 employees in the United States. In 2014, Smith & Nephew generated worldwide revenues of approximately $5.8 billion, of which approximately $1.5 billion came from its orthopedic reconstruction business.

DJO develops, manufactures, and distributes a wide range of medical devices, including orthopedic implants. Headquartered in Vista, California, DJO employs 5,200 people, and had revenues of approximately $1.2 billion in 2014. DJO's orthopedic implant business had approximately $100 million in 2014 revenues.

Pursuant to the Order, Smith & Nephew will receive all U.S. assets and rights related to the ZUK unicondylar knee product, including intellectual property, manufacturing technology, and existing inventory. Zimmer is also required to waive any non-compete employment clauses and assist in facilitating employment interviews between key employees and sales representatives from Zimmer distributors who currently sell the ZUK. The Order further requires Zimmer to provide transitional services to Smith & Nephew to assist them in establishing their manufacturing capabilities and securing all necessary FDA approvals.

The Order requires Biomet to divest all U.S. assets and rights necessary to enable DJO to become an independently viable and effective competitor in the total elbow implant and bone cement markets. Biomet is required to divest to DJO all of its U.S. assets and rights to research, develop, manufacture, market, and sell its total elbow implant and bone cement products, including all related intellectual property, manufacturing technology, and existing inventory. Biomet will also divest all U.S. assets and rights to its bone cement accessories, which consist of mixing and delivery systems that allow surgeons to control the bone cement ingredients to ensure a complete and consistent bone cement mixture and to apply cement onto an implant accurately. Hospitals and group purchasing organizations frequently purchase bone cement and bone cement accessories together. Further, the Order facilitates DJO's hiring of the Biomet sales representatives and employees whose responsibilities are related to bone cement and total elbow implants.

The Order requires Zimmer and Biomet to divest their respective U.S. assets and rights to the divested products no later than ten days after the Proposed Acquisition is consummated or on the date the Order becomes final, whichever is earlier. If the Commission determines that Smith & Nephew or DJO is not an acceptable acquirer, or that the manner of the divestiture is not acceptable, the Order requires Zimmer and Biomet to unwind the sale and divest the products within six months of the date the Order becomes final to another Commission-approved acquirer or acquirers. In that circumstance, the Commission may appoint a trustee to accomplish the divestiture if the parties fail to divest the products.

The Commission has agreed to appoint an interim monitor to ensure that Zimmer and Biomet comply with all of their obligations pursuant to the Consent Agreement and to keep the Commission informed about the status of the transfer of the assets and rights to Smith & Nephew and DJO.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2015–16081 Filed 6–29–15; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–CECANF–2015–06; Docket No. 2015–0006; Sequence No. 6]

Commission To Eliminate Child Abuse and Neglect Fatalities; Cancellation of Meeting

AGENCY: Commission to Eliminate Child Abuse and Neglect Fatalities, General Services Administration.

ACTION: Meeting Cancellation.

SUMMARY: The Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF), a Federal Advisory Committee established by the Protect Our Kids Act of 2012, published a **Federal Register** notice at 80 FR 36340, on June 24, 2015, announcing a meeting on July 1, 2015. The meeting has been cancelled.

DATES: *Effective:* June 24, 2015.

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: The Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF) published a **Federal Register** notice at 80 FR 36340, on June 24, 2015, announcing a public meeting on July 1, 2015 in Washington, DC. The meeting has been cancelled due to a lack of availability of invitees. At this time, there are no plans to reschedule the event.

Dated: June 24, 2015.

Amy Templeman,

Acting Executive Director.

[FR Doc. 2015–16040 Filed 6–29–15; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and pursuant to the requirements of 42 CFR 83.15(a), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Times and Dates (All times are Mountain Time):

8:15 a.m.–5:30 p.m., Mountain Time, July 23, 2015

8:15 a.m.–12:00 p.m., Mountain Time, July 24, 2015

Public Comment Times and Dates (All times are Mountain Time):

5:30 p.m.–6:30 p.m.,* Mountain Time, July 23, 2015

*Please note that the public comment period may end before the time indicated, following the last call for comments. Members of the public who wish to provide public comments should plan to attend the public comment session at the start time listed.

Place: Residence Inn by Marriott, 635 West Broadway, Idaho Falls, Idaho 83402, Phone: 208–542–0000; Fax: 208–542–0021. Audio Conference Call via FTS Conferencing. The USA toll-free, dial-in number is 1–866–659–0537 with a pass code of 9933701. Live Meeting CONNECTION: *https://www.livemeeting.com/cc/cdc/join?id9RTB4M&role=attend&pw=ABRWH;* Meeting ID: 9RTB4M; Entry Code: ABRWH.

Status: Open to the public, limited only by the space available. The meeting space accommodates approximately 100 people.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2015.

Purpose: This Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters for Discussion: The agenda for the Advisory Board meeting includes: NIOSH Program Update; Department of Labor Program Update; Department of Energy Program Update; SEC Issues Work Group Report on ''Sufficient Accuracy/Co-Worker Dose Modeling''; Report by the Dose Reconstruction Review Methods Work Group; SEC Petitions Update; SEC petitions for: Carborundum Company (1943–1976; Niagara Falls, New York), Rocky Flats Plant (1984–1989; Golden, Colorado), Idaho National Laboratory (1949–1970; Scoville, Idaho), and Kansas City Plant (1949–1993; Kansas City, Missouri); and Board Work Sessions.

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted to the contact person below well in advance of the meeting. Any written comments received will be provided at the meeting in accordance with the redaction policy provided below.

Policy on Redaction of Board Meeting Transcripts (Public Comment): (1) If a person making a comment gives his or her personal information, no attempt will be made to redact the name; however, NIOSH will redact other personally identifiable information,

such as contact information, social security numbers, case numbers, etc., of the commenter.

(2) If an individual in making a statement reveals personal information (*e.g.,* medical or employment information) about themselves that information will not usually be redacted. The NIOSH Freedom of Information Act (FOIA) coordinator will, however, review such revelations in accordance with the Federal Advisory Committee Act and if deemed appropriate, will redact such information.

(3) If a commenter reveals personal information concerning a living third party, that information will be reviewed by the NIOSH FOIA coordinator, and upon determination, if deemed appropriated, such information will be redacted, unless the disclosure is made by the third party's authorized representative under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) program.

(4) In general, information concerning a deceased third party may be disclosed; however, such information will be redacted if (a) the disclosure is made by an individual other than the survivor claimant, a parent, spouse, or child, or the authorized representative of the deceased third party; (b) if it is unclear whether the third party is living or deceased; or (c) the information is unrelated or irrelevant to the purpose of the disclosure.

The Board will take reasonable steps to ensure that individuals making public comment are aware of the fact that their comments (including their name, if provided) will appear in a transcript of the meeting posted on a public Web site. Such reasonable steps include: (a) A statement read at the start of each public comment period stating that transcripts will be posted and names of speakers will not be redacted; (b) A printed copy of the statement mentioned in (a) above will be displayed on the table where individuals sign up to make public comments; (c) A statement such as outlined in (a) above will also appear with the agenda for a Board Meeting when it is posted on the NIOSH Web site; (d) A statement such as in (a) above will appear in the **Federal Register** Notice that announces Board and Subcommittee meetings.

Contact Person for More Information: Theodore Katz, Designated Federal Officer, NIOSH, CDC, 1600 Clifton Road NE., MS E–20, Atlanta, Georgia 30333, telephone: (513) 533–6800, toll free: 1–800–CDC–INFO, email: *dcas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2015–15925 Filed 6–29–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60–Day–15–15ARG; Docket No. CDC–2015–0047]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on ''Prevent Hepatitis Transmission among Persons Who Inject Drugs''. The purpose of this study is to address the high prevalence of HCV infection by developing an integrated approach for detection, prevention, care and treatment of infection among persons aged 18–30 years who reside in non-urban counties.

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

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0047 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of

collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Prevent Hepatitis Transmission Among Persons Who Inject Drugs—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC)

Background and Brief Description

Hepatitis C virus (HCV) infection is the most common chronic blood borne infection in the United States; approximately 3 million persons are chronically infected. Identifying and reaching persons at risk for HCV infection is critical to prevent transmission and treat and cure if infected. CDC monitors the national incidence of acute hepatitis C through passive surveillance of acute, symptomatic cases of laboratory confirmed hepatitis C cases. Since 2006, surveillance data have shown a trend toward reemergence of HCV infection mainly among young persons who inject drugs (PWID) in nonurban counties. Of the cases reported in 2013 with information on risk factors 62% indicated injection drug use as the primary risk for acute hepatitis C. The prevention of HCV infection among PWIDs requires an integrated approach including harm reduction interventions, substance abuse treatment, prevention of other blood borne infections, and care and treatment of HCV infection.

The purpose of the proposed study is to address the high prevalence of HCV infection by developing and implementing an integrated approach for detection, prevention, care and treatment of infection among persons aged 18–30 years who reside in non-urban counties. Awardees will develop and implement a comprehensive strategy to enroll young non-urban PWID, collect epidemiological information, test for HCV infection and provide linkage to primary care services, prevention interventions, and treatment for substance abuse and HCV infection. In addition to providing HCV testing, participants will be offered testing for the presence of co-infections with hepatitis B virus (HBV) and HIV. Rates of HCV infection or re-infection will be evaluated through follow-up blood tests. Furthermore, adherence to prevention services and retention in care will be assessed through follow up interviews.

The project will recruit an estimated total of 1,500 young PWIDs to enroll 1,000. The participants will be recruited from settings where young PWIDs obtain access to care and treatment services. Recruitment will be direct and in-person by partnering with local harm reduction sites. Recruiters will enroll subjects across recruitment sites primarily through drug treatment programs and syringe exchange programs, as well as persons referred to these sites as a result of referral from other programs and respondent driven sampling. Those who consent to participate will be administered an eligibility interview questionnaire by trained field staff. If found eligible, the participant will take an interviewer-administered survey that includes information on initiation of drug use, injection practices, HCV and HIV infection status, access to prevention and medical care, desire to receive and barriers to receiving HCV treatment, and missed opportunities for hepatitis prevention. Participants will receive counselling regarding adherence to medical and/or drug treatment services and prevention services. Participants will be interviewed for a maximum of 5 times within any 12-month interval during the course of the study: Consent and interview at enrollment/baseline for an estimated 60 minutes, and 30-minute follow-up interviews every 3 months thereafter. Participants who are recruited early in the study have more follow-up interviews than those who are recruited in the later part of the study during the 3-year project. However, recruitment will be spread over 2 years and on average, the duration of follow-up is estimated to be one year.

Participation in interviews and responses to all study questions are totally voluntary and there is no cost to respondents other than their time. The maximum burden is 3,375 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Young PWIDs	Screener	1500	1	15/60	375
Eligible young PWIDs	Initial Survey	1000	1	60/60	1000
Eligible young PWIDs	Follow-up survey	1000	4	30/60	2000
Total					3375

Maryam I. Daneshvar,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–16027 Filed 6–29–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–0666; Docket No. CDC–2015–0048]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on the National Healthcare Safety Network (NHSN). NHSN is a

system designed to accumulate, exchange, and integrate relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and promote healthcare safety.

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

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0048 by any of the following methods:

- *Federal eRulemaking Portal:* Regulation.gov. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

Please note: *All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

National Healthcare Safety Network (NHSN)—Revision—National Center for Emerging and Zoonotic Infection Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Healthcare Safety Network (NHSN) is a system designed to accumulate, exchange, and integrate relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and promote healthcare safety. Specifically, the data is used to determine the magnitude of various healthcare-associated adverse events and trends in the rates of these events among patients and healthcare workers with similar risks. The data will be used to detect changes in the epidemiology of adverse events resulting from new and current medical therapies and changing risks. The NHSN currently consists of five components: Patient Safety, Healthcare Personnel Safety, Biovigilance, Long-Term Care Facility (LTCF), and Dialysis. The Outpatient Procedure Component is on track to be released in NHSN in 2016/2017. The development of this component has been previously delayed to obtain additional user feedback and support from outside partners.

Changes were made to seven facility surveys. Based on user feedback and internal reviews of the annual facility surveys it was determined that questions and response options be amended, removed, or added to fit the evolving uses of the annual facility surveys. The surveys are being increasingly used to help intelligently interpret the other data elements reported into NHSN. Currently the surveys are used to appropriately risk adjust the numerator and denominator data entered into NHSN while also guiding decisions on future division priorities for prevention.

Additionally, minor revisions have been made to 27 forms within the package to clarify and/or update surveillance definitions. Two forms are being removed as those forms will no longer be added to the NHSN system. The previously approved NHSN package included 54 individual collection forms; the current revision request removes two forms for a total of 52 forms. The reporting burden will increase by 583,825 hours, for a total of 4,861,542 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Registered Nurse (Infection Preventionist).	NHSN Registration Form	2,000	1	5/60	167
Registered Nurse (Infection Preventionist).	Facility Contact Information	2,000	1	10/60	333
Registered Nurse (Infection Preventionist).	Patient Safety Component—Annual Hospital Survey.	5,000	1	50/60	4,167

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Registered Nurse (Infection Preventionist).	Group Contact Information	1,000	1	5/60	83
Registered Nurse (Infection Preventionist).	Patient Safety Monthly Reporting Plan.	6,000	12	15/60	18,000
Registered Nurse (Infection Preventionist).	Primary Bloodstream Infection (BSI)	6,000	44	30/60	132,000
Registered Nurse (Infection Preventionist).	Pneumonia (PNEU)	6,000	72	30/60	216,000
Registered Nurse (Infection Preventionist).	Ventilator-Associated Event	6,000	144	25/60	360,000
Registered Nurse (Infection Preventionist).	Urinary Tract Infection (UTI)	6,000	40	20/60	80,000
Staff RN	Denominators for Neonatal Intensive Care Unit (NICU).	6,000	9	3	162,000
Staff RN	Denominators for Specialty Care Area (SCA)/Oncology (ONC).	6,000	9	5	270,000
Staff RN	Denominators for Intensive Care Unit (ICU)/Other locations (not NICU or SCA).	6,000	60	5	1,800,000
Registered Nurse (Infection Preventionist).	Surgical Site Infection (SSI)	6,000	36	35/60	126,000
Staff RN	Denominator for Procedure	6,000	540	5/60	270,000
Laboratory Technician	Antimicrobial Use and Resistance (AUR)-Microbiology Data Electronic Upload Specification Tables.	6,000	12	5/60	6,000
Pharmacy Technician	Antimicrobial Use and Resistance (AUR)-Pharmacy Data Electronic Upload Specification Tables.	6,000	12	5/60	6,000
Registered Nurse (Infection Preventionist).	Central Line Insertion Practices Adherence Monitoring.	1,000	100	25/60	41,667
Registered Nurse (Infection Preventionist).	MDRO or CDI Infection Form	6,000	72	30/60	216,000
Registered Nurse (Infection Preventionist).	MDRO and CDI Prevention Process and Outcome Measures Monthly Monitoring.	6,000	24	15/60	36,000
Registered Nurse (Infection Preventionist).	Laboratory-identified MDRO or CDI Event.	6,000	240	30/60	720,000
Registered Nurse (Infection Preventionist).	Long-Term Care Facility Component—Annual Facility Survey.	250	1	1	250
Registered Nurse (Infection Preventionist).	Laboratory-identified MDRO or CDI Event for LTCF.	250	8	15/60	500
Registered Nurse (Infection Preventionist).	MDRO and CDI Prevention Process Measures Monthly Monitoring for LTCF.	250	12	5/60	250
Registered Nurse (Infection Preventionist).	Urinary Tract Infection (UTI) for LTCF.	250	9	30/60	1,125
Registered Nurse (Infection Preventionist).	Monthly Reporting Plan for LTCF	250	12	5/60	250
Registered Nurse (Infection Preventionist).	Denominators for LTCF Locations	250	12	3.25	9,750
Registered Nurse (Infection Preventionist).	Prevention Process Measures Monthly Monitoring for LTCF.	250	12	5/60	250
Registered Nurse (Infection Preventionist).	LTAC Annual Survey	400	1	50/60	333
Registered Nurse (Infection Preventionist).	Rehab Annual Survey	1,000	1	50/60	833
Occupational Health RN/Specialist	Healthcare Personnel Safety Component Annual Facility Survey.	50	1	8	400
Occupational Health RN/Specialist	Healthcare Personnel Safety Monthly Reporting Plan.	17,000	1	5/60	1,417
Occupational Health RN/Specialist	Healthcare Worker Demographic Data.	50	200	20/60	3,333
Occupational Health RN/Specialist	Exposure to Blood/Body Fluids	50	50	1	2,500
Occupational Health RN/Specialist	Healthcare Worker Prophylaxis/Treatment.	50	30	15/60	375
Laboratory Technician	Follow-Up Laboratory Testing	50	50	15/60	625
Occupational Health RN/Specialist	Healthcare Worker Prophylaxis/Treatment-Influenza.	50	50	10/60	417

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Medical/Clinical Laboratory Technologist.	Hemovigilance Module Annual Survey.	500	1	2	1,000
Medical/Clinical Laboratory Technologist.	Hemovigilance Module Monthly Reporting Plan.	500	12	1/60	100
Medical/Clinical Laboratory Technologist.	Hemovigilance Module Monthly Reporting Denominators.	500	12	1	6,000
Medical/Clinical Laboratory Technologist.	Hemovigilance Adverse Reaction	500	48	15/60	6,000
Medical/Clinical Laboratory Technologist.	Hemovigilance Incident	500	10	10/60	833
Staff RN	Patient Safety Component—Annual Facility Survey for Ambulatory Surgery Center (ASC).	5,000	1	5/60	417
Staff RN	Outpatient Procedure Component—Monthly Reporting Plan.	5,000	12	15/60	15,000
Staff RN	Outpatient Procedure Component Event.	5,000	25	40/60	83,333
Staff RN	Outpatient Procedure Component—Monthly Denominators and Summary.	5,000	12	40/60	40,000
Registered Nurse (Infection Preventionist).	Outpatient Dialysis Center Practices Survey.	6,500	1	2.0	13,000
Staff RN	Dialysis Monthly Reporting Plan	6,500	12	5/60	6,500
Staff RN	Dialysis Event	6,500	60	25/60	162,500
Staff RN	Denominators for Dialysis Event Surveillance.	6,500	12	10/60	13,000
Staff RN	Prevention Process Measures Monthly Monitoring for Dialysis.	1,500	12	1.25	22,500
Staff RN	Dialysis Patient Influenza Vaccination.	325	75	10/60	4,063
Staff RN	Dialysis Patient Influenza Vaccination Denominator.	325	5	10/60	271
Total	.....	.....	.....	.....	4,861,542

Maryam I. Daneshvar,

Deputy Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–16028 Filed 6–29–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare and Medicaid Services

Notice of Hearing: Reconsideration of Disapproval Texas Medicaid State Plan Amendment (SPA) 14–25

AGENCY: Centers for Medicare and Medicaid Services (CMS), HHS.

ACTION: Notice of Hearing: Reconsideration of Disapproval.

SUMMARY: This notice announces an administrative hearing to be held on August 6, 2015, at the Department of Health and Human Services, Centers for Medicare and Medicaid Services, Division of Medicaid & Children's Health, Dallas Regional Office, 1301 Young Street, Room 714, Dallas, TX 75202, to reconsider CMS' decision to disapprove Texas' Medicaid SPA 14–25.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by July 15, 2015.

FOR FURTHER INFORMATION CONTACT: Benjamin R. Cohen, Presiding Officer, CMS, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244; Telephone: (410) 786–3169.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS' decision to disapprove Texas' Medicaid SPA 14–25, which was submitted to the Centers for Medicare and Medicaid Services (CMS) on August 26, 2014 and disapproved on April 7, 2015. In part, this SPA requested CMS approval to revise the methodology for calculating the hospital-specific limit for the Disproportionate Share Hospital (DSH) program. Specifically, SPA 14–25 proposed to exclude from the calculation, the portion of a Medicare payment for an individual who is dually-eligible for Medicare and Medicaid that exceeds the Medicaid allowable cost for the service provided to the recipient. This exclusion would permit the state to make Medicaid DSH payments that are above and beyond hospitals' reported uncompensated costs of providing services to Medicaid and uninsured individuals.

The issue to be considered at the hearing is:

- Whether Texas SPA 14–25 is inconsistent with Medicaid DSH requirements of sections 1902(a)(13)(A)(iv) and 1923 of the Social Security Act (Act) because it would provide for payment to disproportionate share hospitals of amounts that exceed the hospital's uncompensated costs which cannot be considered consistent with DSH requirements pursuant to the hospital-specific limit under section 1923(g)(1) of the Act.

Section 1116 of the Act and federal regulations at 42 CFR part 430, establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. CMS is required to publish a copy of the notice

to a state Medicaid agency that informs the agency of the time and place of the hearing, and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Texas announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Ms. Kay Ghahremani
State Medicaid/CHIP Director
Health and Human Services Commission
Post Office Box 13247
Mail Code H100
Austin, TX 78711

Dear Ms. Ghahremani:

I am responding to your request for reconsideration of the decision to disapprove Texas' State Plan amendment (SPA) 14–25, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on August 26, 2014, and disapproved on April 7, 2015. I am scheduling a hearing on your request for reconsideration to be held on August 6, 2015, at the Department of Health and Human Services, Centers for Medicare & Medicaid Services, Division of Medicaid & Children's Health, Dallas Regional Office, 1301 Young Street, Room 714, Dallas, TX 75202.

I am designating Mr. Benjamin R. Cohen as the presiding officer. If these arrangements present any problems, please contact Mr. Cohen at (410) 786–3169. In order to facilitate any communication that may be necessary between the parties prior to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. If the hearing date is not acceptable, Mr. Cohen can set another date mutually agreeable to the parties. The hearing will be governed by the procedures prescribed by federal regulations at 42 CFR part 430.

In part, this SPA requested CMS approval to revise the methodology for calculating the hospital-specific limit for the Disproportionate Share Hospital (DSH) program. Specifically, SPA 14–25 proposed to exclude from the calculation, the portion of a Medicare payment for an individual who is dually-eligible for Medicare and Medicaid that exceeds the Medicaid allowable cost for the service provided to the recipient. This exclusion would permit the state to make Medicaid DSH payments that are above and beyond hospitals' reported uncompensated costs of providing services to Medicaid and uninsured individuals.

The issue to be considered at the hearing is:

• Whether Texas SPA 14–25 is inconsistent with Medicaid DSH requirements at sections 1902(a)(13)(A)(iv) and 1923 of the Social Security Act (Act) because it would provide for payment to disproportionate share hospitals of amounts that exceed the hospital's uncompensated costs which cannot be considered consistent with DSH requirements pursuant to the hospital-specific limit under section 1923(g)(1) of the Act.

In the event that CMS and the State come to agreement on resolution of the issues which formed the basis for disapproval, this SPA may be moved to approval prior to the scheduled hearing. I am responding to your request for reconsideration of the decision to disapprove Texas' Medicaid state plan amendment (SPA) 14–025, which was submitted to the Centers for Medicare and Medicaid Services (CMS) on August 26, 2014, and disapproved on April 7, 2015. I am scheduling a hearing on your request for reconsideration to be held on August 6, 2015, at the Department of Health and Human Services, Centers for Medicare and Medicaid Services, Division of Medicaid & Children's Health, Dallas Regional Office, 1301 Young Street, Room 714, Dallas, TX 75202.

Sincerely,

Andrew M. Slavitt

cc: Benjamin R. Cohen

Section 1116 of the Social Security Act (42 U.S.C. 1316; 42 CFR 430.18) (Catalog of Federal Domestic Assistance program No. 13.714. Medicaid Assistance Program.)

Dated: June 24, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2015–16098 Filed 6–29–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0161]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Export Certificates for Food and Drug Administration Regulated Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled, ''Export Certificates for FDA Regulated Products'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On February 10, 2015, the Agency submitted a proposed collection of information entitled, ''Export Certificates for FDA Regulated Products'' to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0498. The approval expires on March 31, 2018. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: June 25, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16023 Filed 6–29–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0025]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Animal Food Labeling; Declaration of Certifiable Color Additives

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 30, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of

Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0721. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd.; COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Animal Food Labeling; Declaration of Certifiable Color Additives—21 CFR 501.22(k) OMB Control Number 0910–0721—Extension

This information collection is associated with requirements under 21 CFR 501.22(k) in which animal food manufacturers must declare the presence of certified and noncertified color additives in their animal food products on the product label. The Agency issued this regulation in response to the Nutrition Labeling and Education Act of 1990 (Pub. L. 101–535) to make animal food regulations consistent with the regulations regarding the declaration of color additives on human food labels and to provide animal owners with information on the colors used in animal food.

Respondents to this collection are manufacturers of pet food that contain color additives. Manufacturers of certain food or food ingredients do not have products that contain color additives requiring certification (*e.g.,* food for chickens, fish, and some other species, including some pet foods) and would thus be minimally affected by § 501.22(k)(1). However, since we cannot rule out the possibility that they may at some point use a color additive requiring certification, we have consolidated the burden estimates for §§ 501.22(k)(1) and 501.22(k)(2). Additionally, we believe that this burden is more accurately characterized as a third-party disclosure burden because FDA does not require routine submission of pet food labeling to the Agency.

In the **Federal Register** of April 1, 2015 (80 FR 17445), FDA published a 60-day notice requesting public comment on the proposed collection of information. One comment was received but did not respond to any of the four information collection topics solicited and is therefore not addressed by the Agency.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR Section/Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
501.22(k); labeling of color additive or make of color additive; labeling of color additives not subject to certification.	3,120	0.83	2,587	.25 (15 minutes)	647

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Having become effective November 18, 2013, the Agency estimates that the burden associated with the labeling requirements under § 501.22(k) apply only to new product labels. Because the vast majority of animal food products that contain certified color additives are pet foods, we limit our burden estimate to reviewing labels for the use of certified color additives to pet food manufacturers subject to this regulation.

Based on A.C. Nielsen Data, FDA estimates that the number of animal food product units subject to § 501.22(k) for which sales of the products are greater than zero is 25,874. Assuming that the flow of new products is 10 percent per year, then 2,587 new animal food products subject to § 501.22(k) will come on the market each year. FDA also estimates that there are about 3,120 manufacturers of pet food subject to either § 501.22(k)(1) or (k)(2). Assuming the approximately 2,587 new products are split equally among the firms, then each firm would prepare labels for approximately 0.83 new products per year (2,587 new products/3,120 firms is approximately 0.83 labels per firm).

The Agency expects that firms prepare the required labeling for their products in a manner that takes into account at one time all information required to be disclosed on their product labels. Based on our experience with reviewing pet food labeling, FDA estimates that firms would require less than 0.25 hour (15 minutes) per product to comply with the requirement to include the color additive information pursuant to § 501.22(k). The total burden of this activity is 647 hours (2,587 labels × 0.25 hour/label is approximately 647 hours).

Dated: June 25, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16022 Filed 6–29–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–2126]

Agency Information Collection Activities; Proposed Collection; Comment Request; Evaluation of the Food and Drug Administration's Campaign To Reduce Tobacco Use Among Lesbian, Gay, Bisexual, and Transgender Young Adults

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on

the Evaluation of FDA's Multicultural Youth Tobacco Prevention Campaigns.

DATES: Submit either electronic or written comments on the collection of information by August 31, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Evaluation of FDA's Campaign To Reduce Tobacco Use Among Lesbian, Gay, Bisexual, and Transgender Young Adults OMB Control Number—0910-New

The 2009 Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) amends the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to grant FDA authority to regulate the manufacture, marketing, and distribution of tobacco products to protect public health and to reduce tobacco use by minors. Section 1003(d)(2)(D) of the FD&C Act (21 U.S.C. 393(d)(2)(D)) supports the development and implementation of FDA public education campaigns related to tobacco use. Accordingly, FDA is currently developing and implementing public education campaigns to help prevent and reduce tobacco use among lesbian, gay, bisexual and transgender (LGBT) young adults and thereby reduce the public health burden of tobacco. Overall the campaigns will feature events; advertisements on television and radio and in print; digital communications including social media; and other forms of media.

In support of the provisions of the Tobacco Control Act that require FDA to protect the public health and to reduce tobacco use, FDA requests OMB approval to collect information needed to evaluate FDA's campaign to reduce tobacco use among LGBT young adults. Comprehensive evaluation of FDA's public education campaigns is needed to ensure campaign messages are effectively received, understood, and accepted by those for whom they are intended. Evaluation is an essential organizational practice in public health and a systematic way to account for and improve public health actions.

FDA plans to conduct two studies to evaluate the effectiveness of its LGBT young adult tobacco prevention campaign: (1) An outcome evaluation study to evaluate the effectiveness of its LGBT young adult tobacco prevention campaign, and (2) a media tracking questionnaire to assess awareness of and receptivity to campaign messages. The timing of these studies will be designed to follow the multiple, discrete waves of media advertising planned for the campaigns.

- Outcome Evaluation Study

The outcome evaluation study begins with a baseline survey of LGBT young adults aged 18 to 24 before the campaign launch. The baseline will be followed by three follow-up surveys of the target audience of young adults at approximately 6-month intervals after the campaign's launch. Information will be collected about young adult awareness of and exposure to campaign events and advertisements and about tobacco-related knowledge, attitudes, beliefs, intentions and use, as well as use of other tobacco products (e-cigarettes, hookah, cigars, smokeless tobacco), marijuana and alcohol. Information will also be collected on demographic variables including sexual orientation, age, sex, race/ethnicity, education, and primary language.

All information will be collected through in-person and web-based questionnaires. Young adult respondents will be recruited in 30 U.S. cities (15 campaign and 15 comparison cities) from two sources: (1) Intercept surveys in LGBT social venues (*e.g.,* bars and nightclubs) identified using a time location sampling approach, and (2) through social media advertisements on Facebook and Twitter targeted at LGBT 18 to 24-year-olds, living in the same 30 U.S. cities. Participation in the study is voluntary.

- Media Tracking Survey

The media tracking survey consists of assessments of LGBT young adults aged 18 to 24 conducted once yearly post campaign launch—timing that complements the outcome evaluation's timing. The media tracking survey will assess awareness of the campaign and receptivity to campaign messages. These data will provide critical evaluation feedback to the campaigns and will be conducted with sufficient frequency to match the cyclical patterns of events and media advertising and variation in exposure to allow for mid-campaign refinements. For the media tracking surveys, we will recruit LGBT young adults aged 18 to 24 from all campaign cities through social media.

The information collected is necessary to inform FDA's efforts and measure the effectiveness and public health impact of the campaigns. Data from the media tracking surveys will be used to estimate awareness of and exposure to the campaigns among young adults in target markets where the campaigns are active. Data from the outcome evaluation study will be used to examine statistical associations between awareness of and exposure to the campaigns and subsequent changes in specific outcomes of interest, which will include knowledge, attitudes, beliefs and intentions related to tobacco use.

FDA's burden estimate is based on prior experience with in-person studies similar to the Agency's plan presented in this document, as well as previous

research using social media advertising to recruit young adult participants. To reduce overall burden hours, participants who screen and complete the baseline outcome evaluation questionnaire will be re-contacted to complete the first follow up campaign evaluation questionnaire, those who complete the first follow up campaign evaluation questionnaire will be re-contacted to complete the second follow up campaign evaluation questionnaire, and so on. Re-contacted individuals will not need to complete the screener again. We expect a 50 percent response rate for individuals recruited in person and a 30 percent rate for individuals recruited via social media. In each successive round of data collection, we expect 50 percent of re-contacted individuals to complete the follow up questionnaire, therefore, additional screenings will be conducted for each follow up in order to maintain the target sample size for each follow up questionnaire.

To obtain the target number of completed questionnaires (''completes'') for the outcome evaluation study, 18,376 young adults (11,810 recruited in person and 6,566 recruited via social media) will participate in a screening process (''screener''). The estimated burden per screener is 5 minutes (0.083), for a total of 1,525 hours (980 hours for participants recruited in person and 545 hours for persons recruited via social media). A total of 12,600 LGBT young adults (9,448 of those screened in person and 3,152 of those screened through social media) will complete questionnaires in 4 rounds of data collection (baseline and three post-campaign rounds). The estimated burden per complete is 30 minutes (0.5 hour) for the baseline questionnaire and 40 minutes (0.667 hour) for each follow up complete, for a total of 7,878 hours (5,906 hours for those recruited in person and 1,972 hours for those recruited via social media).

To obtain the target number of completes for the media tracking survey, 5,000 young adults will be recruited via social media ads to complete a screener for all three waves of the media tracking survey. The estimated burden per screener response is 5 minutes (0.083 hour), for a total of 414 hours for all waves of media tracking screener. An estimated 500 LGBT young adults will complete each of the three waves of the media tracking survey (assuming a 30 percent response rate to screeners via social media). The estimated burden per completed media tracking questionnaire is 40 minutes (0.667 hour), for a total of 1,002 hours for the three waves. The total burden for the media tracking survey (screeners and completes) is 1,416 hours.

The target number of completed campaign questionnaires (screeners and questionnaires for both the outcome evaluation and media tracking survey) for all respondents is 37,477. The total estimated burden is 10,819 hours.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
General population—Recruited in person (50% response rate).	Screener—Baseline—outcome study.	4,724	1	4,724	0.083 (5 min.)	392
	Screener—First follow up—outcome study.	2,362	1	2,362	0.083 (5 min.)	196
	Screener—Second follow up—outcome study.	2,362	1	2,362	0.083 (5 min.)	196
	Screener—Third follow up—outcome study.	2,362	1	2,362	0.083 (5 min.)	196
LGBT young adults aged 18–24 in select media markets—Recruited in person.	Baseline—outcome evaluation questionnaire.	2,362	1	2,362	0.5 (30 min.)	1181
	First follow up young adult outcome evaluation questionnaire.	2,362	1	2,362	0.667 (40 min.)	1575
	Second follow up young adult outcome evaluation questionnaire.	2,362	1	2,362	0.667 (40 min.)	1575
	Third follow up young adult outcome evaluation questionnaire.	2,362	1	2,362	0.667 (40 min.)	1575
General population—Recruited via social media (30% response rate).	Screener—Baseline—outcome study.	2,627	1	2,627	0.083 (5 min.)	218
	Screener—First follow up—outcome study.	1,313	1	1,313	0.083 (5 min.)	109
	Screener—Second follow up—outcome study.	1,313	1	1,313	0.083 (5 min.)	109
	Screener—Third follow up—outcome study.	1,313	1	1,313	0.083 (5 min.)	109
LGBT young adults aged 18–24 in select media markets—Recruited via social media.	Baseline—outcome evaluation questionnaire.	788	1	788	0.5 (30 min.)	394
	First follow up young adult outcome evaluation questionnaire.	788	1	788	0.667 (40 min.)	526

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Type of respondent	Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
	Second follow up young adult outcome evaluation questionnaire.	788	1	788	0.667 (40 min.)	526
	Third follow up young adult outcome evaluation questionnaire.	788	1	788	0.667 (40 min.)	526
LGBT young adults aged 18–24 in the select media markets—Recruited via social media.	1st media tracking screener.	1667	1	1667	0.083 (5 min.)	138
	1st media tracking questionnaire.	500	1	500	0.667 (40 min.)	334
	2nd media tracking screener.	1667	1	1667	0.083 (5 min.)	138
	2nd media tracking questionnaire.	500	1	500	0.667 (40 min.)	334
	3rd media tracking screener.	1667	1	1667	0.083 (5 min.)	138
	3rd media tracking questionnaire.	500	1	500	0.667 (40 min.)	334
Total	.....	37,477	.....	.....	.....	10,819

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 24, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16020 Filed 6–29–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Product-Specific Bioequivalence Recommendations; Draft and Revised Draft Guidances for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of additional draft and revised draft product-specific bioequivalence (BE) recommendations. The recommendations provide product-specific guidance on the design of BE studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site. The BE recommendations identified in this notice were developed using the process described in that guidance.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on these draft and revised draft guidances before it begins work on the final versions of the guidances, submit either electronic or written comments on the draft and revised draft product-specific BE recommendations listed in this notice by August 31, 2015.

ADDRESSES: Submit written requests for single copies of the individual BE guidances to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Bldg., 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance recommendations.

Submit electronic comments on the draft product-specific BE recommendations to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Xiaoqiu Tang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4730, Silver Spring, MD 20993–0002, 301–796–5850.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations. Under that process, draft recommendations are posted on FDA's Web site and announced periodically in the **Federal Register.** The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register.** FDA considers any comments received and either publishes final recommendations or publishes revised draft recommendations for comment. Recommendations were last announced in the **Federal Register** on March 9, 2015 (80 FR 12502). This notice announces draft product-specific

recommendations, either new or revised, that are posted on FDA's Web site.

II. Drug Products for Which New Draft Product-Specific BE Recommendations are Available

FDA is announcing the availability of a new draft guidance for industry on product-specific BE recommendations for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS

Abacavir sulfate; Dolutegravir sodium; Lamivudine.
Afatinib dimaleate.
Alendronate sodium.
Aspirin.
Azelastine hydrochloride; Fluticasone propionate.
Budesonide; Formoterol fumarate dihydrate.
Calcium carbonate; Famotidine; Magnesium hydroxide.
Canagliflozin; Metformin hydrochloride.
Cyclophosphamide.
Cyproheptadine hydrochloride.
Dabrafenib mesylate.
Dapagliflozin propanediol.
Dexbrompheniramine maleate and Pseudoephedrine sulfate.
Dolutegravir sodium.
Donepezil hydrochloride; Memantine hydrochloride.
Doxycycline hyclate.
Droxidopa.
Eliglustat tartrate.
Empagliflozin.
Emtricitabine; Tenofovir disoproxil fumarate.
Enzalutamide.
Fentanyl.
Indomethacin.
Lanthanum carbonate.
Levalbuterol tartrate.
Levomilnacipran hydrochloride.
Macitentan.
Methazolamide.
Miglitol.
Naloxegol oxalate.
Naproxen sodium.
Nitroglycerin.
Omeprazole; Sodium bicarbonate.
Oxybutynin (multiple reference listed drugs and dosage forms).
Oxycodone hydrochloride.
Primaquine phosphate.
Sildenafil citrate.
Simeprevir sodium.
Sofosbuvir.
Tolcapone.
Vemurafenib.
Vismodegib.
Vortioxetine hydrobromide.

III. Drug Products for Which Revised Draft Product-Specific BE Recommendations are Available

FDA is announcing the availability of a revised draft guidance for industry on product-specific BE recommendations for drug products containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS CHOLESTYRAMINE

Doxycycline hyclate.

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS CHOLESTYRAMINE—Continued

Prasugrel hydrochloride.
Tiagabine hydrochloride.

For a complete history of previously published **Federal Register** notices related to product-specific BE recommendations, go to *http://www.regulations.gov* and enter Docket No. FDA–2007–D–0369.

These draft and revised draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These guidances represent the Agency's current thinking on product-specific design of BE studies to support ANDAs. They do not establish any rights for anyone and are not binding on FDA or the public. You may use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

IV. Comments

Interested persons may submit either electronic comments on any of the

specific BE recommendations posted on FDA's Web site to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. The guidances, notices, and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

V. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: June 24, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16013 Filed 6–29–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–2261]

Premarket Notification Requirements Concerning Gowns Intended for Use in Health Care Settings; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Premarket Notification Requirements Concerning Gowns Intended for Use in Health Care Settings.'' FDA is issuing this draft guidance to describe the Agency's premarket regulatory requirements and the performance testing needed to support liquid barrier claims for gowns intended for use in health care settings. This draft guidance is being issued in light of the public health importance of personal protective equipment in health care settings and the recognition that terminology used to describe gowns has evolved, including by industry, the standards community, and health care professionals. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by August 31, 2015.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Premarket Notification Requirements Concerning Gowns Intended for Use in Health Care Settings'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Claverie, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2508, Silver Spring, MD 20993–0002, 301–796–6298.

SUPPLEMENTARY INFORMATION:

I. Background

FDA issued a final rule on June 24, 1988 (53 FR 23874), defining ''surgical apparel'' under 21 CFR 878.4040. Under this 1988 final rule, surgical gowns and surgical masks were classified as Class II subject to premarket review under section 510(k) (21 U.S.C. 351) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), and surgical apparel other than surgical gowns and surgical masks were classified as Class I also subject to 510(k) premarket review requirements. On January 14, 2000, FDA issued a final rule (65 FR 2318) to designate as exempt from premarket notification requirements surgical apparel other than surgical gowns and surgical masks, subject to the limitations of exemptions under 21 CFR 878.9, which includes requiring a premarket notification for devices intended for a use different from the intended use of a legally marketed device in that generic type of device.

Since the original 1988 final rule, a number of terms have been used to refer to gowns intended for use in health care settings including, but not limited to, surgical gowns, isolation gowns, surgical isolation gowns, nonsurgical gowns, procedural gowns, and operating room gowns. In 2004, FDA recognized the consensus standard American National Standards Institute/Association of the Advancement of Medical Instrumentation (ANSI/AAMI) PB70:2003, ''Liquid barrier performance and classification of protective apparel and drapes intended for use in health care facilities.'' ANSI/AAMI PB 70 utilized new terminology for barrier performance of gowns. This terminology described and assessed the barrier protection levels of gowns and other protective apparel intended for use in health care facilities, by specifying test methods and performance results necessary to verify and validate the newly defined levels of barrier protection. The definitions and terminology used in this standard are inconsistent with FDA's historical definitions of these terms and thus have added confusion in the marketplace. The purpose of this draft guidance is to clarify and describe the premarket regulatory requirements pertaining to gowns regulated under § 878.4040 and the performance testing needed to support liquid barrier claims for gowns intended for use in health care settings.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the Agency's current thinking on performance testing to support liquid barrier claims for gowns intended for use in health care settings. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Premarket Notification

Requirements Concerning Gowns Intended for Use in Health Care Settings'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500025 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subparts A through D have been approved under OMB control number 0910–0625; the collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 803 have been approved under OMB control number 0910–0437; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

V. Comments

Interested persons may submit either written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**) or electronic comments to *http://www.regulations.gov.* It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: June 25, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16011 Filed 6–29–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 60-Day Comment Request; Population Assessment of Tobacco and Health Study

AGENCY: National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH), Department of Health and Human Services.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: *To Submit Comments and for Further Information:* To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Kevin P. Conway, Deputy Director, Division of Epidemiology, Services, and Prevention Research, NIDA, NIH, 6001 Executive Boulevard, Room 5185, Rockville, MD 20852; or call non-toll-free number (301) 443–8755 or Email your request, including your address to: *PATHprojectofficer@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection: Cognitive Interviews and Focus Groups for the Population Assessment of Tobacco and Health (PATH) Study (NIDA), 0925–0663–Revision, National Institute on Drug Abuse (NIDA), National Institutes of Health (NIH), in partnership with the Food and Drug Administration (FDA).

Need and Use of Information Collection: This is a revision request (OMB 0925–0663, expires 11/30/2015) for the Population Assessment of Tobacco and Health (PATH) Study to conduct cognitive interviews and focus groups, to support the development of the Study's questionnaires and other materials. The PATH Study is a national longitudinal cohort study of tobacco use behavior and health among the U.S. household population of adults age 18 and older and youth ages 12 to 17; the Study conducts annual interviews and collects biospecimens from adults to inform FDA's regulatory actions under the Family Smoking Prevention and Control Act. Cognitive interviews and focus groups are qualitative methods to assess how people interpret, process, retrieve, and respond to phrases, questions, response options, and product images that may be used in the development of the PATH Study's questionnaires and other materials. These methods have previously been used to help the PATH Study improve the comprehensibility of its materials for Study participants, and to increase efficiencies in data collection and reduce duplication and its associated burden on participants and the public.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total annualized burden hours are 2,400.

ESTIMATED ANNUALIZED BURDEN HOURS

Activity name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Completing eligibility screener	Youth	1,200	1	10/60	200
	Adults	2,400	1	10/60	400
Examining concepts to be measured in PATH Study.	Adults	200	1	90/60	300

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Activity name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Examining assent forms for participation in PATH Study.	Youth	200	1	90/60	300
Examining consent forms for participation in PATH Study.	Adults	200	1	90/60	300
Examining other forms and materials to support PATH Study data collection.	Adults	200	1	90/60	300
Examining PATH Study questionnaires	Youth	100	1	90/60	150
	Adults	300	1	90/60	450

Dated: June 23, 2015.

Genevieve deAlmeida-Morris,

Project Clearance Liaison, NIDA, NIH.

[FR Doc. 2015–15844 Filed 6–29–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; The Effectiveness of Donor Notification, HIV Counseling, and Linkage of HIV Positive Donors to Health Care in Brazil

AGENCY: National Heart, Lung and Blood Institute (NHLBI), National Institutes of Health (NIH), Department of Health and Human Services.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 8, 2015, page 18853 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health (NIH) may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: *Direct Comments to OMB:* Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Simone Glynn, MD, Project Officer/ICD Contact, Two Rockledge Center, Suite 9142, 6701 Rockledge Drive, Bethesda, MD 20892, or call 301-435–0065, or Email your request, including your address to: *glynnsa@nhlbi.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION:

Proposed Collection: The effectiveness of donor notification, HIV counseling, and linkage of HIV positive donors to health care in Brazil, 0925-New, National Heart, Lung and Blood Institute (NHLBI).

Need and Use of Information Collection: The prevention of transfusion-associated transmission of HIV is one of the greatest success stories in the fight against the HIV epidemic; however, the job is unfinished. In some middle-and low-income countries, blood transfusion may account for up to 6% of HIV infections (1). Currently, all blood donors who test positive or inconclusive for HIV or other sexually transmitted diseases are notified (donor notification) and requested to follow-up with the blood bank for potential confirmatory testing and referral to specific health services, such as monitoring and treatment. Little is known about the consequences of blood donor notification and subsequent monitoring and counseling on efforts to control the HIV epidemic in the United States and internationally. The Brazil Notification Study team proposed to addresses this significant information gap by enrolling all former blood donors who participated in the REDS–II HIV case-control study (OMB 0925- 0597, expired on February 29, 2012) and those enrolled during the REDS–III HIV case surveillance risk factor study (OMB 0925–0597, expiration date, July 31, 2015), between 2012 and 2014. Donor enrollees at any of the four blood centers participating in these studies completed an audio computer-assisted structured interview (ACASI) that elicited responses on demographics, risk factors/behaviors, and HIV knowledge. At the same time, a blood sample was drawn and tested for HIV genotype and drug resistance. In addition, recent infection status was determined using detuned antibody testing of samples from the original blood donation. All enrolled participants received counseling by a blood bank physician and were referred to HIV counseling and testing centers (HCT).

New information gathered from these enrollees will serve the three aims proposed for this proposed study. The first aim of this study will be to analyze the actual percentage of blood donors who are successfully notified of their infection testing results. In this aim, we will expand the notification focus to include all infections that blood centers in Brazil test for because differences in rates of notification by type of infection are unknown. The second aim will assess the effectiveness of HIV notification and counseling. HIV-positive donors will be interviewed to evaluate their follow-up activities with regard to HIV infection treatment and infection transmission prevention behavior after notification by the blood center. This will be accomplished using a new audio computer-assisted structured interview (ACASI) (See Attachment 1, Brazil HIV Follow up ACASI Survey). The third aim will consist of asking HIV-positive blood donors about ways to improve the disclosure of HIV risks during donor eligibility assessment to better understand the motivating factors that

drive higher risk persons to donate blood.

Because our study will build off the routine blood donor procedures in four large blood banks in Brazil, it may lead to more informed conversations around and possible changes in donor screening, notification and counseling policies in Latin America. Results of these three aims may also help to better integrate blood centers within the context of broader HIV testing, counseling and treatment sites in Brazil. Similarly, in the US little is known about donor behavior after notification of testing results by blood centers. The results from this study can be used to develop insights and hypotheses focused on developing improved strategies for notification and counseling of HIV-positive (or hepatitis C or B-positive) donors in the U.S.

This proposed study's findings will also yield insights into improved methods for donor self-selection and qualification post donation, which will serve to decrease the frequency of higher-risk persons acting as donors. Our findings on improved methods for Brazilian donor notification and linkage to health care services may also be applicable to developed countries, including the US. Results of the Brazil Notification Study will identify how to improve notification and counseling strategies that increase the number of HIV-positive donors seeking prompt medical care. This might ultimately boost strategies to prevent secondary HIV transmission and reduce the risk of transfusion-transmission.

In addition to the traditional route of scientific dissemination through peer reviewed scientific publication, previous REDS and REDS–II study data were the subject of numerous requested presentations by Federal and non-Federal agencies, including the FDA Blood Products Advisory Committee, the HHS Advisory committee on Blood Safety and Availability, the AABB Transfusion-Transmitted Diseases Committee, and the Americas Blood Centers (ABC). We anticipate similar requests for results generated from this study. Data collected in this proposed HIV Notification study of donors will be of practical use to the blood banking and infectious disease communities in the US and internationally.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 229.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response	Estimated total annual burden hours requested
ACASI Questionnaire—Informed Consent.	Adults	275	1	10/60	46
ACASI Questionnaire	Adults	275	1	40/60	183

Dated: June 16, 2015.

Valery Gheen,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2015–15841 Filed 6–29–15; 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; Member Conflict: Respiratory Sciences.

Date: July 6, 2015.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Lawrence E. Boerboom, Ph.D., Chief, CVRS IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, (301) 435–8367, *boerboom@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Asthma, Pulmonary Fibrosis and Inflammation.

Date: July 6–7, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15945 Filed 6–29–15; 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; Member Conflict: Cardiovascular, Sleep and Infectious Disease Epidemiology.

Date: July 21, 2015.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, PSE IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, 301–594–6594, *steeleln@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular, Sleep and Infectious Disease Epidemiology.

Date: July 21, 2015.

Time: 11:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3142, Bethesda, MD 20892, 301–435–2309, *fothergillke@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Nutrition and Metabolic Processes Topics.

Date: July 22, 2015.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Clara M Cheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170 MSC 7892, Bethesda, MD 20817, 301–435–1041, *chengc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Behavioral Genetics and Social Sciences.

Date: July 23, 2015.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, PSE IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, 301–594–6594, *steeleln@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Societal and Ethical Issues in Research.

Date: July 23, 2015.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3142, Bethesda, MD 20892, 301–435–2309, *fothergillke@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 24, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15941 Filed 6–29–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke 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 meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Recording and Modulation in the Human CNS.

Date: July 16, 2015.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: Ernest W. Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892, 301–496–4056, *lyonse@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 24, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15942 Filed 6–29–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Acquired Immunodeficiency Syndrome Research Review Committee.

Date: July 27–28, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fisher Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Brenda L. Fredericksen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G22A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5052, *brenda.fredericksen@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15944 Filed 6–29–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Population Sciences Biospecimen Catalog

AGENCY: National Cancer Institute (NCI), National Institutes of Health (NIH), Department of Health and Human Services.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: *To Submit Comments and for Further Information:* To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Danielle Carrick, Program Director, Division of Cancer Control and Population Sciences (DCCPS), National Cancer Institute, 9609 Medical Center Dr., Room 4E224, Rockville, MD 20850 or call non-toll-free number (240) 276–6749 or Email your request, including your address to: *Danielle.Carrick@nih.gov.* Formal requests for additional plans and instruments must be requested in writing

SUPPLEMENTARY INFORMATION: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection: Population Sciences Biospecimen Catalog (PSBC) (NCI), 0925—NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for approval of a new collection. The National Cancer Institute (NCI) Division of Cancer Control and Population Sciences (DCCPS) has previously demonstrated that approximately 60% of population based studies funded by the division use existing biospecimens from other collections, and that those studies are more cost and time efficient than studies collecting new specimens. Yet, it is difficult for researchers to identify potentially appropriate sources for biospecimens and accompanying epidemiologic and exposure data. Development of a searchable inventory of population-based biospecimen resources was a major recommendation resulting from an NCI think tank held in August 2013 (''Utilizing Existing Clinical and Population Biospecimen Resources for Discovery or Validation of Markers for Early Cancer Detection'') and would also be directly addressing four of the key recommendations that emerged in an NCI sponsored workshop titled ''Trends in 21st Century Epidemiology: From Scientific Discoveries to Population Health'' (CEBP, 2013, issue 22, page 508). In response to this, NCI DCCPS is developing a biospecimen inventory and online searchable catalog (or ''Population Sciences Biospecimen Catalog (PSBC)''). The PSBC allows scientists in the research community and the NCI to locate specimens appropriate for their population based research projects. It is not NCI's intent to collect biospecimens; rather the collections are descriptions of the available data that can act as a resource and be shared with researchers and scientists who are interested. This submission is via data upload to the secure Web site in order to collect information to manage and improve a program and its resources for the use by all scientists.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 80.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Population Sciences Biospecimen Catalog Initial Request.	Private Sector	30	1	1	30
	State Government	30	1	1	30
Population Sciences Biospecimen Catalog Annual Update.	Private Sector	30	1	20/60	10
	State Government	30	1	20/60	10

Dated: June 12, 2015.

Karla Bailey,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2015–15842 Filed 6–29–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Pathway to Independence Awards.

Date: July 23, 2015.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Janice B. Allen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P. O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: June 24, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15943 Filed 6–29–15; 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; Skeletal Muscle SBIR/STTR.

Date: July 17, 2015.

Time: 1:00 PM to 4:30 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard Ingraham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7814, Bethesda, MD 20892, 301–496–8551, *ingrahamrh@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pathogenic Eukaryotes and Vectors.

Date: July 23–24, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John C Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: NIDDK Translational Research.

Date: July 23, 2015.

Time: 1:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR14–021: National Center for Quantitative Biology of Complex Systems.

Date: July 27–29, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nuria E Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biobehavioral Regulation, Learning and Ethology

Date: July 27, 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, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Mechanisms of Neurodegenerative and Prion Disorders.

Date: July 28, 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, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: Christine A Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, 301–435–0657, *christine.piggee@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Immune Response, Asthma, and Inflammation.

Date: July 29–30, 2015

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: July 30–31, 2015

Time: 8:00 a.m. to 4:00 p.m.

*Agenda:*To review and evaluate grant applications and/or proposals.

*Place:*Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

*Contact Person:*Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: AIDS and AIDS Related Applications.

Date: July 30, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–451–5953, *tuoj@csr.nih.gov.*

*Name of Committee:*AIDS and Related Research Integrated Review Group; AIDS Discovery and Development of Therapeutics Study Section.

Date: July 30, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW,Washington, DC 20037.
Contact Person: Shiv A Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–14–089: Alzheimer's Disease Pilot Clinical Trials.
Date: July 31, 2015
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–915–6298, *mark.lindner@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–15946 Filed 6–29–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5835–N–09]

60-Day Notice of Proposed Information Collection: Insurance Termination Request for Multifamily Mortgage

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 31, 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Nancie-Ann Bodell, Acting Director, Office of Asset Management and Portfolio Oversight, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *NancieAnn.Bodell@hud.gov* or telephone (202) 402–2472. 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.

A. Overview of Information Collection

Title of Information Collection: Insurance Termination Request for Multifamily Mortgage.
OMB Approval Number: 2502–0416.
Type of Request: Revision of currently approved collection.
Form Number: 9807.
Description of the need for the information and proposed use: The information collection is used to notify HUD that the mortgagor and mortgagee mutually agree to terminate the HUD multifamily mortgage insurance.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 1891.
Estimated Number of Responses: 1891.
Frequency of Response: 1.
Average Hours per Response: 25.
Total Estimated Burdens: 473 hours.

B. Solicitation of Public Comment

This Notice is soliciting comments from members of the public and affected agencies 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 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 24, 2015.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2015–16069 Filed 6–29–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Nos. FR–5800–N–04, FR–5800–N–06, FR–5800–N–06A]

Announcement of Funding Awards for Office of Lead Hazard Control and Healthy Homes (OLHCHH) Grant Programs for Fiscal Year (FY) 2014

AGENCY: Office of Lead Hazard Control and Healthy Homes, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in competitions for funding under the Office of Lead Hazard Control and Healthy Homes (OLHCHH) Grant Program Notices of Funding Availability. This announcement contains the name and address of the award recipients and the amounts of awards under the Consolidated Appropriations Act, 2014, and prior-year appropriations.

FOR FURTHER INFORMATION CONTACT: Matthew E. Ammon, Department of Housing and Urban Development, Office of Lead Hazard Control and Healthy Homes, 451 Seventh Street SW., Room 8236, Washington, DC 20410, telephone 202–402–4337. Hearing- and speech-

impaired persons may access the number above via TTY by calling the toll free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: *For Fiscal Year 2013:* HUD announced the FY 2013 Lead Based Paint Hazard Control grant awards on December 2, 2012, and published the Announcement of Funding Awards on June 27, 2013 at 78 FR 38730–38731. The State of Tennessee, 401 Church Street, L&C Tower 1st Floor, Nashville, TN 37243–1531, was awarded $2,500,000 as the result of a competition posted on the Internet at Grants.gov on August 9, 2012 for the Lead Based Paint Hazard Control grant programs (FR–5700–N–04). However, the State of Tennessee did not fulfil negotiation requirements to allow HUD to execute the grant. Therefore, HUD recaptured the awarded funds, and applied them to the FY 2014 Lead Based Paint Hazard Control grant program.

Funding Awards for FY 2014 Lead Based Paint Hazard Control Grant and Lead Hazard Reduction Demonstration Grant Programs

HUD announced the FY 2014 awards on September 30, 2014. These awards were the result of competitions published on May 23, 2014 at 79 FR 29791–29792 for Lead Based Paint Hazard Control and for Lead Hazard Reduction Demonstration Program (FR–5800–N–04). The purpose of the competitions was to award funding for grants for the Office of Lead Hazard Control and Healthy Homes Grant Programs.

Applications were scored and selected on the basis of selection criteria contained in these Notices. A total of $108,702,967 was awarded under the HUD Appropriations Act for FY 2014, namely the Consolidated Appropriations Act, 2014, (Pub. L. 113–76, approved January 17, 2014) and prior year appropriations. In accordance with Section 102(2)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987; 42 U.S.C. 3545), the Department is publishing the names, addresses, and the amount of these as follows:

1. Lead Based Paint Hazard Control Grant Program

A total of $55,025,719 was awarded to 20 applicants for the Lead Based Paint Hazard Control Grant Program and an additional $7,003,127 was awarded for the Healthy Homes Supplemental federal funds under the Consolidated Appropriations Act, 2014: City of Phoenix, 200 W. Washington Street, 4th Floor, Phoenix, AZ 85003–1611, $3,400,000; City of San Diego—Environmental Services Department, 9601 Ridgehaven Court Suite 310, San Diego, CA 92123–1636, $3,400,000; California Department of Community Services and Development, 2389 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833–4246, $3,400,000; County of Alameda, 2000 Embarcadero, Suite #300, Oakland, CA 94606–5334, $3,400,000; Delaware Department of Health and Social Services, Division of Public Health, 417 Federal Street, Dover, DE 19901–3635, $3,288,728; City of Atlanta, 55 Trinity Avenue, Atlanta, GA 30303–3520, $2,500,000; City of Marshalltown, 24 North Center Street, Marshalltown, IA 50158–4911, $3,400,000.; City of Kankakee, 850 North Hobbie Ave, Kankakee, IL 60901–2617, $3,183,395; City of Lewiston, 27 Pine Street, Lewiston, ME 04240–7204, $3,395,159; County of Muskegon, 900 Terrace, Muskegon, MI 49442–3357, $1,100,000; City of Minneapolis, 250 S 4th St., Room 414, Minneapolis, MN 55415–1316, $3,400,000; Kansas City Missouri Health Department, 2400 Troost Ave, Suite 3400, Kansas City, MO 64108–2666, $3,216,136; County of St. Louis, 41 S. Central Avenue, 5th floor, Clayton, MO 63105–1725, $2,496,364; City of Nashua, NH, 229 Main Street, Nashua, NH 03060–2938, $3,400,000; New Hampshire Housing Finance Authority, 32 Constitution Drive, Bedford, NH 03110–6062, $3,400,000; Erie County, 95 Franklin Street, Buffalo, NY 14202–3904, $3,400,000; Monroe County Department of Public Health, 111 Westfall Road, Room 908, Rochester, NY 14620–4647, $3,270,000; City of Cincinnati, 3301 Beekman Street, Cincinnati, OH 45225–1205, $3,400,000; City of Roanoke, 215 Church Ave, Rm 310 North, Roanoke, VA 24011–1518, $2,179,064; City of Burlington, 149 Church Street, City Hall, Room 32, Burlington, VT 05401–8400, $3,400,000.

2. Lead Hazard Reduction Demonstration Grant Program

A total of $42,274,281was awarded to 13 applicants for the Lead Hazard Reduction Demonstration Grant Program and an additional $4,399,840 was awarded to 11 out of these 13 applicants for Healthy Homes Supplemental federal funds, under the Consolidated Appropriations Act, 2014: City of Los Angeles, 1200 W. 7th Street, 9th Floor, Los Angeles, CA 90017–2349, $3,900,000; City of Hartford, 131 Coventry Street, Hartford, CT 06112–1548, $3,900,000; Government of the District of Columbia, 1800 Martin Luther King Jr. Ave. SE., Suite 300, Washington, DC 20020–6900, $3,746,551; City of Chicago Department of Public Health, 333 South State Street, Room 200, Chicago, IL 60604–3946, $3,900,000; City of Detroit, 65 Cadillac Square Suite 2300, Detroit, MI 48226–2858, $3,637,000; City of St. Louis, 1520 Market Street, Suite 2000, St. Louis, MO 63101–2630, $2,500,000; Onondaga County Community Development Division, 1100 Mulroy Civic Center, Syracuse, NY 13202–2923, $3,900,000; City of Schenectady,105 Jay Street, Schenectady, NY 12305–1905, $3,190,570; City of Columbus, Department of Development, 50 West Gay Street 3rd Floor, Columbus, OH 43215–6005, $3,900,000; City of Providence, 444 Westminster Street, Providence, RI 02903–3206, $3,900,000; City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102–6312, $2,400,000; City of Milwaukee Health Department, 841 North Broadway Room 118, Milwaukee, WI 53202–3653, $3,900,000; Kenosha County Division of Health, 8600 Sheridan Road, Suite 600, Kenosha, WI 53143–6515, $3,900,000.

Funding Awards for FY 2014 Healthy Homes Technical Studies and Lead Technical Studies Program

The 2014 Healthy Homes Technical Studies (HHTS) and Lead Technical Studies Program (LTS) pre-application Notice of Funding Availability (NOFA) was published on Grants.gov on June 2, 2014. The 2014 HHTS and LTS full-application NOFA was published on Grants.gov on July 30, 2014.

Applications were scored and selected on the basis of selection criteria contained in these Notices. A total of $3,611,050 was awarded under the Consolidated Appropriations Act, 2014 and prior year appropriations:

1. Healthy Homes Technical Studies

A total of $2,797,033 was awarded to 4 applicants for Healthy Homes Technical Studies Program under the Consolidated Appropriations Act, 2014: Purdue University, 155 S. Grant Street, West Lafayette, IN 47907–2114, $659,050; President and Fellows of Harvard College, 677 Huntington Avenue, Boston, MA 02115–6028, $724,726; Washington University, Campus Box 1054, One Brookings Drive, St. Louis, MO 63130–4862, $724,996; University of Cincinnati, 51 Goodman Drive, University Hall Suite 530, P.O. Box 210222, Cincinnati, OH 45221–0222, $688,261.

2. Lead Technical Studies

A total of $814,017 was awarded to 2 applicants for Lead Technical Studies (LTS) under the Consolidated Appropriations Act, 2014: Quan Tech,

Inc., 6110 Executive Blvd., STE 480, Rockville, MD 20852–3954, $498,517; The Providence Plan, 10 Davol Square, Suite 300, Providence, RI 02903–3416, $315,500.

Date: June 24, 2015.

Matthew E. Ammon,

Director, Office of Lead Hazard Control and Healthy Homes.

[FR Doc. 2015–16046 Filed 6–29–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–35]

30-Day Notice of Proposed Information Collection: Certification of Consistency With Sustainable Communities Planning and Implementation

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 30, 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: Anna Guido, 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. 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 28, 2015 at 80 FR 23566.

A. Overview of Information Collection

Title of Information Collection: Certification of Consistency with Sustainable Communities Planning and Implementation.

OMB Approval Number: 2535–0121.

Type of Request: Extension of currently approved collection.

Form Numbers: HUD–2995.

Description of the need for the information and proposed use: HUD seeks grantees that envision and work toward sustainable communities, and provides a number of strategies to do so. To receive points for this policy priority, applicants must go beyond the basic minimum requirements of the NOFA to which they are applying, and must commit to incorporate into their proposed activities the appropriate Livability Principles described by the Partnership for Sustainable Communities, which includes HUD, the Department of Transportation, and the Environmental Protection Agency. These activities include: metropolitan regional plans, neighborhood plans, infrastructure investments, site plans, or architectural plans, so that resulting development or reuse of property takes into account the impacts of the development on the community and the metropolitan region, consistent with sustainable development as expressed in the Livability Principles, as follows:

(1) Provide More Transportation Choices.

(2) Promote equitable, affordable housing.

(3) Enhance Economic Competitiveness.

(4) Support Existing Communities.

(5) Coordinate Policies and Leverage Investment.

(6) Value Communities and Neighborhoods.

Respondents: 11,000.

Number of respondents	Frequency of responses	Number of responses	Estimated average time	Estimated annual burden
6,540	1 (60%)	6,540	60 seconds	6540 = 109 minutes.
60 new applicants	1	60	60 seconds	60 seconds = 1 minute.
4,630	1 (40%)	4,360	60 seconds	4,360 = 73 hours.
40 new applicants	1	40	60 seconds	67 seconds = 1 minute 7 seconds.
Total	11,000	.....	183 hours	

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 24, 2015.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–15899 Filed 6–29–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 5832–N–05]

60-Day Notice of Proposed Information Collection: Neighborhood Stabilization Program 2 (NSP2) Reporting

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 31, 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms for other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, at (202) 708–3587. Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Stanley.Gimont@hud.gov* telephone 202–402–4559. This is not a toll free number. Persons with hearing or speech impairments my 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.

Title of Information Collection: Neighborhood Stabilization Program 2 (NSP2) Reporting.

OMB Approval Number: 2506–0185.

Type of Request: Extension of previously approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: This information describes the reporting and recordkeeping requirements of the Neighborhood Stabilization Program 2 (NSP2). The data required includes program level, project level and beneficiary level information collected and reported on by NSP2 grantees. The data identifies who benefits from the NSP2 program and how statutory requirement are satisfied. The respondents are State, local government, non-profit and consortium applicants.

Respondents (*i.e.* affected public): NSP2 grantees are units of state and local governments, non-profits and consortium members.

Estimated Number of Respondents: 62.

Estimated Number of Responses: 62.

Frequency of Response: Annually.

Average Hours per Response: 2923.

Total Estimated Burdens: 2,923.

Estimation of the total numbers of hours needed to prepare the Information collection including number of respondents, frequency of response, and hours of response:

The following tables demonstrate the estimated paperwork burden for recipients in the reporting processes. The deadline for the expenditure of NSP2 funds equivalent to the original award amount is February 11, 2013. Following the expenditure deadline, grantees will have the option of requesting closeout of their grant. Post-closeout, grantees will be required to report annually on affordability restriction certifications and program income (PI), if more than $250,000 of PI is generated in a program year. The following three tables show burden hours based on HUD's estimates of grantees requesting and completing closeout, and thus, reflect different burden hours for each of the three fiscal years covered by this collection. The total annualized burden hours requested are 6,082.

NEIGHBORHOOD STABILIZATION PROGRAM

Description of information collection	Number of respondents	Number of responses	Total number of responses	Hours per response	Total hours	Cost per response	Total cost
(Year 1)							
Online Quarterly Reporting via DRGR	56	4	224	4	896	$96.40	$86,374
DRGR voucher submissions	56	38	2102	0.18	378	$4	1,642
Total Paperwork Burden	N/A	42	2326	N/A	16,597	N/A	88,016
(Year 2)							
Online Quarterly Reporting via DRGR	42	4	168	4	672	$96.40	64,781
Quarterly Voucher Submissions	42	38	1596	0.18	287	4	1,246
Annual Reporting via DRGR/IDIS	14	1	14	3	42	72.30	3,037
Annual Income Certification Reporting	14	1	14	3	42	72.30	3,037
Total Paperwork Burden	N/A	10	1792	N/A	1043	NA	72,100

NEIGHBORHOOD STABILIZATION PROGRAM—Continued

Description of information collection	Number of respondents	Number of responses	Total number of responses	Hours per response	Total hours	Cost per response	Total cost
(Year 3)							
Online Quarterly Reporting via DRGR	22	4	88	4	352	$96.40	33,933
Annual Reporting via DRGR/IDIS	34	1	34	4	136	96.40	13,110
Quarterly Voucher Submissions	22	4	88	0.18	15.84	4.34	69
Annual Income Certification Reporting	34	1	34	3.00	102	72.30	7,375
Total Paperwork Burden	N/A	10	244	N/A	606	NA	54,487

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 23, 2015.

Harriet Tregoning,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2015–16071 Filed 6–29–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2015–0026; FXES11130100000–156–FF01E00000]

Notice of Intent To Prepare a Programmatic Draft Environmental Impact Statement for Invasive Rodent and Mongoose Control and Eradication on U.S. Pacific Islands Within the National Wildlife Refuge System and in Native Ecosystems in Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a Programmatic Draft Environmental Impact Statement (PDEIS) to analyze the impacts of, and alternatives to, using integrated pest management (IPM) to control or eradicate invasive rodents and mongooses on U.S. Pacific Islands within the National Wildlife Refuge System (Refuge System) and in native ecosystems in Hawaii and to protect native wildlife and plants, including federally listed threatened and endangered species and designated critical habitats. The PDEIS is for informational and planning purposes to improve and facilitate rodent and mongoose control on Federal, State, and private lands through the IPM process; it does not initiate any specific action or project. The PDEIS will be prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) and in compliance with the State of Hawaii's environmental review process. The lead agencies for preparing the PDEIS are the Service and the State of Hawaii Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW). With this notice, the Service and DOFAW request comments, recommendations, and advice on the scope of issues, alternatives, and mitigation to be addressed in the PDEIS.

DATES: *Written Comments:* To ensure consideration, we must receive your written comments on or before October 28, 2015 to ensure all relevant information and recommendations are considered during the PDEIS process. Public scoping meetings will be held at a later date. Meeting dates, locations, and times will be announced in a future notice.

At a later date, DOFAW will be publishing an Environmental Impact Statement preparation notice, as defined by Chapters 201N and 343 of the Hawaii Revised Statutes and title 11, chapter 200 of the Hawaii Administrative Rules, in *The Environmental Bulletin* published by the Hawaii State Office of Environmental Quality Control (OEQC).

ADDRESSES: Send your comments regarding the proposed action and the proposed PDEIS by one of the following methods:

- *Electronically: www.regulations.gov*. Follow the instructions for submitting comments on Docket No. FWS–R1–ES–2015–0026.
- *U.S. Mail:* Public Comments Processing, Attn: FWS–R1–ES–2015–0026; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments by only one of the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Availability of Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Kristi Young, Acting Field Supervisor,

U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850; telephone (808–792–9400); facsimile (808–792–9581). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the Service, intend to prepare a PDEIS to analyze the impacts of, and alternatives to, using IPM to control or eradicate invasive rodents and mongooses on U.S. Pacific Islands within the Refuge System and in native ecosystems in Hawaii and to protect native wildlife and plants, including federally listed threatened and endangered species and designated critical habitats. The intent of this proposal is threefold: (1) To increase the effectiveness of rodent and mongoose management in the main Hawaiian Islands and make more efficient use of limited financial resources; (2) to develop techniques for an IPM approach to eradicate rodents from uninhabited islands within the main Hawaiian Islands and from other U.S. Pacific Islands within the Refuge System; and (3) to avoid adverse impacts to human health and safety and the environment.

IPM as a concept would assess whether rodents and mongooses are negatively affecting native species and interfering with management goals for native species; identify methods of control/or eradication; evaluate the merits and impacts of available control/eradication methods; implement the selected method(s) of control or eradication and use monitoring of the target pest species, selected non-target species, and native species to determine the effectiveness of the method(s); and use that information to adjust implementation of the methods, if needed.

The PDEIS will be prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) (40 CFR 1508.22) and in compliance with the State of Hawaii's environmental review process. The lead agencies for preparing the PDEIS are the Service and the State of Hawaii Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW). With this notice, the Service and DOFAW request comments, recommendations, and advice on the scope of issues, alternatives, and mitigation to be addressed in the PDEIS.

Background

There are no native rodent species in Hawaii. Introduced mammalian species on the Hawaiian Islands include the Norway rat (*Rattus norvegicus),* black rat (*R. rattus),* Polynesian rat *(R. exulans*), house mouse (*Mus musculus*), and the small Indian mongoose (*Herpestes auropunctatus*). Mongooses are established only on the islands of Hawaii, Maui, Molokai, and Oahu. The presence of rodents and mongooses has resulted in or contributed to the extinction or endangerment of many native species in Hawaii. Rodents and mongooses consume the adults, chicks, and eggs of seabirds, waterbirds, and forest birds; and sea turtle eggs and hatchlings. Rats and mice eat native plant seeds, fruits, seedlings, and flowers, and compete with native birds for food. Rats and mice kill plants by chewing off stems and stripping bark. Invertebrates, including native species, make up a large proportion of the diet of rodents and mongooses in Hawaii. Rats can change the species composition of native forests and other natural areas. They have destroyed entire ecosystems, such as the native palm forests that once covered the lowland plains of Oahu when the first Polynesians arrived in Hawaii. The native palm population is now limited to remnant patches scattered around the main Hawaiian Islands; one species of palm is now primarily restricted to two rat-free sea stacks off the coast of Molokai. The loss of native species also threatens Native Hawaiian cultural practices that rely on these species. Introduced rats and mice are also present on some uninhabited offshore islands within the main Hawaiian Islands, and other Pacific islands under U.S. jurisdiction, such as the atolls of Midway, Wake, and Johnston, which are within the National Wildlife Refuge System. Effective rodent and mongoose control and eradication are essential to halt further declines and extinctions of many species, particularly those listed under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (ESA) and protected by the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703–712).

A number of management techniques targeting rodents and mongooses are used to protect crops, human health, and native species throughout the world. Many of these techniques have been used historically in Hawaii by State and Federal agencies, private landowners, nongovernmental organizations (NGOs), and other entities to manage rodents and mongooses to protect native species. Management efforts have been conducted on both private and public lands, using private and public funds. Control efforts and eradications have been undertaken as routine management, to minimize or mitigate the take of native species listed under the ESA, to fulfill responsibilities under Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds), as restoration actions under the Natural Resource Damage Assessment and Restoration (NRDAR) process, and to improve the chances of survival of critically rare native species. These methods currently used will be considered as part of the IPM approach proposed in the PDEIS.

In effective control situations, the rate of removal of pest individuals must exceed the reproductive rate of the pest population and the rate of in-migration of new individuals of the pest into the control area. Even then, the reduction in pest numbers is temporary; once control efforts cease, the numbers begin to return to pre-control levels. Eradication of a pest, which is the removal of every individual, is possible in areas where natural or human-made barriers prevent reinvasion by other individuals of the pest species. Such areas include islands offshore of the main Hawaiian Islands, islands within the Papahanaumokuakea Marine National Monument (Monument), or in limited areas on the main Hawaiian Islands that are surrounded by predator-resistant fencing, such as the Kaena Point Natural Area Reserve on Oahu. Where pest eradication is achieved, the ecosystem can recover from many of the problems that the pest had caused.

To identify and develop the issues described in this notice, the Service and DOFAW held meetings with other State and Federal agencies, private landowners, NGOs, Native Hawaiian organizations, and members of the community.

Purpose and Need for the Action

Rats are believed to have caused the extinctions, local extirpations, and continuing declines of many of Hawaii's endemic forest birds and seabirds. Rats and mongooses also are considered to be a threat to all four of Hawaii's federally endangered waterbird species. Hawaii's federally endangered endemic snails have been decimated and continue to be negatively affected by rats. Impacts by rodents have also been documented to 135 federally listed threatened and endangered plant species in Hawaii. Federal and State agencies have invested considerable resources on rodent and mongoose management and control because of the species' devastating impacts on native ecosystems and on federally and State-

listed threatened and endangered species in Hawaii. Native species needing protection from rodents and mongooses are found in fragmented small areas, such as wetlands or coastal areas, and in large continuous swaths of native forest. The control projects currently conducted in the main Hawaiian Islands are limited to an extremely small scale by circumstances such as topography, land ownership boundaries, remoteness, and costs. However, rodents and mongooses are widespread and reach high population densities not only in human-altered areas but also in relatively intact native ecosystems. In most places, no natural or human-made features within the islands impede their distribution. Thus, small-scale control efforts are overwhelmed by new individuals replacing those removed, and control must be done either continuously or repeatedly. Hawaii's native species will likely require protection from rodents and mongooses in perpetuity.

Eradication techniques need to be available for uninhabited offshore islands, the Monument, and other U.S. Pacific Islands within the Refuge System, such as Wake and Johnston Atolls, to quickly respond to new rodent introductions as well as to eradicate existing rat and mouse populations.

The goal of the Service and DOFAW is to identify an IPM approach to rodent and mongoose control and eradication that not only results in documentable benefits to native species, but which also is compatible with maintaining other resource uses, such as fresh water, hunting and fishing, and cultural practices. Resource management in Hawaii is often evaluated within the context of the ahupuaa, the pre-Western-contact system of land division typically extending from the mountains into the sea, including the nearshore marine environment. Under this ecosystem model, actions taken anywhere within an ahupuaa are understood to have the potential to affect the entire ahupuaa and even other ahupuaa as well.

We are proposing to develop an IPM approach that would allow land managers to increase the effectiveness of rodent and mongoose control on a landscape scale as necessary in a programmatic fashion, because the number of native species affected by rodents and mongooses is so high, and the total area over which native species are distributed on the main Hawaiian Islands is so large. The IPM approach should incorporate methods to assess the effectiveness of the control and to detect and quantify indirect and cumulative effects resulting from the control. In New Zealand, these concepts are successfully used to protect native plant and animal species from rodents: The population dynamics of native species are first modeled in relation to different levels (indices) of rodent control, as measured by footprint-tracking tunnels or snap-traps placed throughout the treatment area; levels of reproductive success, survival, and population growth of the native species are then correlated with specific indices of rodent activity; and rodent control efforts are adjusted to meet the target indices of rodent activity that yield the desired effect on the native species' populations. These concepts linking native species success to predator control could be adapted to be used successfully in Hawaiian ecosystems. Examining and analyzing the use of these methods is part of our purpose and need for this PDEIS.

This approach is consistent with Integrated Pest Management (IPM). Federal law (7 U.S.C. 136r–1) directs Federal agencies to use IPM techniques in carrying out pest management activities. Department of the Interior and Service policies (517 DM 1 and 569 FW 1) require that all pest management activities conducted, approved, or funded by the Service, on or off Service lands, be conducted using IPM. IPM is described by the U.S. Environmental Protection Agency (EPA), the National Park Service (NPS), and the Service as a process that relies on knowledge of the pest's population dynamics and behavior to design the most effective combination of methods for managing the pest. These can include cultural, mechanical, chemical, and/or biological control tools. IPM incorporates flexibility of the methods in order to match the most effective tools with the goals established for the pest control. A fundamental principle of IPM, as stated in the Service's Guidance for Preparing and Implementing Integrated Pest Management Plans (2004), is to ''. . . select those methods, or combination of methods, that are feasible, efficacious, and yet most protective of non-target resources, including wildlife, personnel, and the public.'' It is distinguished from other pest management approaches by its emphasis on establishing action thresholds, monitoring, and ongoing evaluation of the effectiveness and the risks of the control methods selected. The target pest activity must be monitored within the treatment area, and, following principles of adaptive management, the methods may be adjusted or changed to respond to pest behavior, pest population levels, and non-target impacts. The IPM process directly lends itself to informing adaptive management decisions.

The use of pesticides is regulated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*) and Hawaii State pesticide laws and regulations. No special provisions exist under FIFRA for the use of pesticides for conservation purposes; these uses must comply with the same requirements for effectiveness and safety that apply to agricultural and public health uses. Any use of a rodenticide for conservation purposes would need to be covered by pesticide labeling approved by the EPA and the State of Hawaii Pesticides Branch.

The purpose of this proposal is to develop an effective, comprehensive, and landscape-level IPM approach to rodent and mongoose management based on sound ecological principles, and in compliance with State and Federal pesticide laws and regulations for conservation entities in Hawaii. The specific objectives of this approach will be to:

(1) Protect native species in Hawaii and on other specified U.S. Pacific islands from the impacts of rodents and mongooses;

(2) Increase populations of native species important to Native Hawaiian culture;

(3) Identify effective methods for rodent and mongoose control and eradication which are compatible with and safe for all natural resources and the human environment;

(4) Provide the framework for effective and cost-effective use of these methods in Hawaii and on other specified U.S. Pacific islands (*e.g.* education, outreach and permit process); and

(5) Comply with the Endangered Species Act, the Migratory Bird Treaty Act, the National Wildlife Refuge System Administration Act of 1966, the National Wildlife Refuge System Improvement Act of 1997, and other Federal and State laws, regulations, and policy.

In accordance with this approach, the PDEIS process would:

(1) Summarize existing information, including quantitative and qualitative documentation, on rodent and mongoose impacts to native species in Hawaii; and then assess specific needs for rodent and mongoose management;

(2) Evaluate the effectiveness of past and current rodent and mongoose control and eradication projects;

(3) Evaluate the suitability of rodent and mongoose control methods not previously used in Hawaii;

(4) Identify impacts on the human environment (interpreted

comprehensively under NEPA to include ''the natural and physical environment and the relationship of people with that environment'') from the implementation of each rodent and mongoose control method considered, and develop criteria for significance;

(5) Identify consistent standards for rodent and mongoose management project implementation, including standards for monitoring, and for thresholds and triggers requiring remedial action for any significant impacts on the human environment caused by these projects; and

(6) To develop the components required of an adaptive management approach (per the Department of the Interior's Guidance on Coordinating Adaptive Management and NEPA Processes (OEPC ESM 13–11; January 7, 2013)).

All future projects proposing to tier from this PDEIS may be subject to site-specific NEPA and/or Hawaii Revised Statutes Chapter 343 analyses consistent with Federal and State procedures. The ability to tier from the PDEIS would provide efficiencies for the site-specific NEPA compliance process. Site-specific projects would also need to comply with all other applicable legal requirements for such projects.

The joint lead agencies for this action are the Service and DOFAW. Cooperating agencies on the PDEIS are the EPA; NPS; National Oceanic and Atmospheric Administration; the U.S. Army Garrison Hawaii; the U.S. Army Garrison Pohakuloa; the U.S. Department of Defense, Naval Facilities Pacific Area Command; the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services; and the U.S. Geological Survey, Pacific Island Ecosystems Research Center. These agencies have been identified as funding, permitting, having technical expertise with, and/or implementing rodent and mongoose control within the State of Hawaii and Pacific islands under U.S. jurisdiction. Other agencies may request to be Cooperating Agencies during the scoping period.

The PDEIS is for informational and planning purposes to improve and facilitate rodent and mongoose control on Federal, State, and private lands through the IPM process; it does not initiate any specific action or project.

The Service may use this IPM approach on the National Wildlife Refuges it administers in Hawaii and elsewhere in the Pacific, and in habitat restoration projects it funds. The Service may also recommend that it be incorporated into habitat conservation plans and other applications for ESA permits, as appropriate.

Proposed Action and Other Alternatives

In analyzing the proposed action and alternatives, we will explore the following in the PDEIS: (1) Approaches that use IPM in accordance with the Department of the Interior and Service IPM policies, and that are in compliance with FIFRA and State of Hawaii pesticide laws and regulations; and (2) particular methods of rodent and mongoose control or eradication that could be used. The PDEIS will compile research and experience-based data on rodent and mongoose management from Hawaii, other Pacific islands, and elsewhere, and information on rodent and mongoose management from the public, other agencies, Native Hawaiian organizations, NGOs, and other interested parties. All of the compiled data and information will be used to evaluate the proposed action and alternatives.

Alternative Selection Criteria. To determine how well the proposed action and alternatives facilitate achieving the objectives, as stated in the purpose and need, each alternative will be measured against the following criteria, which are not presented in order of priority:

(1) How effective the proposed methods are at increasing populations of native species;

(2) The ability to measure the effectiveness of the proposed methods through monitoring;

(3) The ability for wildlife managers to effectively implement the proposed methods;

(4) The safety of the proposed methods for non-target species, humans, and the environment;

(5) The cost-effectiveness of the proposed methods;

(6) The level of support from communities, wildlife managers, Native Hawaiian organizations, and regulatory agencies for implementation of the proposed methods;

(7) The compatibility of the proposed methods with Federal and State laws and regulations, including Federal and State pesticide laws and regulations; and

(8) The humaneness to the target animals of the proposed methods, in terms of animal welfare.

Preliminary scoping has identified the no action alternative, a possible proposed action, and other potential alternatives summarized in the following Table:

Action/Alternative	Description	
	Is it an IPM approach?	Methods to be included
Proposed Action: Ground and Aerial IPM	Yes	Mechanical; all toxicant application methods; use of diphacinone, chlorophacinone, brodifacoum.
No Action	No/some	State of HI—mechanical; bait station (diphacinone only); National Wildlife Refuge Offshore islands not in the State of Hawaii: Current techniques already approved under environmental compliance.
Ground-only IPM Alternative	Yes	Mechanical; bait station, hand broadcast; use of diphacinone, chlorophacinone, brodifacoum.
Current methods within the Main Hawaiian Islands, with additional uses of diphacinone on offshore islands.	Yes	Main Hawaiian Islands—mechanical; bait station (diphacinone only); uninhabited offshore islands within the State of Hawaii and on National Wildlife Refuge islands not in the State of Hawaii: Application of diphacinone in bait stations, and by bola baiting, hand and aerial broadcast.

Proposed Action: The Service and DOFAW would propose to develop an IPM approach to control or eradicate invasive rodents and mongooses in Hawaii and on other U.S. Pacific islands to protect native wildlife and plants, including federally listed threatened and endangered species.

The proposed action would rely on the principles of IPM as adapted for application under the unique circumstances associated with Hawaii and other U.S. Pacific islands. The first step for use of any methods at a site would be to identify the natural resource management goals and conduct qualitative and quantitative assessments to determine if the targeted pests are

negatively affecting native species and interfering with achieving the identified goals. If so, then the merits of available management methods would be evaluated using IPM principles to determine the most appropriate methods to implement, and giving consideration to impacts to the human cultural environment using criteria established in the PDEIS. Third, the selected methods would be implemented along with monitoring of the target species, and selected non-target species and native species. This sequence of IPM steps establishes the link between the level of pest activity and the impacts on native species, and provides feedback on the effectiveness of the methods applied. The methods may then be adjusted or changed to respond to pest behavior, pest population levels, and non-target impacts, following the principles of adaptive management.

The PDEIS will analyze the effectiveness of, and environmental impacts from, a number of specific methods that could be applied under an IPM approach. These include: (1) Mechanical traps and multi-kill devices; and (2) the application of vertebrate toxicants, including the rodenticides diphacinone, chlorophacinone, and brodifacoum. Rodenticide application methods to be discussed will include bait stations, hand-broadcast, aerial-broadcast, and other techniques described on the labels such as bola-baiting trees. The specific methods, or combinations thereof, that could be applied under site-specific projects would be determined based on the consistency with the IPM protocol discussed above and the analyses of effectiveness and impacts in the PEIS, and any other site-specific analysis that is necessary, such as a site-specific NEPA analysis.

At this time, we anticipate that the PDEIS will also analyze the following alternatives:

No Action Alternative: The ''no action'' alternative would involve continuing to conduct rodent and mongoose control, as currently practiced, using live and kill traps, multi-kill devices, and diphacinone in bait stations. Diphacinone has been used in bait stations to protect Hawaii's native species since the 1990s. Within the State of Hawaii, this alternative would not include controlling rodents and mongooses using any bait distribution method other than bait stations or any rodenticide other than diphacinone. (The PEIS process would not preclude the Refuge System from applying brodifacoum in bait stations and by bola baiting, hand and aerial broadcast on a case by case basis outside of the State of Hawaii where the Refuge System has complied with NEPA and other applicable requirements. Monitoring of the effects of the control method(s) on target species and the benefits to native species would be done at all Refuge sites, but might be more limited at some of the other treatment sites.)

IPM Ground-Only Alternative: Under this alternative, rodent and mongoose management would be done by using traps and multi-kill devices, as well as by the application of diphacinone, chlorophacinone, and brodifacoum in bait stations and by hand-broadcast. Rodenticides would not be aerially applied under this alternative. The principles of IPM, including monitoring the target species and selected non-target species and native species, would be implemented to improve the effectiveness of ground-based methods over current practices.

Current, Ground-Only Methods Within the Main Hawaiian Islands, With Additional Limited Uses of Diphacinone on Uninhabited Islands: Under this alternative, all currently used ground-based methods would be considered as part of the IPM process described above. Application of diphacinone by bait station, bola baiting, hand and aerial broadcast would be considered for use on islands other than the main, inhabited Hawaiian Islands.

Alternatives Not Considered in the PDEIS

Other Rodenticides: The use of rodenticides other than diphacinone, brodifacoum, and chlorophacinone will not be considered in the PEIS. Only compounds currently registered for use on rodents in the United States for agricultural and/or conservation purposes have data sets extensive enough to support analyses in the PEIS. No acute toxicants will be considered because of the high risk of poisoning to non-target species and human applicators. Other rodenticides could be considered in the future in supplements to the PEIS.

Biological Control: The use of biological control agents for rodents and mongooses will not be considered in the PEIS. No biological control agents (predators, parasites, or disease organisms) have been able to significantly reduce rodent or mongoose populations on a broad scale in Hawaii or elsewhere. Furthermore, the release of a biocontrol agent may have significant impacts on the human environment. Because it would be impossible to limit the distribution of a biocontrol agent to the area where control is intended, there may be indirect and cumulative effects within areas of human use and habitation that would need to be evaluated. There would also be the risk of deliberate and/or accidental spread of the agent by people. Opportunities to mitigate impacts to the Polynesian rat, which is significant in Hawaiian culture, by confining its control to a small proportion of its overall population in Hawaii, would also be lost with the release of a biological control agent. Introducing predators has generally not been effective in reducing invasive rodent populations because rodent population densities are determined by factors independent of predation, including their high reproductive rate, the availability of food resources, and weather conditions. Two examples of using predators for rodent control in Hawaii are the introduction of mongooses in the 1880s, and barn owls in the late 1950s into the early 1960s. These biological control efforts were ineffective at reducing rodent damage in sugar cane, and resulted in adverse impacts to native species. Previous studies on disease agents for rats and mice have been conducted with bacteria such as *Salmonella enteritidis,* as well as a protozoan, viruses, and a nematode, but none have met standards for safety and effectiveness for use in the United States. Rodents and mongooses are well-known vectors of many diseases and parasites that are readily transmitted to humans and domestic animals, such as rabies, leptospirosis, and murine typhus, making this alternative too risky to consider. At present, we are unaware of any programs worldwide that are identifying new biological control agents for rodents, and no research has been conducted for mongooses.

Chemosterilants and Fertility Control Agents: Chemosterilants and fertility control agents will not be considered in the PDEIS. To date, the successful use of wildlife chemosterilants has been in laboratories, pens, and limited field situations. In the latter situation, animals are either captured, treated and released, or are injected using darts at close range, which is impractical for small mammals. Although research is underway to develop chemosterilants for rats and mice, it is in the early stages. No research on the use of chemosterilants has been conducted on mongooses. If a type of bait is developed to deliver the sterilant compound, measures to prevent ingestion by non-target organisms, including protected native species, would have to be developed. Chemosterilants and fertility control agents are regulated under

FIFRA, and any such product proposed for registration and licensing in Hawaii would need to complete the same process of data generation and review required for rodenticides. For these reasons, consideration of chemosterilants and fertility control agents would be speculative at this time.

Issues To Be Addressed in the PDEIS

The following issues have been identified through preliminary scoping for consideration in the PDEIS. Criteria for determining the significance of impacts for each of these issues will be developed, and each issue will be evaluated for direct, indirect, and cumulative impacts, and for short-term and long-term effects on the human environment. With this notice, the Service requests comments, recommendations, and advice on issues, alternatives, and mitigation to be addressed in the PDEIS, including but not limited to:

- The potential to increase or decrease populations of native species, especially those that are rare;
- The potential to impact species protected under the Federal and State Endangered Species Acts, the Marine Mammal Protection Act, and the Migratory Bird Treaty Act, and other terrestrial species;
- The potential to impact populations of other non-target invasive species;
- The potential to impact game animals;
- The humaneness of rodent and mongoose control or eradication methods on target and non-target species;
- The potential to impact Native Hawaiian religious cultural rights and practices;
- The potential to impact the ability of Native Hawaiians to exercise their traditional and customary gathering rights for subsistence;
- The potential to impact archaeological and cultural resources; and
- The potential to counteract declines in population levels of native species that are also declining due to the effects of climate change.

In addition, the following issues specific to the use of rodenticides will be addressed:

- The potential for the use of rodenticides to impact soils, surface waters, and groundwater, including movement of rodenticides through water-based (*e.g.,* riparian or stream) ecological systems;
- The potential for the use of rodenticides to impact freshwater fish and invertebrates;
- The potential for the use of rodenticides to impact marine species, including, but not limited to, fish, invertebrates, and corals;
- The potential for the use of rodenticides to impact essential fish habitat; and
- The potential for the use of rodenticides to cause human health impacts from consumption of meat from mammals, birds, fish and shellfish, and from drinking water.

Consideration of Mitigation and Relationship to Tiered NEPA

The PDEIS will propose and analyze standards to be established for mitigation measures, as well as propose and analyze specific mitigation measures that have been identified through the scoping process for the PDEIS. The standards for use of mitigation measures will be based upon the nature of the anticipated impacts, the probability of the impacts occurring, and the characteristics of the areas where the impacts may occur. The standards for mitigation measures will be developed with regulatory agency and community input. The standards will address monitoring to determine the effectiveness of the mitigation measures and to identify any impacts that result from the implementation of the mitigation measures. The standards will require the identification of thresholds and triggers for requiring remedial measures as part of an adaptive management approach.

Site-specific projects will be subject to additional NEPA compliance, which may rely on and tier to the analyses presented in the PEIS, including those related to mitigation measures and standards. Mitigation measures may also be developed to reflect site-specific circumstances, as long as they meet the standards set in the PEIS. The PEIS will identify impacts that would not require mitigation and impacts that cannot be mitigated without compromising the effectiveness of the rodent and mongoose control or eradication method. Under the latter circumstances, the Service and DOFAW could decide in the PEIS not to include such methods in our preferred alternative; or we could analyze whether there are different control methods with lesser impacts that could be used. Even if we ultimately include such methods as options in our proposed action, subsequent site-specific NEPA compliance would evaluate the site-specific impacts.

The PDEIS will also evaluate the needs for any appropriate mitigation measures to protect archaeological and cultural resources during implementation of rodent and mongoose control or eradication projects pursuant to section 106 of the National Historic Preservation Act. Such mitigation would be developed in consultation with the Hawaii State Historic Preservation Division. In addition, impacts to religious cultural rights and practices will be evaluated pursuant to the American Indian Religious Freedom Act (1996).

Consistency With Federal and State Laws, Regulations, Policies, and Plans

The analysis of the proposed action and alternatives in the PDEIS will include consideration of the need to implement rodent and mongoose control and eradication in compliance with applicable Federal and State laws and regulations such as the ESA, the Clean Water Act, section 106 of the National Historic Preservation Act, the American Indian Religious Freedom Act, the Coastal Zone Management Act, DLNR's Hawaii State Comprehensive Wildlife Conservation Plan (Mitchell 2005), DLNR's watershed protection initiative, the Service's Pacific Islands Fish and Wildlife Office Strategic Plan (Service 2012), and the 2008 Management Plan for the Papahanaumokuakea Marine National Monument. The PDEIS will support a phased decision-making process that provides compliance for some of the statutory and regulatory requirements listed above at the programmatic level, and will attempt to identify and describe other requirements that must be deferred until a subsequent site-specific proposal is developed. Each implementing entity would be responsible for ensuring that all applicable statutory and regulatory requirements are met for a specific project.

Public Comments

We are seeking comments, information and suggestions from the public, interested government agencies, Native Hawaiian organizations, the scientific community, and other interested parties regarding the objectives, proposed action, and alternatives that we have identified and described above. When submitting comments or suggestions, explaining your reasoning will help us evaluate your comment or suggestion. We are particularly interested in information related to the following questions:

(1) What do you think about protecting native species and ecosystems from introduced rodents and mongooses?

(2) Under what circumstances do you think they should be controlled and eradicated?

(3) Are there additional criteria for evaluating methods for rodent and mongoose control and eradication that we have not considered?

(4) Should the criteria for evaluating methods for rodent and mongoose control and eradication be modified in any way?

(5) How would you balance these criteria when evaluating the methods?

(6) What recommendations or suggestions would you make regarding the methods that are proposed for evaluation?

(7) Are there any other methods for rodent and mongoose control that should be included? If so, please describe them in sufficient detail so that they can be evaluated.

(8) Should any of the identified alternatives be modified?

(9) Are there any other alternatives that should be considered? If so, please describe them in sufficient detail so that they can be evaluated.

(10) Are there issues not included in the list above that should be addressed?

(11) The process of determining the significance of impacts to resources is unique to each resource, and is based upon the context and intensity of the impacts. The context refers to the setting of where the proposed action may occur, the affected areas or locations, the resource affected, and the proposed action's short and long-term effects. The intensity refers to the severity of the impact. The evaluation of significance will rely upon information received during scoping, and may be modified as information is revealed through the analyses. Are there resources for which you can identify criteria that should be used to begin to determine the significance of the impacts to these resources? Please include your thoughts on the context and intensity of the effects.

You may request to be added to the Service and DOFAW contact list for distribution of any related public documents. Information on the PDEIS is also available on the Web at *http://www.fws.gov/pacificislands/*. Special mailings, newspaper articles, and other media announcements will inform interested and affected persons, agencies, and organizations of the opportunities for meaningful involvement and engagement throughout the planning process for the proposed IPM approach, including notices of public scoping meetings and notices of availability of the draft and final PEIS. This notice will be provided to Federal, State, and local agencies, and Native Hawaiian and other potentially interested organizations, groups, and individuals for review and comment.

Public Availability of Comments

All comments and materials we receive, as well as supporting documentation we use in preparing the draft PEIS, will become part of the public record and will be available for public inspection by appointment, during regular business hours, at the Service's Pacific Islands Fish and Wildlife Office (see **ADDRESSES**). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

The environmental review of this project will be conducted in accordance with the requirements of the NEPA of 1969, as amended (42 U.S.C. 4321 *et seq.*), Council on Environmental Quality Regulations (40 CFR parts 1500–1508), other applicable Federal laws and regulations, and applicable policies and procedures of the Service. This notice is being furnished in accordance with 40 CFR 1501.7 of the NEPA regulations to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the PDEIS.

Richard R. Hannan,

Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2015–16152 Filed 6–29–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

United States Geological Survey

[GX15EN05ESB0500]

Advisory Committee on Climate Change and Natural Resource Science

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of Charter Renewal.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, notice is hereby given that the Charter for the Advisory Committee on Climate Change and Natural Resource Science is renewed for an additional two-year period. In doing so, the Committee will obtain input from Federal, state, tribal, local government, nongovernmental organizations, private sector entities, and academic institutions.

FOR FURTHER INFORMATION CONTACT: Mr. Robin O'Malley, Designated Federal Officer, Policy and Partnership Coordinator, National Climate Change and Wildlife Science Center, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 400, Reston, Virginia 20192, *romalley@usgs.gov,* (703) 648–4086.

SUPPLEMENTARY INFORMATION: Established in May 2013, the Advisory Committee on Climate Change and Natural Resource Science advises the Secretary of the Interior on the establishment and operations of the U.S. Geological Survey National Climate Change and Wildlife Science Center and the Department of the Interior Climate Science Centers. Members represent Federal, state, tribal, local governments, nongovernmental organizations, private sector entities, and academic institutions.

Certification Statement: I hereby certify that the renewal of the Advisory Committee on Climate Change and Natural Resource Science is necessary and in the public interest in connection with the performance of the responsibilities of the Department of the Interior under section 2 of the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended, and the Consolidated Appropriations Act of 2008, Public Law 110–161.

Dated: June 17, 2015.

Sally Jewell,

Secretary of the Interior.

[FR Doc. 2015–16029 Filed 6–29–15; 8:45 am]

BILLING CODE 4310–Y7–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX15RB00FXBRD00]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a new information collection: Assessing Public Views of Waterfowl-Related Topics to Inform the North American Waterfowl Management Plan.

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the

Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC.

DATES: To ensure that your comments are considered, we must receive them on or before August 31, 2015.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7197 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'Information Collection 1028–NEW, Assessing Public Views of Waterfowl-Related Topics to Inform the North American Waterfowl Management Plan' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Holly Miller, Social Scientist, at (970) 226–9133 or *millerh@usgs.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The North American Waterfowl Management Plan (NAWMP) is an international agreement signed by the United States Secretary of the Interior, the Canadian Minister of the Environment, and the Mexican Secretary of the Environment and Natural Resources. NAWMP lays out a strategy to restore waterfowl populations in North America through habitat protection, restoration, and enhancement. The 2012 revised goals of NAWMP focused for the first time on people as well as waterfowl and their habitats. Specifically, the plan states that ''The needs and desires of people [as they relate to waterfowl] must be clearly understood and explicitly addressed'' and calls for more human dimensions research with waterfowl hunters, viewers, and the general public. The plan recognizes the interconnectedness of waterfowl, their habitat, and stakeholders. Without human dimensions information, NAWMP objectives may not reflect stakeholder and societal values, and management and policy decisions may lead to actions that could be either irrelevant or counter to stakeholder and societal expectations.

To meet the goals set forth in the 2012 NAWMP revision, the NAWMP Human Dimensions Working Group has asked the USGS to conduct a mail survey to assess the general public's awareness and perceptions of waterfowl and wetlands, as well as measure participation in recreational activities, conservation behaviors, how people obtain information on nature-related issues, and demographics. Demographics collected on the survey will include voluntarily provided personally identifiable information (PII) such as gender, education, income, and race/ethnicity. Additionally, a representative sample of names and mailing addresses from the general public will be purchased from a survey sampling company which uses publically available information to construct sample lists.

To protect the confidentiality and privacy of survey respondents, the voluntarily provided PII from the survey will not be associated with any respondent's name or mailing address at any time and will only be analyzed and reported in aggregate. All files containing PII will be password-protected, housed on secure USGS servers, and only accessible to the research team.

PII collected on the survey will be used to understand if any segments of the American public hold differing views on waterfowl and waterfowl-related topics. For example, there may be differences in awareness and perceptions of waterfowl and wetlands or in participation in recreational activities between men and women. This will enable waterfowl managers and policymakers to better understand and be more responsive to the varied stakeholders they are serving. The data from the survey will be aggregated and statistically analyzed and the results will be published in publically available USGS reports.

The USGS Ecosystems Mission Area is conducting this effort as it aligns with their mission to ''work with others to provide the scientific understanding and technologies needed to support the sound management and conservation of our Nation's biological resources.'' Specifically, the Ecosystems Mission Area ''enters into partnerships with scientific collaborators to produce high-quality scientific information and partnerships with the users of scientific information to ensure this information's relevance and application to real problems.''

II. Data

OMB Control Number: 1028–NEW.

Title: Assessing Public Views of Waterfowl-Related Topics to Inform the North American Waterfowl Management Plan.

Type of Request: New information collection.

Affected Public: General public.

Respondent's Obligation: None. Participation is voluntary.

Frequency of Collection: One time only.

Estimated Annual Number of Respondents: 1,200.

Estimated Total Number of Annual Responses: 1,200.

Estimated Time per Response: 20 minutes.

Estimated Annual Burden Hours: 400.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: None.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

Dated: May 24, 2015.

David Hamilton,

Fort Collins Science Center Director.

[FR Doc. 2015–15948 Filed 6–29–15; 08:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[156A2100DD/AAKC001030/ A0A501010.999900 253G]

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Class III gaming compact; correction.

SUMMARY: The Bureau of Indian Affairs (BIA) published a notice in the **Federal Register** of June 4, 2015 (80 FR 31918), containing a list of approved Tribal-State Class III gaming compacts. The notice contained incorrect spellings for two tribes.

DATES: Effective Date: June 4, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of June 4, 2015 (80 FR 31918), in FR Doc. 2015–13712, on page 31918, in the third column, correct the **SUMMARY** caption to read:

SUMMARY: This notice publishes the approval of the Amendment to the compacts between the Confederated Tribes of the Chehalis Reservation, Confederated Tribes of the Colville Reservation, Cowlitz Indian Tribe, Hoh Indian Tribe, Jamestown S'Klallam Tribe, Kalispel Indian Community of the Kalispel Reservation, Lower Elwha Tribal Community, Lummi Tribe of the Lummi Reservation, Makah Indian Tribe of the Makah Reservation, Nisqually Indian Tribe, Port Gamble S'Klallam Tribe, Quileute Tribe of the Quileute Reservation, Quinault Indian Nation, Samish Indian Nation, Sauk Suiattle Indian Tribe, Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation, Skokomish Indian Tribe, Snoqualmie Indian Tribe, Spokane Tribe of the Spokane Reservation, Squaxin Island Tribe of the Squaxin Island Reservation, Stillaguamish Tribe of Indians of Washington, Suquamish Indian Tribe of the Port Madison Reservation, Swinomish Indian Tribal Community, Tulalip Tribes of Washington, Upper Skagit Indian Tribe, Confederated Tribes and Bands of the Yakama Nation, and the State of Washington governing Class III gaming (Compact).

Dated: June 23, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–16035 Filed 6–29–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[156A2100DD/AAKC001030/ A0A501010.999900 253G]

Renewal of Agency Information Collection for Reindeer in Alaska

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information titled ''Reindeer in Alaska,'' authorized by OMB Control Number 1076–0047. This information collection expires September 30, 2015.

DATES: Submit comments on or before August 31, 2015.

ADDRESSES: You may submit comments on the information collection to David Edington, Bureau of Indian Affairs, Office of Trust Services, 1849 C Street NW., MS–4637–MIB, Washington, DC 20240; email: *David.Edington@bia.gov.*

FOR FURTHER INFORMATION CONTACT: David Edington, phone: (202) 513–0886.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Indian Affairs (BIA) is seeking renewal of the approval for the information collection conducted under 25 CFR part 243, Reindeer in Alaska, which is used to monitor and regulate the possession and use of Alaskan reindeer by non-Natives in Alaska. The information to be provided includes an applicant's name and address, and where an applicant will keep the reindeer. The applicant must fill out an application for a permit to get a reindeer for any purpose, and is required to report on the status of reindeer annually or when a change occurs, including changes prior to the date of the annual report. This information collection utilizes four forms. This renewal request does not include any changes to the burden hours.

II. Request for Comments

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection 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 (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personally identifiable information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0047.

Title: Reindeer in Alaska, 25 CFR 243.

Brief Description of Collection: There are four forms associated with this information collection: Sale Permit for Alaska Reindeer, Sale Report for Alaska Reindeer, Special Use Permit for Alaska Reindeer, and Special Use Reindeer Report. Responses are required to obtain or retain a benefit.

Type of Review: Extension without change of currently approved collection.

Respondents: Non-Natives who wish to possess Alaskan reindeer.

Number of Respondents: 18 per year, on average (8 respondents for the Sale Permit for Alaska Reindeer, 8 respondents for the Sale Report Form for Alaska Reindeer, 1 respondent for the Special Use Permit for Alaskan Reindeer, and 1 respondent for the Special Use Reindeer Report).

Frequency of Response: Once a year, on average.

Estimated Time per Response: 5 minutes for the Sale Permit and Report forms; and 10 minutes for the Special Use Permit and Report forms, on average.

Estimated Total Annual Hour Burden: 2 hours.

Estimated Total Annual Non-Hour Dollar Cost: $10.00.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2015–16010 Filed 6–29–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[15XD4523WS DS67011100 DWSNN0000.XB0000 DP6EG02]

Renewal of Information Collection and Request for Comments: OMB Control Number 1093–0006, Volunteer Partnership Management

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of the Secretary, Department of the Interior has submitted a request for renewal of approval of this information collection to the Office of Management and Budget (OMB), and requests public comments on this submission.

DATES: OMB has up to 60 days to approve or disapprove the information collection request, but may respond after 30 days; therefore, public comments should be submitted to OMB by July 30, 2015, in order to be assured of consideration.

ADDRESSES: Send your written comments by facsimile (202) 395–5806 or email (*OIRA_Submission@omb.eop.gov*) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer (1093–0006). Also, please send a copy of your comments to Marta Kelly, U.S. Department of the Interior, National Park Service, 1849 C Street NW., MS 2224 MIB, Washington, DC 20240, fax 202–208–7239, or by email to *Marta_Kelly@nps.gov.* Please mention that your comments concern the Volunteer Partnership Management program, OMB Control Number 1093–0006.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, any explanatory information and related forms, see the contact information provided in the **ADDRESSES** section above. You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection received emergency approval from OMB on December 16, 2014. This approval was good for six months and we are now requesting comments as part of the standard review process.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)).

Federal land management agencies are authorized to work with volunteers, youth programs, and partner organizations to plan, develop, maintain, and manage projects and service activities on public lands and adjacent projects throughout the nation. Agencies and partners may recruit, train, and accept the services of volunteers, youth programs, and partners to aid in interpretive functions, visitor services, conservation measures and development, research and development, recreation, and/or other activities in nearly all areas of service. Volunteers, youth programs, and partners can be an efficient, effective, and cost-beneficial use of public resources. The participants of these efforts, especially youth, benefit from skill development and service learning that enhances their capacity to find meaningful employment opportunities and be stewards for public lands.

In order to effectively engage hundreds of thousands of volunteers, youth participants, and partners in meaningful service activities at multiple locations, participating agencies and non-federal organizations, we must collect information from youth program participants and volunteers who are interested in participating, supporting, and managing programs on public lands. The information collected from individuals includes contact information, demographic data including ethnicity and veterans and disability status. Information from partner organizations includes agreement, costs incurred, contact information, IRS status, public financial reports, and supporting documentation such as project completion reports, pictures, and hours contributed.

The information will be collected through a web based platform that consists of seven modules including: The National Park Service (NPS) Volunteer-In-Parks (VIP) Reporting Module, Volunteer Time Tracking Portal, U.S. Fish & Wildlife Service Volunteer Tracker module, Youth Partner Tracking Module, Outreach Recruitment Resume Module, Partnerships Module, and the Cooperating Association Module. The NPS Volunteer-In-Parks (VIP) Reporting Module allows partners to provide information on the annual volunteer efforts they manage independently on behalf of the federal agencies in communities and federal lands through assistance programs. The Volunteer Time Tracking Portal captures the hours and volunteers engaged on public lands for providing America the Beautiful Volunteer Passes for those individuals that have contribute more than 250 hours. The U.S. Fish & Wildlife Service Volunteer Tracker module provides volunteers and volunteer managers in the field the ability to share recruitment, selection, orientation, project, and recognition information locally and nationally in a friendly web-based format. The Youth Partner Tracking module will collect data from individuals between the ages of 16 and 35 which is considered the eligibility age for youth programs under the 16 U.S.C. 1722 *et. seq.,* Public Lands Corps (PLC) Act and Interior Departmental Secretarial Order 3332. The Outreach-Recruitment Resume Module will collect data provided by citizens, including veterans and youth, seeking employment opportunities at career fairs, outreach events, military programs, and from Public Land Corps participants. The Partnerships Module collects information from various volunteer organizations which are under national agreements to manage services and programs on public lands for citizens and provides an annual summary of their activities. The Cooperating Association Module collects information from not-for-profit public lands partners under national agreements to manage bookstores and sales items with federal agencies.

This request for comments on the information collection is being published by the Office of the Secretary, Department of the Interior and includes the use of common forms that can be leveraged by other Federal Agencies. The burden estimates reflected in this notice is only for the Department of the Interior. Other federal Agencies wishing to use the common forms must submit their own burden estimates and provide notice to the public accordingly.

II. Data

(1) Title: Volunteer Partnership Management.

OMB Control Number: 1093–0006.

Current Expiration Date: 6/30/2015.

Type of Review: Renewal of an existing collection.

Affected Entities: Potential and selected volunteers; youth program participants, veterans, prospective job applicants, cooperating associations, and partner organizations.

Estimated annual number of respondents: 39,333.

Frequency of response: Typically once per year but could be as frequently as 26 times per year for time and expense reporting.

(2) Annual reporting and record keeping burden.

Total Annual Reporting per Response: Total annual reporting per response: 5–60 minutes depending on the function being performed.

Total number of estimated responses: 744,296.

Total Annual Burden Hours: 80,378 hours.

(3) Description of the need and use of the information: Participating natural and cultural resource agencies will use this information to manage agency volunteer, youth, outreach, recruitment and partner programs that support work on public lands. The federal agencies will be more accountable to taxpayer by providing annual reports and program description of partnership activities which will be accessible on-line and by justifying the issuance of America the Beautiful passes. Also, collecting youth program hours and demographic information will allow federal agencies to provide better customer service to youth participants who have earned Public Lands Corps (PLC) credit for time served with the PLC, which may be used towards future Federal hiring; and provide former members of the PLC noncompetitive hiring status for a period of not more than 120 days after completion of PLC service.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collection of information was published on February 15, 2015, at 80 FR 7627. No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity.

III. Request for Comments

The Department of the Interior invites comments on:

(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 the burden of the collection and 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 collection techniques or other forms of information technology.

''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the Office of the Secretary at the contact information provided in the **ADDRESSES** section. A valid picture identification is required for entry into the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: June 24, 2015.

Mary Pletcher,

Deputy Assistant Secretary for Human Capital and Diversity, Office of the Secretary.

[FR Doc. 2015–16000 Filed 6–29–15; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS00560 L58530000 EU0000 241A;14–08807; MO# 4500079008; TAS: 15X]

Notice of Realty Action: Competitive Sale of 33 Parcels of Public Land in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer 33 parcels of public land totaling 625.52 acres in the Las Vegas Valley by competitive sale, at not less than the appraised fair market values (FMV). The BLM is proposing to offer the parcels for sale pursuant to the Southern Nevada Public Land Management Act of 1998 (SNPLMA), as amended. The sale will be subject to the applicable provisions of Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA) and BLM land sale regulations.

DATES: Interested parties may submit written comments regarding the sale until August 14, 2015. The sale by sealed bid and oral public auction will occur on November 17, 2015, at the City Hall, City of North Las Vegas, 2250 Las Vegas Boulevard North, Council Chambers, North Las Vegas, Nevada 89030 at 10 a.m., Pacific Time. The FMV for the parcels will be available 30 days prior to the sale. The BLM will accept sealed bids beginning November 2, 2015. Sealed bids must be received by the BLM, Las Vegas Field Office (LVFO) no later than 4:30 p.m. Pacific Time, on November 10, 2015. The BLM will open sealed bids on the day of the sale just prior to oral bidding.

ADDRESSES: Mail written comments and submit sealed bids to the BLM LVFO, Assistant Field Manager, 4701 North Torrey Pines Drive, Las Vegas, NV 89130.

FOR FURTHER INFORMATION CONTACT: Jill Pickren by email: *jpickren@blm.gov, o*r by telephone: 702–515–5194. General information on previous BLM public land sales can be found at: *http://www.blm.gov/nv/st/en/snplma/Land_Auctions.html.* 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 BLM proposes to offer 33 parcels of public land in the southwest Las Vegas Valley. The subject public lands are legally described as:

Mount Diablo Meridian, Nevada

N–93581, 25.93 acres:

T. 19 S., R. 60 E.,
Sec. 31, lots 5–8, W½NE¼NW¼NW¼.

N–93582, 50.84 acres:

T. 19 S., R. 60 E.,
Sec. 31, lots 9–12, SE¼SW¼NW¼, S½SE¼NW¼.

N–93584, 40.00 acres:

T. 19 S., R. 60 E.,
Sec. 31, NE¼NW¼SW¼, N½NE¼SW¼, E½SE¼NE¼SW¼, E½SW¼NE¼SW¼.

N–93585, 65.00 acres:

T. 19 S., R. 60 E.,
Sec. 31, N½NE¼NE¼, W½SE¼NE¼NE¼, SW¼NE¼NE¼, S½NW¼NE¼, NW¼NW¼NE¼.

N–93587, 10.00 acres:

T. 19 S., R. 60 E.,
Sec. 31, SW¼SW¼NE¼.

N–93588, 10.00 acres:

T. 19 S., R. 60 E.,

Sec. 31, W½NE¼NW¼SE¼, E½NW¼NW¼SE¼.

N–93589, 10.00 acres:

T. 19 S., R. 60 E.,
Sec. 31, NW¼NE¼SE¼.

N–93590, 10.00 acres:

T. 19 S., R. 60 E.,
Sec. 32, NE¼NE¼NW¼.

N–93591, 20.00 acres:

T. 19 S., R. 60 E.,
Sec. 32, W½NE¼NW¼.

N–93592, 30.00 acres:

T. 19 S., R. 59 E.,
Sec. 25, SW¼NE¼SW¼, E½NW¼SE¼SW¼E½SW¼SE¼SW¼, NE¼SE¼SW¼.

N–93593, 25.00 acres:

T. 19 S., R. 59 E.,
Sec. 25, NW¼NW¼SE¼, E½SW¼NW¼SE¼, NE¼NE¼SW¼.

N–93594, 15.00 acres:

T. 19 S., R. 59 E.,
Sec. 25, W½SW¼NE¼SE¼, W½NW¼SE¼SE¼, W½SW¼SE¼SE¼.

N–93595, 98.75 acres:

T. 19 S., R. 59 E.,
Sec. 36, E½NE¼NE¼NE¼, E½SE¼NE¼NE¼, E½SE¼NE¼, NW¼SE¼NE¼, E½SW¼SE¼NE¼, NW¼SW¼SE¼NE¼, E½SW¼SW¼SE¼NE¼, W½NW¼NE¼NE¼, W½SW¼NE¼NE¼, W½NE¼NW¼NE¼, S½NW¼NE¼, N½NE¼SW¼NE¼, NE¼NW¼SW¼NE¼, SE¼NE¼SW¼NE¼, E½SW¼NE¼SW¼NE¼, E½NE¼SE¼SW¼NE¼, NE¼SE¼NE¼NW¼.

N–93596, 2.50 acres:

T. 22 S., R. 60 E.,
Sec. 15, NW¼NW¼SW¼SW¼.

N–93597, 2.50 acres:

T. 22 S., R. 60 E.,
Sec. 15, NW¼NE¼SW¼SW¼.

N–93598, 2.50 acres:

T. 22 S., R. 60 E.,
Sec. 19, NW¼NE¼NE¼SE¼.

N–93599, 17.50 acres:

T. 22 S., R. 60 E.,
Sec. 22, W½NE¼SE¼NE¼, NW¼SE¼NE¼, SW¼SW¼NE¼NE¼.

N–93600, 37.50 acres:

T. 22 S., R. 60 E.,
Sec. 22, SW¼SW¼SE¼SE¼, E½SE¼SW¼SE¼, NW¼SE¼SW¼SE¼, S½NW¼SW¼SE¼, N½SW¼SW¼SE¼, SW¼SW¼SW¼SE¼, SE¼SE¼SW¼, E½SW¼SE¼SW¼.

N–93601, 15.00 acres:

T. 22 S., R. 60 E.,
Sec. 22, NW¼SE¼NE¼SW¼, S½SE¼NE¼SW¼, S½SW¼NE¼SW¼, NW¼NW¼SE¼SW¼.

N–93602, 5.00 acres:

T. 22 S., R. 60 E.,
Sec. 22, S½NW¼NW¼SE¼.

N–93603, 17.50 acres:

T. 22 S., R. 60 E.,
Sec. 22, SW¼NE¼NE¼SE¼, NW¼SE¼NE¼SE¼, N½SW¼NE¼SE¼, SE¼NE¼NW¼SE¼, E½SE¼NW¼SE¼.

N–93604, 7.50 acres:

T. 22 S., R. 60 E.,
Sec. 22, W½NE¼SE¼SE¼, NE¼NW¼SE¼SE¼.

N–93605, 1.25 acres:

T. 22 S., R. 61 E.,
Sec. 30, E½SW¼SW¼SE¼NE¼.

N–93606, 3.75 acres:

T. 22 S., R. 61 E.,
Sec. 30, SW¼SE¼SE¼NE¼, E½SE¼SW¼SE¼NE¼.

N–93607, 5.00 acres:

T. 22 S., R. 61 E.,
Sec. 33, S½SW¼SW¼NE¼.

N–93608, 12.50 acres:

T. 22 S., R. 61 E.,
Sec. 33, SW¼NE¼NW¼SE¼, NE¼NW¼NW¼SE¼, S½NW¼NW¼SE¼, NE¼SW¼NW¼SE¼.

N–93609, 42.50 acres:

T. 22 S., R. 61 E.,
Sec. 33, SE¼NE¼NE¼SE¼, SE¼NE¼SE¼, NE¼NE¼SE¼SE¼, S½NW¼NE¼SE¼, N½SW¼NE¼SE¼, SW¼SW¼NE¼SE¼, NE¼SE¼NW¼SE¼, S½SE¼NW¼SE¼, N½NW¼SE¼SE¼, NE¼NE¼SW¼SE¼.

N–93610, 2.50 acres:

T. 22 S., R. 61 E.,
Sec. 33, SW¼SW¼NW¼SE¼.

N–93611, 2.50 acres:

T. 22 S., R. 61 E.,
Sec. 33, NE¼NW¼SW¼SE¼.

N–93612, 2.50 acres:

T. 22 S., R. 61 E.,
Sec. 33, SW¼SE¼SW¼SE¼.

N–93613, 15.00 acres:

T. 22 S., R. 61 E.,
Sec. 33, SW¼SE¼SE¼, E½SE¼SW¼SE¼.

N–93721, 5.00 acres:

T. 22 S., R. 61 E.,
Sec. 29, NW¼NE¼NW¼SW¼, NE¼NW¼NW¼SW¼.

N–93722, 15.00 acres:

T. 22 S., R. 61 E.,
Sec. 29, SW¼NE¼NW¼SW¼, NW¼SE¼NW¼SW¼, SW¼NW¼SW¼.

The areas described contain 625.52 acres.

A sales matrix is available on the BLM Web site at: *http://www.blm.gov/snplma.* The sales matrix provides information specific to each sale parcel such as legal description, physical location, encumbrances, acreage, and FMV. The FMV for each parcel is available in the sales matrix as soon as approved by the BLM and no later than 30 days prior to the sale.

This competitive sale is in conformance with the BLM Las Vegas Resource Management Plan and decision LD–1, approved by Record of Decision on October 5, 1998, and complies with Section 203 of FLPMA. The Las Vegas Valley Disposal Boundary Environmental Impact Statement analyzed the sale parcels and the suitability for sale of these parcels was approved by Record of Decision on December 23, 2004. A parcel-specific Determination of National Environmental Policy Act Adequacy document numbered DOI–BLM–NV–S010–2015–0052–DNA was prepared in connection with this Notice of Realty Action.

Submit comments on this sale Notice to the address in the **ADDRESSES** section. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including any personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The BLM will also publish this Notice once a week for three consecutive weeks in the *Las Vegas Review-Journal.*

Sale procedures: Registration for oral bidding will begin at 8 a.m. Pacific Time and will end at 10 a.m. Pacific Time at the City of North Las Vegas, 2250 Las Vegas Boulevard North, Council Chambers, North Las Vegas, Nevada 89030, on the day of the sale. There will be no prior registration before the sale date. To participate in the competitive sale, all registered bidders must submit a bid guarantee deposit in the amount of $10,000 by certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior-Bureau of Land Management on the day of the sale or submit the bid guarantee deposit along with the sealed bids. The public sale auction will be through sealed and oral bids. Sealed bids will be opened and recorded on the day of the sale to determine the high bids among the qualified bids received. Sealed bids above the FMV will set the starting point for oral bidding on a parcel. Parcels that receive no qualified sealed bids will begin oral bidding at the established FMV. Bidders who are participating and attending the oral auction on the date of the sale are not

required to submit a sealed bid, but may choose to do so.

Sealed-bid envelopes must be clearly marked on the lower front left corner with the parcel number and name of the sale, for example: ''N–XXXXX, 33-parcel SNPLMA Fall Sale 2015.'' Sealed bids must include an amount not less than 20 percent of the total amount bid and the $10,000 bid guarantee by certified check, postal money order, bank draft, or cashier's check made payable to the ''Department of the Interior-Bureau of Land Management.'' The bid guarantee and bid deposit may be combined into one form of deposit; the bidder must specify the amounts of the bid deposit and the bid guarantee. The BLM will not accept personal or company checks. The sealed-bid envelope *must* contain the 20 percent bid deposit, bid guarantee, and a completed and signed ''Certificate of Eligibility'' form stating the name, mailing address, and telephone number of the entity or person submitting the bid. Certificate of Eligibility and registration forms are available at the BLM LVFO at the address listed in the **ADDRESSES** section and on the BLM Web site at: *http://www.blm.gov/nv/st/en/snplma/Land_Auctions.html.* Pursuant to 43 CFR 2711.3–1(c), if two or more sealed-bid envelopes containing valid bids of the same amount are received, oral bidding will start at the sealed-bid amount. If there are no oral bids on the parcel, the authorized officer will determine the winning bidder. Bids for less than the federally approved FMV will not be qualified. The highest qualifying bid for any parcel will be declared the high bid. The apparent high bidder must submit a deposit of not less than 20 percent of the successful bid by 3:00 p.m. Pacific Time on the day of the sale in the form of a certified check, postal money order, bank draft, or cashier's check made payable in U.S. dollars to the ''Department of the Interior—Bureau of Land Management.'' Funds must be delivered no later than 3:00 p.m. Pacific Time on the day of the sale to the BLM Collection Officers at the City of North Las Vegas, 2250 Las Vegas Boulevard North, Council Chambers, North Las Vegas, Nevada 89030. The BLM–LVFO will not accept any funds. The BLM will send the successful bidder(s) a high-bidder letter with detailed information for full payment.

All funds submitted with unsuccessful bids will be returned to the bidders or their authorized representative upon presentation of acceptable photo identification at the BLM–LVFO or by certified mail. If the apparent high bidder so chooses, the bid guarantee may be applied towards the required deposit. Failure to submit the deposit following the close of the sale under 43 CFR 2711.3–1(d) will result in forfeiture of the bid guarantee. If the successful bidder offers to purchase more than one parcel and fails to submit the 20 percent bid deposit resulting in default on any single parcel following the sale, the BLM will retain the $10,000.00 bid guarantee, and may cancel the sale of all the parcels to that bidder. If a high bidder is unable to consummate the transaction for any reason, the BLM may offer the parcel to the second highest bidder for the amount of their bid. If there are no acceptable bids, a parcel may remain available for sale at a future date in accordance with competitive sale procedures without further legal notice.

Federal law requires that bidders must be: (1) A citizen of the United States 18 years of age or older; (2) A corporation subject to the laws of any State or of the United States; (3) A State, State instrumentality, or political subdivision authorized to hold property; or (4) An entity legally capable of conveying and holding lands or interests therein under the laws of the State of Nevada.

Evidence of United States citizenship is a birth certificate, passport, or naturalization papers. Failure to submit the above requested documents to the BLM within 30 days from receipt of the high-bidder letter will result in cancellation of the sale and forfeiture of the bid deposit. The successful bidder is allowed 180 days from the date of the sale to submit the remainder of the full purchase price.

Publication of this Notice in the **Federal Register** segregates the subject lands from all forms of appropriation under the public land laws. Any subsequent applications for such appropriation will not be accepted, will not be considered as filed, and will be returned to the applicant if the Notice segregates from the use applied for in the application. All pending applications will not be processed nor authorized until after completion of the sale. As specified in SNPLMA as amended, Public Law 105–263 section 4(c), lands identified within the Las Vegas Valley Disposal Boundary are withdrawn from location and entry, under the mining laws and from operation under the mineral and geothermal leasing laws until such time the Secretary terminates the withdrawal or the lands are patented.

Terms and Conditions: All minerals for the sale parcels will be reserved to the United States. The patents will contain a mineral reservation to the United States for all minerals. The BLM refers interested parties to the regulation at 43 CFR 3601.71(b), which provides that the owner of the surface estate of lands with reserved Federal minerals may ''use a minimal amount of mineral materials for personal use'' within the boundaries of the surface estate without a sales contract or permit. The regulation provides that all other use, absent statutory or other express authority, requires a sales contract or permit. We refer interested parties to the explanation of this regulatory language in the preamble to the final rule published in the **Federal Register** in 2001, which stated that minimal use ''would not include large-scale use of mineral materials, even within the boundaries of the surface estate.'' 66 FR 58894 (Nov. 23, 2001). Further explanation see BLM Instruction Memorandum No. 2014–085 (April 23, 2014), available on BLM's Web site at *http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2014/im_2014-085__unauthorized.html.*

The parcels are subject to limitations by law and regulation, and certain encumbrances in favor of third parties. Prior to patent issuance, a holder of any right-of-way (ROW) within the sale parcels will have the opportunity to amend the ROW for conversion to a new term, including perpetuity, if applicable, or conversion to an easement. The BLM will notify valid existing ROW holders of record of their ability to convert their compliant rights-of-way to perpetual rights-of-way or easement. In accordance with Federal regulations at 43 CFR 2807.15, once notified, each valid holder may apply for the conversion of their current authorization.

The following numbered terms and conditions will appear on the conveyance documents for the sale parcels:

1. All minerals deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations to be established by the Secretary of the Interior are reserved to the United States, together with all necessary access and exit rights;

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

3. The parcels are subject to valid existing rights;

4. The parcels are subject to reservations for road, public utilities and flood control purposes, both existing and proposed, in accordance

with the local governing entities' transportation plans; and

5. An appropriate indemnification clause protecting the United States from claims arising out of the lessees/patentee's use, occupancy, or occupations on the leased/patented lands.

Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), as amended, notice is hereby given that the lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor had any hazardous substances been disposed of or released on the subject property.

No warranty of any kind, express or implied, is given by the United States as to the title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of a parcel will not be on a contingency basis. However, to the extent required by law, the parcel is subject to the requirements of section 120(h) of the CERCLA.

Unless the BLM authorized officer approved other satisfactory arrangements in advance, conveyance of title will be through escrow. Designation of the escrow agent will be through mutual agreement between the BLM and the prospective patentee, and costs of escrow will be borne by the prospective patentee.

The BLM–LVFO must receive the request for escrow instructions prior to 30 days before the prospective patentee has scheduled a closing date. There are no exceptions.

All name changes and supporting documentation must be received at the BLM–LVFO 30 days from the date on the high-bidder letter by 4:30 p.m. Pacific Time. There are no exceptions. To submit a name change, the apparent high bidder must submit the name change in writing on the Certificate of Eligibility form to the BLM–LVFO.

The remainder of the full bid price for the parcel must be received no later than 4:30 p.m. Pacific Time, within 180 days following the day of the sale. Payment must be submitted in the form of a certified check, postal money order, bank draft, cashier's check, or made available by electronic fund transfer made payable in U.S. dollars to the ''Department of the Interior—Bureau of Land Management'' to the BLM–LVFO. The BLM will not accept personal or company checks.

Arrangements for electronic fund transfer to the BLM for payment of the balance due must be made a minimum of two weeks prior to the payment date. Failure to pay the full bid price prior to the expiration of the 180th day will disqualify the high bidder and cause the entire 20 percent bid deposit to be forfeited to the BLM. Forfeiture of the 20 percent bid deposit is in accordance with 43 CFR 2711.3–1(d). No exceptions will be made. The BLM cannot accept the remainder of the bid price after the 180th day of the sale date.

The BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of such an exchange is the bidder's responsibility. The BLM cannot be a party to any 1031 Exchange.

In accordance with 43 CFR 2711.3–1(f), within 30 days the BLM may accept or reject any or all offers to purchase, or withdraw any parcel of land or interest therein from sale if the BLM authorized officer determines consummation of the sale would be inconsistent with any law, or for other reasons as may be provided by applicable law or regulations. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is paid.

The parcel may be subject to land use applications received prior to publication of this Notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcel. Information concerning the sale, encumbrances of record, appraisals, reservations, procedures and conditions, CERCLA, and other environmental documents that may appear in the BLM public files for the proposed sale parcels are available for review during business hours, 7:30 a.m. to 4:30 p.m. Pacific Time, Monday through Friday, at the BLM–LVFO, except during Federal holidays.

In order to determine the FMV through appraisal, certain extraordinary assumptions and hypothetical conditions may have been made concerning the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the BLM advises that these assumptions may not be endorsed or approved by units of local government.

It is the buyer's responsibility to be aware of all applicable Federal, State, and local government laws, regulations and policies that may affect the subject lands, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. When conveyed out of Federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It is the responsibility of the purchaser to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for future uses. Buyers should make themselves aware of any Federal or State law or regulation that may affect the future use of the property. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of any comments, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2711.1–2.

Vanessa L. Hice,

Assistant Field Manager, Division of Lands.

[FR Doc. 2015–16068 Filed 6–29–15; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–918]

Certain Toner Cartridges and Components; Commission Determination To Review in Part an Initial Determination Granting Complainant's Motion for Summary Determination of Violation of Section 337 and, on Review, To Modify Certain Portions of the Initial Determination; Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part an initial determination (''ID'') (Order No. 34) of the presiding administrative law judge (''ALJ'') granting complainants' motion for summary determination of violation of section 337 and, on review, to modify certain portions of the ID. The Commission also requests written submissions on remedy, public interest,

and bonding in accordance with the schedule provided below.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''Section 337''), on June 12, 2014, based on a complaint filed by Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively, ''Canon''). 79 FR 33777–78 (Jun. 12, 2014). The complaint alleges a violation of section 337 by reason of infringement of certain claims of U.S. Patent Nos. 8,280,278 (''the '278 patent''); 8,630,564 (''the '564 patent''); 8,682,215 (''the '215 patent''); 8,676,090 (''the '090 patent''); 8,369,744 (''the '744 patent''); 8,565,640 (''the '640 patent''); 8,676,085 (''the '085 patent''); 8,135,304 (''the '304 patent''); and 8,688,008 (''the '008 patent''). *Id.* The notice of investigation named thirty-three companies as respondents. *Id.* The Commission's Office of Unfair Import Investigations was also named as a party. Subsequently, the investigation was partially terminated based on withdrawal of the complaint as to all asserted claims of four patents, specifically: (1) Claim 1 of the '744 patent; (2) claim 1 of the '640 patent; (3) claims 1, 2, 3, and 4 of the '085 patent; and (4) claim 1 of the '304 patent.

The ALJ issued initial determinations terminating the investigation based on consent orders as to fifteen respondents: Print-Rite Holdings Ltd.; Print-Rite N.A., Inc.; Union Technology Int'I (M.C.O.) Co. Ltd.; Print-Rite Unicorn Image Products Co. Ltd.; Innotex Precision Ltd.; Ninestar Image Tech Limited; Zhuhai Seine Technology Co., Ltd.; Ninestar Technology Company, Ltd.; Seine Tech (USA) Co., Ltd.; Nano Pacific Corporation; International Laser Group, Inc.; Ink Technologies Printer Supplies, LLC; LD Products, Inc.; Linkyo Corporation; and Katun Corporation. *See* ALJ Order Nos. 13 (*not reviewed* Nov. 4, 2014), 16 (*not reviewed* Nov. 24, 2014), 28 (*not reviewed* Apr. 3, 2015), 29 (*not reviewed* Apr. 3, 2015), 30 (*not reviewed* Apr. 3, 2015), 31 (*not reviewed* Apr. 3, 2015), and 32 (*not reviewed* Apr. 3, 2015). The ALJ also issued an ID terminating the investigation based on Canon's withdrawal of allegations as to two respondents, Seine Image Int'l Co., Ltd. and Ninestar Image Tech, Ltd. *See* ALJ Order No. 4 (*not reviewed* Aug. 1, 2014). Likewise, the ALJ issued an ID terminating the investigation as to respondent Seine Image (USA) Co., Ltd. due to the corporate dissolution of the respondent. *See* ALJ Order No. 27 (*not reviewed* Apr. 1, 2015). These eighteen respondents are collectively referred to as the ''Terminated Respondents.''

The ALJ also issued IDs finding the following ten respondents in default: Acecom, Inc.-San Antonio; ACM Technologies, Inc.; Shenzhen ASTA Official Consumable Co., Ltd.; Do It Wiser LLC; Grand Image Inc.; Green Project, Inc.; Nectron International, Inc.; Online Tech Stores, LLC; Printronic Corporation; and Zinyaw LLC. *See* Order Nos. 6 (*not reviewed* Aug. 25, 2014), 12 (*not reviewed* Oct. 1, 2014), 15 (*not reviewed* Nov. 17, 2014). These ten respondents are collectively referred to as the ''Defaulting Respondents.''

The remaining five named respondents are Aster Graphics, Inc.; Jiangxi Yibo E-Tech Co., Ltd.; Aster Graphics Co., Ltd.; The Supplies Guys, LLC; and American Internet Holdings, LLC. These respondents are no longer actively participating in the investigation, but have neither been terminated from the investigation nor found to be in default. Each of them has acknowledged and stipulated that it has failed to act within the meaning of Commission Rule 210.17, at least because it failed to file a prehearing statement and brief in accordance with the Procedural Schedule (Order No. 9), and that it therefore has no standing to contest Canon's evidence and arguments that it has violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337. *See* Stipulation Regarding the Status of the Aster and Supplies Guys Respondents (Feb. 26, 2015). These five respondents are collectively referred to as the ''Non-Participating Respondents.''

On March 10, 2015, Canon filed a Motion for Summary Determination of Violations by the Defaulting Respondents and Non-Participating Respondents and Recommended Determination on Remedy and Bonding. The Commission investigative attorney filed a response in support of the motion. The Non-Participating Respondents filed a response (''Aster Resp.'') to the motion in which they state, *inter alia,* that they ''do not oppose the motion for summary determination.'' Aster Resp. at 1.

On May 12, 2015, the ALJ issued an ID (Order No. 34) granting Canon's motion for summary determination of violation and recommending the issuance of a general exclusion order and several cease and desist orders. No party petitioned for review of the ID.

The Commission has determined to review the portion of the ID titled ''Establishing Violations Of Section 337 Through Uncontested Allegations'' on pages 46–50 of the ID and, on review, to strike the above-referenced portion of the ID, as well as any language referring to that stricken portion (*e.g.,* ''The uncontested allegations and adverse inferences aside,'' in the first sentence of the last paragraph on page 50), as irrelevant in reaching the ALJ's violation determination. *See* ID at 46–50. The Commission has also determined to strike any references to uncontested allegations as submitted evidence on violation (*e.g.,* ''; *see also* Complaint ¶¶ 160–161 (uncontested allegations)'' in the third line of page 56). The finding of violation as to these respondents is based on substantial, reliable, and probative evidence. *See* 19 U.S.C. 1337(g)(2). The Commission has also determined to correct a typographical error in the second sentence on page 33 of the ID by substituting ''four'' instead of ''three'' in the above-referenced sentence. The Commission has further determined to modify the citation in the first full paragraph on page 42 of the ID by striking an incorrect citation to *Certain Flooring Products,* Inv. No. 337–TA–443, Comm'n Notice of Final Determination of No Violation of Section 337, 2002 WL 448690, at*59, (Mar. 22, 2002). This document has only three pages. The Commission has also determined to supplement an incomplete citation to *Enercon GmbH* v. *Int'l Trade Comm'n,* 151 F.3d 1376 (Fed. Cir. 1998) with the relevant page number, *i.e., Enercon GmbH* v. *Int'l Trade Comm'n,* 151 F.3d 1376, 1384 (Fed. Cir. 1998). The Commission has determined not to review the remainder of the ID.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (Dec. 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Canon and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Canon is further requested to provide the expiration dates of the '278 patent, the '564 patent, the '215 patent, the '090 patent, and the '008 patent, and state the HTSUS subheadings under which the accused articles are imported. Canon is also requested to supply the names of known importers. The written submissions and proposed remedial orders must be filed no later than the close of business on July 13, 2015. Reply submissions must be filed no later than the close of business on July 20, 2015. Such submissions should address the ALJ's recommended determinations on remedy and bonding which were made in Order No. 34. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–918'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.
Issued: June 24, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–15970 Filed 6–29–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Trustworthy Accountability Group, Inc.

Notice is hereby given that, on May 29, 2015, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Trustworthy Accountability Group, Inc. (''TAG'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: Trustworthy Accountability Group, Inc., New York, NY. The nature and scope of TAG's standards development activities are: to address systemic market issues in four core areas: fraudulent digital advertising traffic, ad-supported Internet piracy, business transparency and malware. TAG will establish standards to address fraudulent digital advertising in the supply chain and will connect those standards to tools for identifying legitimate companies (*i.e.,* those companies not associated with fraudulent conduct) and fraudulent activity, including but not limited to, market participant submissions to TAG of domain names involved with known fraudulent conduct which will be curated into a frequently updated list. TAG's anti-piracy standards will involve the validation of digital advertising assurance providers (and others who enter the market) to ensure they effectively provide the services they purport to offer. TAG will also develop standards to increase transparency in the digital advertising supply chain through guidelines concerning programmatic selling, as well as the disclosure of information between buyers and sellers. TAG's standards development activity will also include guidance for market participants to address the problem of malware by setting best practices and sharing malware data for curation by TAG, as well as identification and

validation of legitimate actors. These standards will be voluntary and auditable.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–16026 Filed 6–29–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on May 20, 2015, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the American Society of Mechanical Engineers (''ASME'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, since August 16, 2013 ASME has published four new standards and initiated one new standard activity, and withdrawn three published standards within the general nature and scope of ASME's standards development activities, as specified in its original notification. More detail regarding these changes can be found at *www.asme.org.*

On September 15, 2004, ASME filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 13, 2004 (69 FR 60895).

The last notification was filed with the Department on November 6, 2014. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 16, 2014 (79 FR 74767).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–16025 Filed 6–29–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Insys Therapeutics, Inc.

ACTION: Notice of registration.

SUMMARY: Insys Therapeutics, Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The Drug Enforcement Administration (DEA) grants Insys Therapeutics, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated February 5, 2015, and published in the **Federal Register** on February 11, 2015, 80 FR 7635, Insys Therapeutics, Inc., 2700 Oakmont, Round Rock, Texas 78665 applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Insys Therapeutics, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The company plans to manufacture bulk synthetic active pharmaceutical ingredients (APIs) for product development and distribution to its customers. No other activity for this drug code is authorized for this registration.

Dated: June 24, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–16030 Filed 6–29–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On June 24, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of New Mexico in the lawsuit entitled *United States* v. *Arizona Public Service Company, et al.,* Civil Case No. 1:15–cv–00537 (D. N.M.).

In this civil enforcement action under the federal Clean Air Act (''Act''), the United States alleges that Arizona Public Service Company, El Paso Electric Company, Public Service Company of New Mexico, Salt River Project Agricultural Improvement and Power District, Tucson Electric Power Company, and Southern California Edison Company (collectively the ''Defendants''), failed to comply with certain requirements of the Act intended to protect air quality at the Four Corners Power Plant located near Shiprock, New Mexico. The complaint seeks injunctive relief and civil penalties for violations of the Clean Air Act's Prevention of Significant Deterioration (''PSD'') provisions, 42 U.S.C. 7470–92, and various Clean Air Act implementing regulations. The complaint alleges that Defendants failed to obtain appropriate permits and failed to install and operate required pollution control devices to reduce emissions of sulfur dioxide (''SO_2'') and/or nitrogen oxides (''NO_X'') at the Four Corners Power Plant.

The proposed Consent Decree would resolve violations for certain provisions of the Act at the Four Corners Power Plant, and would require the Defendants to reduce harmful SO_2, NO_X, and particulate matter emissions through the installation and operation of pollution controls. The Defendants will also spend $6,700,000 to fund environmental mitigation projects that will further reduce emissions and benefit communities adversely affected by the pollution from the plant, and pay a civil penalty of $1,500,000.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Arizona Public Service Company, et al.,* Civil Case No. 1:15–cv–00537 (D. N.M.), D.J. Ref. No. 90–5–2–1–10300. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $23.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–15952 Filed 6–29–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice Lodging of Proposed Joint Stipulation To Modify Consent Decree Under the Clean Air Act

On June 25, 2015, the Department of Justice lodged a proposed Joint Stipulation to Modify Consent Decree with the United States District Court for the Northern District of Alabama in the lawsuit entitled *United States* v. *Alabama Power Company*, Civil Action No. 2:01–cv–00152–VEH.

In this civil enforcement action under the federal Clean Air Act (''Act''), the United States alleged that Alabama Power Company failed to comply with certain requirements of the Act intended to protect air quality at coal-fired electric generating stations located in Alabama. Specifically, the complaint requested injunctive relief and civil penalties for violations of the Clean Air Act's Prevention of Significant Deterioration provisions, 42 U.S.C. 7470–92, and various Clean Air Act implementing regulations. On April 25, 2006, the District Court entered a partial consent decree settling some of the claims alleged in the complaint. The proposed Joint Stipulation to Modify Consent Decree would modify the partial consent decree to settle the remaining claims in the litigation to secure additional reductions in emissions of sulfur dioxide and nitrogen oxides through the operation of emissions controls and unit retirements and conversions to natural gas operation. Alabama Power will also pay a civil penalty of $100,000 and pay $1,500,000 to fund environmental mitigation projects that will further reduce emissions and benefit communities in Alabama.

The publication of this notice opens a period for public comment on the proposed Joint Stipulation to Modify Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Alabama Power Company*, D.J. Ref. No. 90–5–2–1–06994. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Joint Stipulation to Modify Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed modification upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $ 6.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–16021 Filed 6–29–15; 8:45 am]

BILLING CODE 4410–19–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,562]

Unimin Corporation, Gleason, Tennessee; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated December 3, 2014, a worker requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for worker adjustment assistance applicable to workers and former workers of Unimin Corporation, Gleason, Tennessee (subject firm). The determination was issued on November 7, 2014. The Department's Notice of Determination was published in the **Federal Register** on November 21, 2014 (79 FR 69535).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that the subject firm did not increase imports or shift production abroad.

The request for reconsideration asserts that increased imports of articles directly competitive with the ''slurry'' articles produced at the subject firm contributed to worker separations and, consequently, that the Department's initial investigation was too limited in scope.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 29th day of May, 2015.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15968 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 10, 2015.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 10, 2015.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 3rd day of June 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX—45 TAA PETITIONS INSTITUTED BETWEEN 5/11/15 AND 5/29/15

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
86001	Boeing Commercial Aircraft (Union)	Tukwila, WA	05/11/15	05/08/15
86002	Cameron (State/One-Stop)	Little Rock, AR	05/11/15	05/08/15
86003	CompuCom (State/One-Stop)	Bentonville, AR	05/11/15	05/08/15
86004	Cooper Power Systems (State/One-Stop)	Fayetteville, AR	05/11/15	05/08/15
86005	DCP Midstream (State/One-Stop)	Tulsa, OK	05/11/15	05/08/15
86006	Norris Rods, Inc. (State/One-Stop)	Tulsa, OK	05/11/15	05/08/15
86007	Goldwin America, Inc a Subsidiary of Godwin Inc. (State/One-Stop).	Manhattan Beach, CA	05/11/15	05/08/15
86008	John Deere Des Moines Works (State/One-Stop).	Ankeny, IA	05/11/15	05/08/15
86009	DestaDrilling (Workers)	Odessa, TX	05/12/15	05/11/15
86010	Convergys Corporation Pharr Texas (Workers).	Pharr, TX	05/13/15	05/12/15
86011	Goodman Networks, Inc. (Company)	Plano including remote workers, TX	05/13/15	05/12/15
86012	Gildan Apparel USA, Inc. (New Buffalo Shirt Factory) (Company).	Clarence, NY	05/13/15	05/11/15
86013	Samson Resources (Workers)	Tulsa, OK	05/14/15	05/13/15
86014	Newell Rubbermaid—Levolor (State/One-Stop).	Ogden, UT	05/15/15	04/14/15
86015	Bandai America Inc. (State/One-Stop)	Cypress, CA	05/15/15	05/13/15
86016	Rexnord Gear Products Division (State/One-Stop).	Milwaukee, WI	05/15/15	05/07/15
86017	TMK—IPSCO (Company)	Houston, TX	05/15/15	04/04/15
86018	Intel Corporation (Workers)	Rio Rancho, NM	05/18/15	05/15/15
86019	Exide Technologies (State/One-Stop)	Manchester, IA	05/19/15	05/18/15
86020	Harsco Air Exchangers (State/One-Stop)	Catoosa, OK	05/20/15	05/19/15
86021	The Shredder Company, LLC. (Workers)	Canutillo, TX	05/20/15	05/19/15
86022	Oil States Energy Services (Workers)	Cannonsburg, PA	05/20/15	05/20/15
86023	Team Oil Tools (State/One-Stop)	Tulsa, OK	05/20/15	05/19/15
86024	Chart Industries (State/One-Stop)	Owatonna, MN	05/20/15	05/19/15
86025	Actavis, Inc.—(Watson Laboratories, Inc.) (State/One-Stop).	Corona, CA	05/21/15	05/20/15
86026	Gardner-Denver (Workers)	Tulsa, OK	05/21/15	04/29/15
86027	Pittsburgh Corning Corporation (Union)	Port Allegany, PA	05/22/15	05/21/15
86028	Transicoil (Company)	Collegeville, PA	05/22/15	05/21/15
86029	Cadmus Communication, a Cenveo Company (Workers).	Lancaster, PA	05/22/15	05/21/15
86030	Goodman Networks, Inc. (Workers)	Plano, TX	05/26/15	05/22/15
86031	Oil State Industries International (State/One-Stop).	Tulsa, OK	05/26/15	05/22/15
86032	Tefelex Medical, Inc. (Company)	Asheboro, NC	05/26/15	05/22/15
86033	DexMedia (Union)	Bethlehem, PA	05/26/15	05/22/15
86034	Technicolor Creative Services (Workers)	Hollywood, CA	05/26/15	05/22/15
86035	Sykes Home Powered by Alpine Access (Workers).	Denver, CO	05/26/15	05/24/15
86036	Flowers Foods, Inc. (State/One-Stop)	Waterloo, IA	05/26/15	05/22/15
86037	Craftwood, Inc. (Workers)	High Point, NC	05/27/15	05/26/15

APPENDIX—45 TAA PETITIONS INSTITUTED BETWEEN 5/11/15 AND 5/29/15—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
86038	Pearson (Workers)	Old Tappan, NJ	05/28/15	05/27/15
86039	Arcelormittal—Georgetown (Union)	Georgetown, SC	05/28/15	05/27/15
86040	ATOS IT Solutions and Services, Inc. (Company).	Mason, OH	05/29/15	05/28/15
86041	LA Darling Wood (Workers)	Piggott, AR	05/29/15	05/28/15
86042	S&R Equipment Co (State/One-Stop)	Austin, TX	05/29/15	05/28/15
86043	UBM, LLC (State/One-Stop)	Manhasset, NY	05/29/15	05/28/15
86044	Interfor (Union)	Tacoma, WA	05/29/15	05/27/15
86045	Riley Gear Corporation (Union)	North Tonawanda, NY	05/29/15	05/28/15

[FR Doc. 2015–15962 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,963; TA–W–82,963A]

Bausch & Lomb Incorporated, North Goodman Street Facility, a Subsidiary of Valeant Pharmaceuticals International, Inc., Including On-Site Leased Workers from Kelly Services Aerotek and Computech Corp., Rochester, New York; Bausch & Lomb Incorporated, Bausch & Lomb Place Facility, a Subsidiary of Valeant Pharmaceuticals International, Inc., Including On-Site Leased Workers From Kelly Services and Computech Corp., Rochester, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 25, 2013, applicable to workers from Bausch & Lomb Incorporated, North Goodman Street Facility, a subsidiary of Valeant Pharmaceuticals International, Inc., including on-site leased workers from Kelly Services and Aerotek, Rochester, New York (TA–W–82,963) and Bausch & Lomb Incorporated, Bausch & Lomb Place Facility, a subsidiary of Valeant Pharmaceuticals International, Inc., including on-site leased workers from Kelly Services, Rochester, New York (TA–W–82,963A). The Department's Notice of Determination was published in the **Federal Register** on December 23, 2013 (78 FR 77498).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject firm. The workers' firm is engaged in the production of contact lenses.

The investigation confirmed that workers from Computech Corp. were employed on site at the Bausch & Lomb Incorporated facilities. The workers were sufficiently under the operational control of Bausch & Lomb Incorporated to be considered leased workers.

Based on these findings, the Department is amending this certification to include the on-site leased workers from Computech Corp.

The amended notice applicable to TA–W–82,963 is hereby issued as follows:

''All workers of Bausch & Lomb Incorporated, North Goodman Street Facility, a subsidiary of Valeant Pharmaceuticals International, Inc., including on-site leased workers from Kelly Services Aerotek and Computech Corp., Rochester, New York (TA–W–82,963) and Bausch & Lomb Incorporated, Bausch & Lomb Place Facility, a subsidiary of Valeant Pharmaceuticals International, Inc., including on-site leased workers from Kelly Services and Computech Corp., Rochester, New York (TA–W–82,963A), who became totally or partially separated from employment on or after August 7, 2012 through December 2, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through December 2, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed in Washington, DC this 21st day of May, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15964 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,286; TA–W–85,286A; TA–W–85,286B; TA–W–85,286C; TA–W–85,286D; TA–W–85,286E; TA–W–85,286F; TA–W–85,286G]

United States Steel Corporation, Lorain Tubular Operations, Lorain, OH; United States Steel Corporation, Fairfield Works–Flat Roll Operations, Fairfield–Tubular Operations, Fairfield, AL; et al.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S. C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 2, 2014, applicable to workers and former workers of United States Steel Corporation, Lorain Tubular Operations, Lorain, Ohio. The workers are engaged in activities related to the production of steel tubular products such as pipes.

Information obtained by the Department reveals that the following units operate in conjunction with each other in the production of United States Steel Corporation's tubular products: Lorain Tubular Operations, Lorain, Ohio (TA–W–85,286); Fairfield Works-Flat Roll Operations and Tubular Operations, Fairfield, Alabama (TA–W–85,286A); East Chicago, Indiana (TA–W–85,286B); Lorain Northern Railroad, Lorain, Ohio (TA–W–85,286C); Wheeling Machine Products Division, Pine Bluff, Arkansas (TA–W–85,286D); Gary, Indiana (TA–W–85,286E); Ecorse, Michigan (TA–W–85,286F); and Fairfield Southern Company, Fairfield, Alabama (TA–W–85,286G).

The worker groups include those who are engaged in activities related to production, such as maintenance, administrative support, and safety/security. All buildings, structures, and facilities (such as furnaces and mills)

which are part of the ''production campus'' are included in the respective worker groups.

Based on these findings, the Department is amending this certification to clarify that workers at the above facilities are included. The amended notice applicable to TA–W–85,286 is hereby issued as follows:

''All workers of United States Steel Corporation, Lorain Tubular Operations, Lorain, Ohio (TA–W–85,286); United States Steel Corporation, Fairfield Works-Flat Roll Operations and Fairfield-Tubular Operations, Fairfield, Alabama (TA–W–85,286A); United States Steel Corporation, East Chicago, Indiana (TA–W–85,286B); Lorain Northern Railroad, Lorain, Ohio (TA–W–85,286C); United States Steel Corporation, Wheeling Machine Products Division, Pine Bluff, Arkansas (TA–W–85,286D); United States Steel Corporation, Gary, Indiana (TA–W–85,286E); United States Steel Corporation, Ecorse, Michigan (TA–W–85,286F); and Fairfield Southern Company, Fairfield, Alabama (TA–W–85,286G), who became totally or partially separated from employment on or after May 2, 2013 through July 2, 2016 are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.''

Signed in Washington, DC this 22nd day of May, 2015.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15967 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,796; TA–W–85,796A; TA–W–85,796B; TA–W–85,796C; TA–W–85,796D]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

U.S. Steel Tubular Products, Inc., Lone Star Tubular Operations, a Subsidiary of United States Steel Corporation, Including On-Site Leased Workers from Delta, Alliance Group Technologies and Good Shepherd Medical Center, Lone Star, Texas

United States Steel Corporation, Minnesota Ore Operations—Keetac, Including On-Site Leased Workers of Securitas, Cleaning Specialists, and Alliance Group Technologies, Keewatin, Minnesota

United States Steel Corporation, Minnesota Ore Operations—Minntac, Including On-Site Leased Workers of Securitas, Esssentia Health, Cleaning Specialists, and Alliance Group Technologies, Mt. Iron, Minnesota

United States Steel Corporation, Granite City Works, Granite City, Illinois

United States Steel Corporation, Mon Valley Works, West Mifflin, Pennsylvania

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 12, 2015, applicable to workers and former workers of U.S. Steel Tubular Products, Inc., Lone Star Tubular Operations, a subsidiary of United States Steel Corporation, Lone Star, Texas. The Department's Notice of Determination was published in the **Federal Register** on April 13, 2015 (80 FR 19691).

Information obtained from United States Steel Corporation reveals that the following locations operate in conjunction with each other in the production of steel tubular products Lone Star, Texas (TA–W–85,796); Keewatin, Minnesota (TA–W–85,796A); Mt. Iron, Minnesota (TA–A–85,796B); Granite City, Illinois (TA–W–85,796C); and West Mifflin, Pennsylvania (TA–W–85,796D).

The Keewatin and Mt. Iron, Minnesota worker groups include on-site leased workers. The Granite City, Illinois worker group includes all workers at Granite City Works, not limited to workers at the coke batteries and the furnaces. The West Mifflin, Pennsylvania worker group includes all workers at Mon Valley Works, which consists of the Irvin and Thompson Plants. The worker groups include those who support production, including but not limited to logistics, maintenance, personnel, safety, and health workers.

Based on these findings, the Department is amending this certification to clarify that workers at the above facilities are included. The amended notice applicable to TA–W–85,796 is hereby issued as follows:

''All workers of U.S. Steel Tubular Products, Inc., Lone Star Tubular Operations, a subsidiary of United States Steel Corporation, including on-site leased workers from Delta, Alliance Group Technologies, and Good Shepherd Medical Center, Lone Star, Texas (TA–W–85,796); United States Steel Corporation, Minnesota Ore Operations—Keetac, including on-site leased workers of Securitas, Cleaning Specialists, and Alliance Group Technologies, Keewatin, Minnesota (TA–W–85,796A); United States Steel Corporation, Minnesota Ore Operations—Minntac, including on-site leased workers of Securitas, Essentia Health, Cleaning Specialists, and Alliance Group Technologies, Mt. Iron, Minnesota (TA–W–85,796B); United States Steel Corporation, Granite City Works, Granite City, Illinois (TA–W–85,796C); and United States Steel Corporation, Mon Valley Works, West Mifflin, Pennsylvania (TA–W–85,796D), who became totally or partially separated from employment on or after January 27, 2014 through March 12, 2017, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.''

Signed in Washington, DC this 22nd day of May, 2015.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15958 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,533]

Modine Manufacturing Company, Including On-Site Leased Workers From Masterson, Working World, Aerotek, Reemploy (Seek Professionals, LLC), and Lucas Group, Ringwood, Illinois; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 2, 2014, applicable to workers of Modine Manufacturing Company, Ringwood, Illinois, including on-site leased workers from Masterson, Working World, and Aerotek. The Department's notice of determination was published in the **Federal Register** on October 2, 2014 (79 FR 59518).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of aluminum oil coolers, condensers, and radiators for automotive, on-highway, off-highway, recreational vehicles, military and heavy duty semi-trucks.

The company reports that workers leased from ReEmploy (SEEK Professionals, LLC, and Lucas Group were employed on-site at the Ringwood, Illinois location of Modine Manufacturing Company. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from ReEmploy (SEEK Professionals,

LLC, and Lucas Group working on-site at the Ringwood, Illinois location of Modine Manufacturing.

The amended notice applicable to TA–W–85,533 is hereby issued as follows:

''All workers of Masterson, Working World, Aerotek, ReEmploy (SEEK Professionals, LLC), and Lucas Group, reporting to Modine Manufacturing Company, Ringwood, Illinois, who became totally or partially separated from employment on or after September 11, 2013, through October 2, 2016, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15965 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,753, TA–W–85,753A]

U.S. Steel Tubular Products, Inc., Tubular Processing Houston Operations, a Subsidiary of United States Steel Corporation, Houston, Texas; U.S. Steel Oilwell Services, LLC, Offshore Operations—Houston, Houston, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 10, 2015, applicable to workers and former workers of U.S. Steel Tubular Products, Inc., Tubular Processing Houston Operations, a subsidiary of United States Steel Corporation, Houston, Texas (subject firm). Workers of the subject firm are engaged in activities related to the production of steel tubular products.

Information obtained from United States Steel Corporation reveals that U.S. Steel Oilwell Services, LLC, Offshore Operations—Houston, Houston, Texas (TA–W–85,753A) operates in conjunction with the subject firm.

Based on this finding, the Department is amending this certification to clarify that workers at U.S. Steel Oilwell Services, LLC, Offshore Operations—Houston, Houston, Texas are included. The amended notice applicable to TA–W–85,753 is hereby issued as follows:

All workers of U.S. Steel Tubular Products, Inc., Tubular Processing Houston Operations, a subsidiary of United States Steel Corporation, Houston, Texas (TA–W–85,753) and U.S. Steel Oilwell Services, LLC, Offshore Operations—Houston, Houston, Texas (TA–W–85,753A), who became totally or partially separated from employment on or after January 6, 2014 through February 10, 2017, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 22nd day of May 2015.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15960 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,888]

General Mills Bakery Division, Including On-Site Leased Workers From Randstad Temp Agency, Aerotek, Inc., and Sonoco, New Albany, Indiana; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 12, 2015, applicable to workers from General Mills, Bakery Division, including on-site leased workers from Randstad Temp Agency and Aerotek, Inc., New Albany, Indiana. The Department's Notice of Determination was published in the **Federal Register** on April 28, 2015 (80 FR 30490).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of refrigerated dough products.

The investigation confirmed that workers of Sonoco were employed on-site at General Mills, New Albany, Indiana and may be considered leased workers.

The amended notice applicable to TA–W–85,888 is hereby issued as follows:

''All workers of General Mills, Bakery Division, including on-site leased workers from Randstad Temp Agency Aerotek, Inc., and Sonoco, New Albany, Indiana, who became totally or partially separated from employment on or after March 18, 2014 through April 14, 2017, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.''

Signed in Washington, DC this 28th day of May, 2015.

Michael W. Jaffe

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15961 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,379; TA–W–85,379A]

Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, Including On-Site Leased Workers From Technical Needs, Lowell, Massachusetts; Aerotek, Working On-Site at Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, Lowell, Massachusetts; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 14, 2014, applicable to workers of Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, Lowell, Massachusetts, including on-site leased workers from Technical Needs. The Department's Notice of Determination was published in the **Federal Register** on September 11, 2014 (79 FR 54297). On May 14, 2015, the Department issued an amended certification to include on-site leased workers from Aerotek (TA–W–85,379A).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the production of radar sensors.

A review of the determination revealed that the amended certification

omitted reference to alternative trade adjustment assistance. The original investigation and the amendment investigation confirmed that the worker group as a whole meets the group eligibility requirements under Section 246(a)(3)(A)(ii) of the Trade Act.

Based on these findings, the Department is amending this certification to clarify that on-site leased workers from Aerotek are eligible to apply for alternative trade adjustment assistance.

The amended notice applicable to TA–W–85,379 is hereby issued as follows:

All workers of Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, including on-site leased workers from Technical Needs, Lowell, Massachusetts (TA–W–85,379), who became totally or partially separated from employment on or after June 5, 2013, through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

And

All workers of Aerotek, reporting to Autoliv ASP, Inc., Autoliv Electronics Division, Production Operations Department, Lowell, Massachusetts (TA–W–85,379A), who became totally or partially separated from employment on or after June 5, 2013, through August 14, 2016, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 29th day of May 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15959 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of May 11, 2015 through May 29, 2015.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) and

section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,293, Microsemi Corporation, Allentown, Pennsylvania. April 30, 2013.
85,293A, Microsemi Corporation, San Jose, California. April 30, 2013.
85,828, SERVA Group LLC, Catoosa, Oklahoma. February 10, 2014.
85,828A, SERVA Group LLC, Duncan, Oklahoma. February 10, 2014.
85,857, Service Steel, Inc., Portland, Oregon. February 25, 2014.
85,913, MIC Group, Duncan, Oklahoma. March 30, 2014.
85,927, Graham Packaging Company LP, Chicago, Illinois. April 6, 2014.
85,934, Computational Systems Inc., Knoxville, Tennessee. April 9, 2014.
85,935, Leach International North America/Esterline Corporation, Buena Park, California. April 9, 2014.
85,940, Alcoa Inc., Alcoa Technical Center, Alcoa Center, Pennsylvania. April 13, 2014.
85,944, Koppers Inc., Green Spring, West Virginia. April 15, 2014.
85,952, The Crosby Group Manufacturing LLC., Tulsa, Oklahoma. April 20, 2014.
85,963, Pure Power Technologies, Indianapolis, Indiana. February 25, 2014.
85,969, Republic Storage Systems, LLC, Canton, Ohio. April 27, 2014.
85,971, Schott Gemtron, Vincennes, Indiana. April 28, 2014.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

85,965, Cathedral Art Metal Company Inc., Providence, Rhode Island.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

85,895, UNY LLC DBA General Super Plating, East Syracuse, New York.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

85,870, Maidenform, Fayetteville, North Carolina.
85,885, HCL America Inc., Cary, North Carolina.
85,921, Avaya, Inc., Highlands Ranch, Colorado.
85,936, Total Safety US, Decatur, Alabama.
85,941, CareFusion Resources, LLC, San Diego, California.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

85,907, DeepFlex, Inc., Manitowoc, Wisconsin.
85,914, Eureka Pellet Mills, Eureka, Montana.
85,947, L.A. Darling Company, Piggott, Arizona.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

85,822, United States Steel Corporation, Fairfield, Alabama.
85,896, United States Steel Corporation, Keewatin, Minnesota.
85,896A, United States Steel Corporation, Mt. Iron, Minnesota.
85,901, United States Steel Corporation, Granite City, Illinois.
85,904, Maverick Tube Corporation, Houston, Texas.
85,920, United States Steel Corporation, East Chicago, Indiana.
85,933, Lorain Northern Railroad, Lorain, Ohio.
85,951, U.S. Steel Oilwell Services, LLC., Houston, Texas.
85,986, Rockwell Automation-Anorad, East Setauket, New York.
85,997, United States Steel Corporation, Pine Bluff, Arkansas.

I hereby certify that the aforementioned determinations were issued during the period of May 11, 2015 through May 29, 2015. These determinations are available on the Department's Web site www.tradeact/taa/taa_search_form.cfm under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 16th day of June 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15963 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,779]

Brayton International, a Subsidiary of Steelcase, Inc., Including On-Site Leased Workers From Manpower Group, Experis, Bradley Personnel Inc., Graham Personnel Services, Aerotek, Workforce Unlimited, Experis, Impact Business Group, and Century Employer Organization LLC, High Point, North Carolina; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 10, 2015, applicable to workers of Brayton International, a subsidiary of Steelcase, Inc., High Point, North Carolina. The worker group includes on-site leased workers from Manpower Group, Experis, Bradley Personnel Inc., Graham Personnel Services, Aerotek, WorkForce Unlimited, Experis, and imPact Business Group, High Point, North Carolina. The Department's Notice of Determination was published in the **Federal Register** on April 13, 2015 (Volume 80 FR 19693).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to production of office furniture.

The investigation confirmed that workers leased from Bradley Personnel Inc., Graham Personnel Services, Aerotek, Workforce Unlimited, Experis, imPact Business Group, and Century Employer Organization LLC were employed on-site at the High Point,

North Carolina location of Brayton International. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include leased workers from Century Employer Organization LLC working on-site at the High Point, North Carolina location of Brayton International.

The amended notice applicable to TA–W–85,779 is hereby issued as follows:

''All workers of Brayton International, a subsidiary of Steelcase, Inc., including on-site leased workers from Manpower Group, Experis, Bradley Personnel Inc., Graham Personnel Services, Aerotek, Workforce Unlimited, Experis, imPact Business Group, Century Employer Organization LLC, High Point, North Carolina, who became totally or partially separated from employment on or after March 12, 2015 through March 10, 2017, and all workers in the group threatened with total or partial separation from employment on the date of certification through March 11, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.''

Signed in Washington, DC this 28th day of May, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–15966 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Permit-Required Confined Spaces in General Industry Standard

ACTION: Notice.

SUMMARY: On June 30, 2015, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Permit-Required Confined Spaces in General Industry Standard,'' 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=201504-1218-002* (this link will only become active on July 1, 2015) 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–OSHA, 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 Permit-Required Confined Spaces in General Industry Standard information collection requirements codified in regulations 29 CFR 1910.146. The purpose of the information collection is to ensure an Occupational Safety and Health Act (OSH Act) covered employer subject to the Standard systematically evaluates the dangers in permit spaces before entry is attempted and takes adequate measures to make the spaces safe for entry. The major information collection requirements in this Standard require the employer to: Post danger signs; develop and implement a written permit-space program; verify the space is safe for entry with a written certification; exchange information with employees, authorized entrants, attendants, contractors, and rescue services or teams; document the completion of measures the Standard requires by preparing an entry permit; make the completed permit available at the time of entry to all authorized entrants by posting the permit at the entry portal or by any other equally effective means; retain each canceled entry permit for at least one year; prepare training certification records; make the Safety Data Sheet (SDS) or written information available to the treating medical facility, if an injured entrant is exposed to a substance for which a SDS or other similar written information is required to be kept at the worksite; consult with affected employees and their authorized representatives on the development and implementation of all aspects of the permit space program; and make records developed under standard, including the results of any testing, available for inspection by employees and their authorized representatives. OSH Act sections 2(b)(9), 6, and 8(c) authorize this information collection. See 29 U.S.C. 651(b)(9), 655, and 657(c).

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 1218–0203.

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 April 27, 2015 (80 FR 23297).

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 1218–0203. 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–OSHA.

Title of Collection: Permit-Required Confined Spaces in General Industry Standard.

OMB Control Number: 1218–0203.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 205,548.

Total Estimated Number of Responses: 8,681,215.

Total Estimated Annual Time Burden: 1,573,813 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: June 24, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–16005 Filed 6–29–15; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

DATE AND TIME: The Legal Services Corporation's Finance Committee will meet telephonically on July 9, 2015. The meeting will commence at 4 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

• Call toll-free number: 1–866–451–4981;

• When prompted, enter the following numeric pass code: 5907707348;

• When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda
2. Management's recommendation for LSC's fiscal year 2017 budget request
   - Jim Sandman, President
   - Carol Bergman, Director—Government Relations and Public Affairs
3. Discussion with Inspector General regarding the OIG's fiscal year 2017 budget request
   - Jeffrey Schanz, Inspector General
   - David Maddox, Assistant Inspector General for Management Evaluation
4. Public comment
5. Consider and act on other business
6. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: June 26, 2015.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2015–16164 Filed 6–26–15; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

AGENDA

TIME AND DATE: 9:30 a.m., Tuesday, July 14, 2015.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The two items are open to the public.

MATTERS TO BE CONSIDERED:

8710 Aircraft Accident Report—Steep Climb and Uncontrolled Descent During Takeoff, National Air Cargo, Inc., dba National Airlines, Boeing 747–400 BCF, N949CA, Bagram, Afghanistan, April 29, 2013.

8590A Highway Accident Report—Truck-Tractor Double Trailer Median Crossover Collision With Motorcoach and Postcrash Fire on Interstate 5, Orland, California, April 10, 2014.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Wednesday, July 8, 2015.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov*.

FOR MORE INFORMATION CONTACT: Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov*.

FOR MEDIA INFORMATION CONTACT: Eric Weiss, (202) 314–6100 or by email at *eric.weiss@ntsb.gov* for the Bagram, Afghanistan accident, and Keith Holloway, (202) 314–6100 or by email at *hollowk@ntsb.gov* for the Orland, CA accident.

Dated: Friday, June 26, 2015.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2015–16127 Filed 6–26–15; 11:15 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0160]

NuScale Power, LLC, Design-Specific Review Standard and Safety Review Matrix

AGENCY: Nuclear Regulatory Commission.

ACTION: Design-specific review standard; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on the Design-Specific Review Standard (DSRS) and Safety Review Matrix for the NuScale Power, LLC, design (NuScale DSRS Scope and Safety Review Matrix). The purpose of the NuScale DSRS is to provide guidance to NRC staff in performing safety reviews where existing NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' Standard Review Plans (SRP) have been modified by the staff specifically for the NuScale design, or do not address unique features of the NuScale design. The DSRS also allows NRC staff to more fully integrate the use of design-specific risk insights into the review of the NuScale design certification application (DC) or an early site permit (ESP) or combined license (COL) application that references the NuScale design.

DATES: Submit comments by August 31, 2015. Comments received after this date will be considered, if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0160. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jenny Gallo, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7367; email: *NuScale-DSRS@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0160 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0160.
- *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 it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section. The NuScale DSRS Scope and Safety Review Matrix is available in ADAMS under Accession No. ML15156B063.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0160 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Further Information

A. Background

In the Staff Requirements Memorandum (SRM) COMGBJ–10–0004/COMGEA–10–0001, ''Use of Risk Insights to Enhance the Safety Focus of Small Modular Reactor Reviews,'' dated August 31, 2010 (ADAMS Accession No. ML102510405), the Commission provided direction to the NRC staff on the preparation for, and review of, small modular reactor (SMR) applications, with a near-term focus on integral pressurized-water reactor designs. The Commission directed the NRC staff to more fully integrate the use of risk insights into pre-application activities and the review of applications and, consistent with regulatory requirements and Commission policy statements, to align the review focus and resources to risk-significant structures, systems, and components and other aspects of the design that contribute most to safety in order to enhance the effectiveness and efficiency of the review process. The Commission directed the NRC staff to develop a design-specific, risk-informed review plan for each SMR design to address pre-application and application review activities. An important part of this review plan is the DSRS. The DSRS for the NuScale design is the result of the implementation of the Commission's direction.

B. DSRS for the NuScale Design

The NuScale DSRS reflects current NRC staff safety review methods and practices which integrate risk insights and, where appropriate, lessons learned from the NRC's reviews of DC and COL applications completed since the last revision of the NUREG–0800, SRP Introduction, Part 2, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: Light-Water Small Modular Reactor Edition,'' January 2014 (ADAMS Accession No. ML13207A315). The NuScale DSRS Scope and Safety Matrix provides a complete list of SRP sections and identifies which SRP sections will be used for DC, COL, or ESP reviews concerning the NuScale design; which SRP sections are not applicable to the

NuScale design; and which new DSRS sections are design-specific to NuScale. The NuScale DSRS Scope and Safety Review Matrix is available in ADAMS under Accession No. ML15156B063.

The NRC staff is soliciting public comment on the NuScale DSRS Scope and Safety Review Matrix and the individual NuScale-specific DSRS sections referenced in the table below. Specifically, the NRC requests comment on the sufficiency of the scope of the proposed NuScale review, as encompassed by the Safety Review Matrix, and on the technical content of the individual NuScale-specific DSRS sections identified in the table below. These sections were revised from the relative SRP sections or developed to incorporate design-specific review guidance based on features of the NuScale design. The NRC is not soliciting general comments on NUREG–0800 sections that are designated with the applicability ''A) Use SRP Section'' in the Safety Review Matrix, but specific comments on the adequacy of these NUREG–0800 sections for use in the review of the NuScale design certification application will be considered.

Section	Design-specific review standard title	ADAMS Accession No.
Matrix	NuScale Power, LLC DSRS Scope and Safety Review Matrix	ML15156B063
3.11	Environmental Qualification of Mechanical and Electrical Equipment	ML15131A247
3.13	Threaded Fasteners—ASME Code Class 1, 2, and 3	ML15084A277
3.3.1	Offsite Power System	ML15071A259
3.3.2	Tornado Loads	ML15071A267
3.4.1	Internal Flood Protection for Onsite Equipment Failures	ML15139A112
3.4.2	Analysis Procedures	ML15071A324
3.5.1.1	Internally Generated Missiles (Outside Containment)	ML15139A081
3.5.1.2	Internally Generated Missiles (Inside Containment)	ML15139A096
3.5.1.3	Turbine Missiles	ML15070A248
3.5.1.4	Missiles Generated by Tornadoes and Extreme Winds	ML15139A121
3.5.2	Structures, Systems, and Components to be Protected from Externally-Generated Missiles	ML15139A102
3.5.3	Barrier Design Procedures	ML15071A273
3.7.1	Seismic Design Parameters	ML15084A279
3.7.2	Seismic System Analysis	ML15084A177
3.7.3	Seismic Subsystem Analysis	ML15131A340
3.8.2	Steel Containment	ML15131A373
3.8.4	Other Seismic Category I Structures	ML15118A151
3.8.5	Foundations	ML15132A186
4.2	Fuel System Design	ML15132A517
4.3	Nuclear Design	ML15125A374
4.4	Thermal and Hydraulic Design	ML15131A427
4.5.2	Reactor Internal and Core Support Structure Materials	ML15070A325
4.6	Functional Design of Control Rod Drive System	ML15119A111
5.2.2	Overpressure Protection	ML15118A931
5.2.4	Reactor Coolant Pressure Boundary Inservice Inspection and Testing	ML15125A305
5.2.5	Reactor Coolant Pressure Boundary Leakage Detection	ML15132A194
5.3.1	Reactor Vessel Materials	ML15070A457
5.3.2	Pressure-Temperature Limits, Upper-Shelf Energy, and Pressurized Thermal Shock	ML15070A468
5.3.3	Reactor Vessel Integrity	ML15070A462
5.4	Rx Coolant System Component and Subsystem Design	ML15126A156
5.4.2.1	Steam Generator Materials	ML15131A376
5.4.2.2	Steam Generator Program	ML15070A562
5.4.7	Residual Heat Removal (RHR) System	ML15131A360
5–4 BTP	Design Requirements of the RHR System	ML15132A524
6.1.1	Engineered Safety Features Materials	ML15070A567
6.1.2	Protective Coating Systems (Paints)—Organic Materials	ML15071A372
6–1 BTP	pH for Emergency Coolant Water for PWRs	ML15125A369
6.2.1	Containment Functional Design	ML15118A922
6.2.1.1.A	PWR Dry Containments, Including Sub-atmospheric Containments	ML15118A264
6.2.1.3	Mass and Energy Release Analysis for Postulated Loss-of-Coolant Accidents (LOCAs)	ML15112A134
6.2.1.4	Mass and Energy Release Analysis for Postulated Secondary System Pipe Ruptures	ML15118A293
6.2.2	Containment Heat Removal Systems	ML15131A341
6.2.4	Containment Isolation System	ML15119A087
6.2.5	Combustible Gas Control in Containment	ML15119A090
6.2.6	Containment Leakage Testing	ML15119A084
6.2.7	Fracture Prevention of Containment Pressure Boundary	ML15112A517
6.3	Emergency Core Cooling System	ML15125A322
6.6	Inservice Inspection and Testing of Class 2 and 3 Components	ML15127A136
7.0	Instrumentation and Controls—Introduction and Overview of Review Process	ML15125A340
7.0, A	Instrumentation and Controls—Hazard Analysis	ML15132A583
7.0, B	Instrumentation and Controls—System Architecture	ML15132A603
7.0, C	Instrumentation and Controls—Simplicity	ML15132A611
7.0, D	Instrumentation and Controls—References	ML15132A618
7.1	I&C—Fundamental Design Principles	ML15125A335
7.2	Instrumentation and Controls—System Characteristics	ML15125A360
8.1	Electric Power—Introduction	ML15146A269
8.2	Offsite Power System	ML15125A425
8–2 BTP	Use of Diesel-Generator Sets for Peaking	MI15131A386
8.3.1	AC Power Systems (Onsite)	ML15125A384

Section	Design-specific review standard title	ADAMS Accession No.
8.3.2	DC Power Systems (Onsite)	ML15125A386
8–3 BTP	Stability of Offsite Power Systems	ML15125A390
8.4	Station Blackout	ML15126A149
8–6 BTP	Adequacy of Station Electric Distribution System Voltages	ML15131A461
9.1.2	New and Spent Fuel Storage	ML15125A307
9.1.3	Spent Fuel Pool Cooling and Cleanup System	ML15146A034
9.2.6	Condensate Storage Facilities	ML15131A245
9.3.2	Process and Post-Accident Sampling Systems	ML15131A298
9.3.4	Chemical and Volume Control System (PWR) (Including Boron Recovery System)	ML15131A305
9.3.6	Containment Evacuation and Flooding Systems	ML15112A190
9.5.2	Communications Systems	ML15084A403
9.5.3	Lighting Systems	ML15112A148
10.2	Turbine Generator	ML15126A086
10.2.3	Turbine Rotor Integrity	ML15127A046
10.3	Main Steam Supply System	ML15131A329
10.4.1	Main Condensers	ML15127A049
10.4.2	Main Condenser Evacuation System	ML15127A349
10.4.3	Turbine Gland Sealing System	ML15126A477
10.4.4	Turbine Bypass System	ML15131A417
10.4.5	Circulating Water System	ML15126A467
10.4.6	Condensate Cleanup System	ML15118A943
10.4.7	Condensate and Feedwater System	ML15126A470
10.4.10	Auxiliary Boiler System	ML15131A261
11.1	Source Terms	ML15112A526
11.2	Liquid Waste Management System	ML15124A607
11.3	Gaseous Waste Management System	ML15112A694
11.4	Solid Waste Management System	ML15119A057
11.5	Process and Effluent Radiological Monitoring Instrumentation and Sampling Systems	ML15118A609
11.6	Guidance on I&C Design Features for Process and Effluent Radiological Monitoring and Area Radiation and Airborne Radioactivity Monitoring.	ML15125A367
12.2	Radiation Sources	ML15070A194
12.3–12.4	Radiation Protection Design Features	ML15070A204
12.5	Operational Radiation Protection Program	ML15070A210
14.2	Initial Plant Test Program—Design Certification and New License Applicants	ML15084A407
14.3.2	Structural and Systems Engineering—Inspections, Tests, Analyses, and Acceptance Criteria	ML15084A411
14.3.4	Reactor Systems—Inspections, Tests, Analyses, and Acceptance Criteria	ML15125A294
14.3.5	Instrumentation and Controls—Inspections, Tests, Analyses, and Acceptance Criteria	ML15127A383
14.3.6	Electrical Systems—Inspections, Tests, Analyses, and Acceptance Criteria	ML15127A373
14.3.7	Plant Systems—Inspections, Tests, Analyses, and Acceptance Criteria	ML15131A328
15.0	Introduction—Transient and Accident Analyses	ML15125A297
15.0.3	Design Basis Accidents Radiological Consequence Analyses for Advanced Light Water Reactors	ML15127A387
15.1.1–15.1.4	Decrease in FW Temperature, Increase in FW Flow, Increase in Steam Flow, and Inadvertent Opening of a Steam Generator Relief or Safety Valve.	ML15127A391
15.1.5	Steam System Piping Failures Inside and Outside of Containment (PWR)	ML15125A317
15.1.6	Loss of Containment Vacuum	ML15127A395
15.2.1–15.2.5	Loss of External Load; Turbine Trip; Loss of Condenser Vacuum; Closure of Main Steam Isolation Valve (BWR); and Steam Pressure Regulator Failure (Closed).	ML15127A400
15.2.6	Loss of Non-Emergency AC Power to the Station Auxiliaries	ML15125A292
15.2.7	Loss of Normal Feedwater Flow	ML15125A293
15.2.8	Feedwater System Pipe Breaks Inside and Outside Containment (PWR)	ML15118A927
15.4.1	Uncontrolled Control Rod Assembly Withdrawal from a Subcritical or Low Power Startup Condition	ML15118A482
15.4.2	Uncontrolled Control Rod Assembly Withdrawal at Power	ML15118A600
15.4.3	Control Rod Misoperation (System Malfunction or Operator Error)	ML15131A364
15.4.6	Inadvertent Decrease in Boron Concentration in the Reactor Coolant (PWR)	ML15118A474
15.5.1–15.5.2	Chemical and Volume Control System Malfunction that Increases Reactor Coolant Inventory	ML15125A463
15.6.5	LOCAs Resulting From Spectrum of Postulated Piping Breaks Within the Reactor Coolant Pressure Boundary.	ML15131A334
15.6.6	Inadvertent Opening of a PWR Pressurizer Pressure Relief Valve	ML15125A467
15.9A	Thermal-hydraulic Stability	ML15131A311
16.0	Technical Specifications	ML15131A316

Dated at Rockville, Maryland, this 23rd day of June 2015.

For the Nuclear Regulatory Commission.

Jenny M. Gallo,

Project Manager, Small Modular Reactor Licensing Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

[FR Doc. 2015–16034 Filed 6–29–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0001]

Sunshine Act Meeting Notice

DATE: June 29, July 6, 13, 20, 27, August 3, 2015.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of June 29, 2015

There are no meetings scheduled for the week of June 29, 2015.

Week of July 6, 2015—Tentative

Tuesday, July 7, 2015

9:00 a.m. Briefing on Inspections, Tests, Analyses, and Acceptance Criteria (Public Meeting); (Contact: James Beardsley, 301–415–5998).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, July 9, 2015

9:00 a.m. Briefing on the Mitigation of Beyond Design Basis Events Rulemaking (Public Meeting); (Contact: Tara Inverso, 301–415–1024).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of July 13, 2015—Tentative

There are no meetings scheduled for the week of July 13, 2015.

Week of July 20, 2015—Tentative

There are no meetings scheduled for the week of July 20, 2015.

Week of July 27, 2015—Tentative

There are no meetings scheduled for the week of July 27, 2015.

Week of August 3, 2015—Tentative

Thursday, August 6, 2015

9:30 a.m. Strategic Programmatic Overview of the Operating Reactors Business Line (Public Meeting); (Contact: Nathan Sanfilippo: 301–415–8744).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at 301–415–0442 or via email at *Glenn.Ellmers@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: June 25, 2015.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2015–16093 Filed 6–26–15; 11:15 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 23, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 126 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–56, CP2015–84.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–15990 Filed 6–29–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service.™

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 23, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 5 to Competitive Product List.* Documents are available at *www.prc.gov*, Docket Nos. MC2015–57, CP2015–85.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–15989 Filed 6–29–15; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, July 1, 2015 at 10:00 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

• The Commission will consider whether to propose amendments under Section 10D of the Exchange Act, as added by Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to require the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with Section 10D's requirements for the recovery of incentive-based compensation.

The duty officer determined no earlier notice of this Meeting was practicable.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: June 25, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–16094 Filed 6–26–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75288; File No. SR–NYSE–2015–27]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending the Eighth Amended and Restated Operating Agreement of the Exchange To Establish a Regulatory Oversight Committee as a Committee of the Board of Directors of the Exchange and Make Certain Conforming Amendments to Exchange Rules

June 24, 2015

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 hereunder,[3] notice is hereby given that, on June 12, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to: (1) amend the Eighth Amended and Restated Operating Agreement of the Exchange (''Operating Agreement'') to establish a Regulatory Oversight Committee (''ROC'') as a committee of the board of directors of the Exchange (the ''Board'') and make certain conforming amendments to Rules 0 [sic], 1, 46, 46A and 497; (2) terminate the delegation agreement (the ''Delegation Agreement'') among the Exchange, NYSE Market (DE), Inc. (''NYSE Market (DE)''), and NYSE Regulation, Inc. (''NYSE Regulation''), delete Rule 20, which sets forth the terms of the delegation, and make certain conforming amendments to Section 4.05 of the Operating Agreement and Rules 0, 1, 22, 36, 37, 46, 48, 49, 54, 70, 103, 103A, 103B, 104, 422, 476A, and 497; (3) remove from the Exchange rules certain organizational documents of NYSE Regulation and NYSE Market (DE) in connection with the proposed termination of the Delegation Agreement; (4) amend the Operating Agreement to establish a Director Candidate Recommendation Committee (''DCRC'') as a committee of the Board and change the process by which non-Affiliated Director candidates are named; (5) amend the Operating Agreement to establish a Committee for Review as a sub-committee of the ROC and make conforming changes to Rules 308, 475, 476, 476A and 9310; and (6) replace references to the Chief Executive Officer of NYSE Regulation in Rules 48, 49 and 86 with references to the Chief Regulatory Officer of the Exchange. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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: (1) amend the Operating Agreement to establish a ROC as a Board committee and make certain conforming amendments to Rules 1, 46, 46A and 497; (2) terminate the Delegation Agreement, delete Rule 20, which sets forth the delegation from the Exchange to NYSE Market (DE) and NYSE Regulation,[4] and make certain conforming amendments to Section 4.05 of the Operating Agreement and Rules 0, 1, 22, 36, 37, 46, 48, 49, 54, 70, 103, 103A, 103B, 104, 422, 476A and 497; (3) remove from the Exchange rules certain constituent documents of NYSE Regulation and NYSE Market (DE) in connection with the proposed termination of the Delegation Agreement; (4) amend the Operating Agreement to establish a DCRC as a committee of the Board and change the process by which Non-Affiliated Director candidates are named; (5) amend the Operating Agreement to establish a Committee for Review as a sub-committee of the ROC and make conforming changes to Rules 308, 475, 476, 476A and 9310; and (6) replace references to the Chief Executive Officer of NYSE Regulation in Rules 48, 49 and 86 with references to the Chief Regulatory Officer of the Exchange (''CRO'').

The Exchange proposes that creation of the ROC, termination of the Delegation Agreement, and the above rule changes would be operative simultaneously. The Exchange would effect the changes described herein following approval of this rule filing no later than June 30, 2016, on a date determined by its Board.

Amendment of Operating Agreement To Create a ROC

In connection with its proposal to terminate the Delegation Amendment, which is discussed below, the Exchange proposes to establish a ROC. The proposed ROC would have the responsibility to independently monitor the Exchange's regulatory operations. To effect this change, the Exchange proposes to amend Section 2.03(h) of the Operating Agreement to add a subsection (ii) providing for a ROC and delineating its composition and functions. The proposed new Section 2.03(h)(ii) of the Operating Agreement would be substantially similar to the recently approved changes by the Exchange's affiliates NYSE Arca and NYSE MKT to establish ROCs [5] as well as Article III, Section 5(c) of the By-Laws of the NASDAQ Stock Market LLC

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] NYSE Regulation, a not-for-profit subsidiary of the Exchange, performs the Exchange's regulatory functions pursuant to the Delegation Agreement. NYSE Regulation performs regulatory functions for the Exchange's affiliates NYSE MKT LLC (''NYSE MKT'') and NYSE Arca, Inc. (''NYSE Arca'') pursuant to intercompany Regulatory Services Agreements (each, an ''RSA'') that give each exchange the contractual right to review NYSE Regulation's performance.

[5] *See* Securities Exchange Act Release No. 75155 (June 11, 2015) (SR–NYSEArca–2015–29) (''Arca ROC Approval Order'') (approving creation of a ROC with primary responsibility to independently monitor the exchange's regulatory operations) and Securities Exchange Act Release No. 75148 (June 11, 2015) (SR–NYSEMKT–2015–27) (''MKT ROC Approval Order'') (same).

(''NASDAQ'') (the ''NASDAQ Bylaws'').[6]

In particular, Section 2.03(h)(ii) would provide that the Board shall appoint a ROC on an annual basis. Proposed Section 2.03(h)(ii) would describe the composition of the ROC. Proposed Section 2.03(h)(ii) would also describe the functions and authority of the ROC. The proposed ROC's responsibilities would be to:

- oversee the Exchange's regulatory and self-regulatory organization responsibilities and evaluate the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities;
- assess the Exchange's regulatory performance; and
- advise and make recommendations to the Board or other committees of the Board about the Exchange's regulatory compliance, effectiveness and plans.[7]

In furtherance of these functions, the proposed new subsection of the Operating Agreement would provide the ROC with the authority and obligation to review the regulatory budget of the Exchange and specifically inquire into the adequacy of resources available in the budget for regulatory activities. Under the proposed amendment, the ROC would be charged with meeting regularly with the CRO in executive session and, in consultation with the Exchange's Chief Executive Officer, establishing the goals, assessing the performance, and recommending the CRO's compensation. Finally, under the proposed rule, the ROC would be responsible for keeping the Board informed with respect to the foregoing matters.[8]

The Exchange proposes that the ROC would consist of at least three members, each of whom would be a director of the Exchange that satisfies the independence requirements of the Exchange.[9] The Exchange believes that a ROC comprised of at least three independent members is appropriate. The size and composition of the proposed ROC would be the same as that of the ROCs of other SROs.[10] A ROC with at least three independent directors has been recognized as one of several measures that can help ensure the independence of the regulatory function from the market operations and commercial interests of a national securities exchange.[11]

Further, proposed Section 2.03(h)(ii) would provide that the Board may, on affirmative vote of a majority of directors, at any time remove any member of the ROC for cause. Proposed Section 2.03(h)(ii) would also provide that a failure of the member to qualify as independent under the independence policy would constitute a basis to remove a member of the ROC for cause. Similar authority is found in the bylaws governing the ROCs of other SROs.[12] In addition, proposed Section 2.03(h)(ii) would provide that, if the term of office of a ROC committee member terminates under this section, and the remaining term of office of such committee member at the time of termination is not more than three months, during the period of vacancy the ROC would not be deemed to be in violation of its compositional requirements by virtue of the vacancy. Once again, this is consistent with the rules and bylaws of other SROs.[13] Finally, the Exchange proposes to add text to Section 2.03(h) providing that vacancies in the membership of any board committee would be filled by the Exchange board, which is consistent with proposed Section 2.03(h)(ii).[14]

The Exchange believes that the proposed rule change creating an independent Board committee to oversee the adequacy and effectiveness of the performance of its self-regulatory responsibilities is consistent with previously approved rule changes for other SROs and would enable the Exchange to undertake its regulatory responsibilities under a corporate governance structure that is consistent with its industry peers.[15] Moreover, the Exchange believes that the proposed ROC would ensure the continued independence of the regulatory process.[16] In particular, integral to the proposal is that the oversight of the Exchange's self-regulatory responsibilities and regulatory performance, including review of the regulatory plan, programs, budget and staffing would be by a ROC composed of individuals independent of Exchange management and a CRO having general supervision of the regulatory operations of the Exchange that meets regularly with the ROC.[17]

The Exchange also proposes to make the following conforming amendments to Rules 1, 46, 46A and 497:

- The Exchange proposes to amend Rule 1, which defines the ''Exchange'', to replace a reference to the ''Board of Directors of NYSER'' with the ''Exchange's Regulatory Oversight Committee'', which would be the successor to the regulatory responsibilities of the NYSE Regulation board of directors.
- The Exchange proposes to amend Rule 46(b), which governs the

[6] *See* Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (''NASDAQ Approval Order'') (order granting application of NASDAQ for registration as a national securities exchange). As noted below, members of the NASDAQ ROC must satisfy both NASDAQ's public director and independent director requirements.

[7] These three core responsibilities of the proposed ROC would be substantially similar to those of the ROCs of self-regulatory organizations (''SROs''). *See, e.g.,* Arca ROC Approval Order, at 2; MKT ROC Approval Order, at 2; NASDAQ Bylaws, Article III, Section 5; Securities Exchange Act Release No. 58375 (August 18, 2008), 73 FR 49498, 49502 (August 21, 2008) (File No. 10–182) (''Release No. 34–58375'') (approving application of BATS Exchange, Inc. (''BATS'') seeking registration as a national securities exchange); Securities Exchange Act Release No. 61698 (March 10, 2010), 75 FR 13151, 13161 (March 12, 2010) (''BATS Approval Order'') (approving application of EDGX Exchange, Inc. and EDGA Exchange, Inc., seeking registration as a national securities exchange); and Amended and Restated By-Laws of Miami International Securities Exchange, LLC, Article IV, Section 4.5(c).

[8] The obligations of the proposed ROC would be substantially similar to those of other SROs' ROCs. *See, e.g.,* NASDAQ Bylaws, Article III, Section 5; Bylaws of NASDAQ OMX PHLX LLC, Article V, Section 5–2; Third Amended and Restated Bylaws of BATS-Exchange, Inc., Article V, Section 6(c).

[9] The Exchange's independence requirements are set forth in the Independence Policy of the Board of Directors of the Exchange available at *http://wallstreet.cch.com/MKT/pdf/independence_policy.pdf. See* Securities Exchange Act Release No. 67564 (August 1, 2012), 77 FR 47161 (August 7, 2012) (SR–NYSE–2012–17; SR–NYSEArca–2012–59; SR–NYSEMKT–2012–07) (approving NYSE's director independence policy).

[10] *See e.g.,* NASDAQ By-laws, Article III, Section 5(c) (specifying a ROC comprising three independent directors); Third Amended and Restated Bylaws of BATS Exchange, Inc., Article V, Section 6(c) (''BATS Bylaws'') (same); and Chicago Board Options Exchange, Incorporated (''CBOE'') Bylaws, Article IV, Section 4.5 (specifying a ROC of at least three directors all of whom shall be ''non-industry'' directors).

[11] *See, e.g.,* Release No. 34–58375, 73 FR at 49502; Securities Exchange Act Release No. 61152 (December 10, 2009), 74 FR 66699, 66704–705 (December 16, 2009) (File No. 10–191) (approving application of C2 Options Exchange, Incorporated, seeking registration as a national securities exchange); BATS Approval Order, 75 FR at 13161.

[12] *See e.g.,* BATS Bylaws, Article V, Section 2(a) (''the Chairman may, at any time, with or without cause, remove any member of a committee so appointed, with the approval of the Board.''); Second Amended and Restated By-laws of National Stock Exchange, Inc., Article V, Section 5.2 (same). Comparable provisions were recently approved for the Exchange's affiliates NYSE Arca and NYSE MKT. *See* Arca ROC Approval Order, at 2; MKT ROC Approval Order, at 3. [sic]

[13] *See e.g.,* NASDAQ Bylaws, Article III, Section 2(b).

[14] NYSE Arca, NYSE MKT and NASDAQ have the same provision. *See* Arca ROC Approval Order, at 3; MKT ROC Approval Order, at 3; Second Amended Limited Liability Co. Agreement of the NASDAQ Stock Market LLC, Section 9(g).

[15] *See* NASDAQ Bylaws, Article III, Section 5(c); BATS Bylaws, Article V, Section 6(c). *See also* Arca ROC Approval Order and MKT ROC Approval Order, note 5, *supra*.

[16] *See, e.g.,* Securities Exchange Act Release No. 48946 (December 17, 2003), 68 FR 74678, 74687 (August 21, 2008) (SR–NYSE–2003–34) (''Release No. 34–48946'') (approving significant restructure of NYSE governance architecture centered on Board independent f [sic] members, member organizations, and listed issuers).

[17] *See, e.g.,* Release No. 34–48946, 68 FR at 74687.

appointment of Floor Officials, to replace the reference to the ''NYSE Regulation Board of Directors'' with the proposed ROC as the entity that the Board would consult with on those appointments.

• Similarly, the Exchange proposes to amend Rule 46A, which governs the appointment of Executive Floor Governors, to replace the ''Board of Directors of NYSE Regulation'' with the proposed ROC as the entity that the Board would consult with on those appointments.

• Finally, Rule 497 sets forth certain requirements that securities issued by Intercontinental Exchange, Inc., or its affiliates must meet before they can be listed on the Exchange. The Exchange proposes to replace ''NYSE Regulation Board of Directors'' in Rule 497(b) and (c)(1) with ''Exchange's Regulatory Oversight Committee''. Following approval of this rule filing, the ROC would be the entity that would approve regulatory findings that the security to be listed satisfies Exchange listing rules under Rule 497(b) and that would receive the reports specified in Rule 497(c).[18]

Termination of Delegation Agreement and Deletion of Rule 20

The Exchange proposes to terminate the Delegation Agreement and delete Rule 20, which sets forth the delegation to its subsidiaries NYSE Regulation and NYSE Market (DE) of the Exchange's regulatory and market functions, respectively.[19]

The Delegation Agreement was executed in 2006 following the merger of New York Stock Exchange, Inc. (''NYSE, Inc.''), with Archipelago Holdings, Inc. As noted, as part of that transaction NYSE Regulation became a separate not-for-profit entity and the NYSE Regulation board of directors assumed the ROC's oversight functions and responsibilities.[20] The Delegation Agreement set forth the terms under which the Exchange delegated its functions to its newly created subsidiaries. It should be noted that, although the Exchange delegated performance of its regulatory functions to NYSE Regulation and the performance of its market functions to NYSE Market (DE), the Exchange retained ultimate responsibility for the operations, rules and regulations developed by NYSE Regulation and NYSE Market (DE) as well as their enforcement.[21]

The Exchange proposes to terminate the Delegation Agreement and re-integrate its regulatory and market functions. The proposed ROC would provide independent oversight of the regulatory function of the Exchange. As the Commission has noted, a complete structural separation of the regulatory and market functions of an SRO is only one of a ''variety'' of ways to ensure the independence of the regulatory process.[22] As noted above, the Exchange believes its proposal to establish a ROC to undertake the oversight of the Exchange's regulatory responsibilities would ensure independence in the regulatory process and would have the additional benefit of aligning the Exchange's corporate governance practices with its industry peers.

The Exchange proposes to functionally separate its regulatory function from its business lines. The Exchange's CRO would head the proposed regulatory department and continue to manage the Exchange's regulatory function, under the oversight of the proposed ROC. The regulatory staff supporting the NYSE's regulatory functions would continue to report to the CRO.[23]

Similarly, following termination of the Delegation Agreement, NYSE Market (DE)'s delegated market responsibilities would once again be performed by the Exchange. In a corporate structure such as the one the Exchange is proposing, where there is not a complete structural separation of the Exchange's regulatory and market functions, a CRO reporting to an independent ROC adds a ''significant degree of independence'' that should ''insulate'' regulatory activity from economic pressures and potential conflicts of interest.[24]

In light of the foregoing, the Exchange believes it appropriate to terminate the Delegation Agreement and delete Rule 20.

The Exchange proposes to make certain conforming amendments to its Rules to reflect the termination of Delegation Agreement and the re-integration of its regulatory operations. In particular, the Exchange proposes to make the following conforming amendments:

• The Exchange proposes to amend Section 4.05 of the Operating Agreement to remove references to ''NYSE Regulation, Inc.'' and replace one reference with ''the Exchange's regulatory staff''. The Exchange also proposes to delete the references to NYSE Regulation ''assets'' to reflect the proposed reintegration of the regulatory function. The crux of the provision would continue to require the Exchange to ensure that any fees, fines or penalties collected by Exchange regulatory staff would not be used for commercial purposes or distributed to NYSE Group, Inc. (which is the ''Member'' for purposes of the Operating Agreement) or any other entity. The proposed revision does not in any way alter previous commitments with respect to the use of fine income; [25]

[18] As discussed below, the Exchange also proposes additional amendments to Rule 497 arising out of the termination of the Delegation Agreement.

[19] *See* Rule 20(a). Rule 20(b) requires that NYSE Market (DE) establish a Market Performance Committee and that NYSE Regulation establish a Regulatory Advisory Committee, each to include persons associated with member organizations and representatives of both those member organizations doing business on the Floor of the Exchange and those who do not do business on the Floor. As discussed below, the Exchange does not propose to retain these committees. Rather, the Exchange proposes that the Committee for Review, which would include persons associated with member organizations and representatives of both those member organizations doing business on the Floor of the Exchange and those who do not do business on the Floor, assume their advisory capacity. *See* note 44, *infra,* and accompanying text.

[20] The merger had the effect of ''demutualizing'' NYSE, Inc., by separating equity ownership from trading privileges, and converting it to a for-profit entity. *See* Securities Exchange Act Release No. 53382, 71 FR 11251, 11254 (February 27, 2006) (SR–NYSE–2005–77) (''Arca Merger Approval Order''). In the resulting re-organization, the Exchange became a wholly-owned subsidiary of NYSE Group Inc., and succeeded to NYSE, Inc.'s registration as a national securities exchange under the Exchange Act. *See id.,* at 11255. NYSE, Inc.'s pre-merger liabilities related to its regulatory functions were transferred to NYSE Regulation. *See id.*

[21] *See* Arca Merger Approval Order, 71 FR at 11264 (the Exchange retains ''ultimate responsibility for the fulfillment of its statutory and self-regulatory obligations under the Act''). The functions the Exchange delegated to NYSE Market (DE) included, among other things, operating the NYSE marketplace, including the automated systems supporting it; providing and maintaining a communications network infrastructure linking market participants for the efficient process and handling of quotations, orders, transaction reports and comparisons of transactions; acting as a Securities Information Processor for quotations and transaction information related to securities traded on NYSE and other trading facilities operated by NYSE Market (DE); administering the Exchange's participation in National Market System Plans; and collecting, processing, consolidating and providing to NYSE Regulation accurate information requisite to operation of the surveillance audit trail. *See generally* Exhibit 5C.

[22] *See* Release No. 34–48946, 68 FR at 74687.

[23] *See id.* The Exchange notes that the BOX Options Exchange's CRO reports to both the ROC and the President of the Exchange. *See* Release No. 34–66871 (April 27, 2012), 77 FR 26323, 26330 (May 3, 2012) (File No. 10–206) (citing BOX Exchange Bylaws Section 7.01). NASDAQ's CRO reports solely to the Chief Executive Officer of NASDAQ. *See* NASDAQ Approval Order, 71 FR at 3555 (citing NASDAQ Bylaws, Article IV, Section 7).

[24] Release No. 34–48946, 68 FR at 74687.

[25] *See* Securities Exchange Act Release No. 55216 (January 31, 2007), 72 FR 5779 (February 7, 2007) (NYSE–2006–109) (approving internal procedures to assure proper exercise of power to fine Exchange member organizations and proper use of fine income). In particular, the Exchange reiterates

• The Exchange proposes to amend Rule 0 (Definitions of Terms), which describes the regulatory services agreement between the NYSE and FINRA, to remove references to ''NYSE Regulation, Inc., NYSE Regulation staff or departments'', retaining the existing reference in Rule 0 to Exchange staff, which reference would encompass the Exchange's regulatory staff;

• The Exchange proposes to amend Rule 1, which defines the term the ''Exchange'', to replace references to ''officer of NYSER'' and ''employee of NYSER'' with ''Exchange officer'' and ''Exchange employee'', respectively;

• The Exchange proposes to amend Rule 22 (Disqualification Because of Personal Interest), which disqualifies member [sic] of certain Exchange boards and committees from considering a matter if there are certain types of indebtedness between the board or committee member and a member organization's affiliate or other related parties, to remove references to ''NYSE Market'' and ''NYSE Regulation'' board of directors;

• The Exchange proposes to amend Supplementary Material .30 of Rule 36 (Communications Between Exchange and Members' Offices), which governs communications between the Exchange and member offices and requires records to ''be maintained in a format prescribed NYSE Regulation'' (sic) to remove the reference to ''NYSE Regulation'' and replace it with ''the Exchange''. The Exchange also proposes to correct the typographical error and add the word ''by'' before ''the Exchange''.

• The Exchange proposes to amend Rule 37 (Visitors), governing admittance of visitors to the Exchange trading Floor, to remove the reference to ''an Officer of NYSE Market or NYSE Regulation'';[26]

• The Exchange proposes to amend Rule 46 (Floor Officials—Appointment) to replace the reference to ''employees of NYSE Regulation, Inc.'' with a reference to the ''Exchange's regulatory employees'';

• The Exchange proposes to amend Rule 48 (Exemptive Relief—Extreme Market Volatility Condition), which sets forth the procedures for invoking an extreme market volatility condition, to replace the reference to ''officers of NYSE Market and NYSE Regulation'' with ''Exchange regulatory and market operational employees that are officers of the Exchange'';

• The Exchange proposes to amend Rule 49 (Emergency Powers), which addresses the Exchange's emergency powers, to replace ''NYSE Regulation, Inc.'' with ''the Exchange'' in the definition of ''qualified Exchange officer''.

• The Exchange proposes to amend subpart (b) of Rule 54 (Dealings on Floor—Persons) to replace ''NYSE Regulation, Inc. (''NYSER'')'' with ''the Exchange's regulatory staff''. Rule 54(b) permits approval of appropriately registered and supervised booth staff of member organizations who are not ''members'' to process orders sent to the booth in the same manner that a sales trader in an ''upstairs office'' is allowed to process orders.

• The Exchange proposes to amend subparts (1) & (7) of Supplementary Material .40 of Rule 70 (Execution of Floor Broker Interest), which provides that a member organization will be permitted to operate a booth premise similar to the member organization's ''upstairs'' office, to replace ''the Exchange's regulatory staff'' for ''NYSE Regulation, Inc. (''NYSER'')'';

• The Exchange proposes to amend Rule 103 (Registration and Capital Requirements of Designated Market Makers (''DMM'') and DMM Units), which governs registration and capital requirements for DMMs, to replace ''the Exchange'' for NYSE Regulation'';

• The Exchange proposes to amend 103A (Member Education), which governs the continuing education requirement for members active on the Exchange trading Floor, to replace ''NYSE Regulation, Inc. (''NYSER'')'' and ''NYSE Regulation, Inc.'' with ''the Exchange'';

• The Exchange proposes to amend 103B (Security Allocation and Reallocation), which governs the security allocation and reallocation process, to replace ''staff of NYSE Regulation'' with ''Exchange regulatory'' staff in Policy Note (G);

• The Exchange proposes to amend 104 (Dealings and Responsibilities of DMMs), which describes DMM functions and responsibilities, to replace ''NYSE Regulation's Division of Market Surveillance'' with ''Exchange regulatory staff'' in subdivision (k);

• The Exchange proposes to amend 422 (Loans of and to Directors, etc.), which prohibits unsecured loans between members of the board of directors or any committee of ICE, ICE Holdings, NYSE Holdings, the Exchange, NYSE Market (DE), and NYSE Regulation or an officer or employee the foregoing without the prior consent of the NYSE Board, to remove references to ''NYSE Market'' and ''NYSE Regulation'';[27]

• The Exchange proposes to amend 476A (Imposition of Fines for Minor Violation(s) of Rules), which sets forth the Exchange's Minor Rule Violation Plan, to replace the reference to ''NYSE Regulation'' with ''Exchange regulatory staff'' in subpart (d) identifying the parties that can contest a fine imposed under the Rule; [28] and

• The Exchange proposes to amend 497 (Additional Requirements for Listed Securities Issued by Intercontinental Exchange, Inc. or its Affiliates), which imposes certain pre-listing approvals and post-listing monitoring requirements on Affiliated Securities (as defined therein) listed on the Exchange, to remove the definition of NYSE Market in Rule 497(a)(4) and the definition of NYSE Regulation in Rule 497(a)(5) and replace references to each with ''the Exchange's regulatory staff'' or ''regulatory staff''.

Deletion of NYSE Regulation and NYSE Market (DE) Constituent Documents

With the termination of the Delegation Agreement, NYSE Regulation and NYSE Market (DE) would no longer be performing the Exchange's regulatory and market functions, respectively. The Exchange believes that the previously filed constituent documents of NYSE Regulation and NYSE Market (DE) would therefore no longer constitute ''rules of the exchange'' under Section 3(a)(27) of the Exchange Act.[29] Accordingly, along with the Delegation Agreement itself, the Exchange proposes to remove the following NYSE Regulation and NYSE Market (DE) constituent documents as rules of the Exchange upon termination of the Delegation Agreement:

• Restated Certificate of Incorporation of NYSE Regulation, Inc. *See* Exhibit 5D.[30]

previous commitments that fines would play no role in the annual regulatory operating budget process and that the use of fine income by Exchange regulatory staff would be subject to review and approval by the proposed ROC. *See* Securities Exchange Act Release No. 55003 (December 22, 2006), 71 FR 78497, 78498 (December 29, 2006) (NYSE–2006–109).

[26] NYSE Market (DE) was formerly known as ''NYSE Market, Inc.'' Accordingly, references to ''NYSE Market'' in the Exchange Rules and Operating Agreement are references to NYSE Market (DE).

[27] In addition, in order to conform references to the Exchange in Rule 422 to other references, ''Exchange LLC'' would be replaced with ''the Exchange''.

[28] Rule 476A is a legacy rule that only applies to proceedings for which a written notice was issued under the Rule prior to July 1, 2013. In 2013, the NYSE adopted aspects of FINRA's process and fine levels for minor rule violations but retained the specific list of rules set forth in Rule 476A and now found in Rule 9217. *See* Securities Exchange Act Release Nos. 68678 (Jan. 16, 2013), 78 FR 5213 (Jan. 24, 2013) and 69045 (Mar. 5, 2013), 78 FR 15394 (Mar. 11, 2013) (SR–NYSE–2013–02).

[29] 15 U.S.C. 78c(a)(27).

[30] The Commission notes that Exhibit 5D is attached to the filing, not to this Notice.

• Seventh Amended and Restated Bylaws of NYSE Regulation, Inc. *See* Exhibit 5E.[31]

• Third Amended and Restated Certificate of Incorporation of NYSE Market (DE), Inc. *See* Exhibit 5F.[32]

• Fourth Amended and Restated Bylaws of NYSE Market (DE), Inc. *See* Exhibit 5G.[33]

• Independence Policy of NYSE Market (DE), Inc. *See* Exhibit 5H.[34]

• Independence Policy of NYSE Regulation, Inc. *See* Exhibit 5I.[35]

Amendment of Operating Agreement To Create DCRC and Change Process for Naming Non-Affiliated Director Candidates

Currently, Section 2.03(a)(iii) of the Operating Agreement provides that Non-Affiliated Director Candidates (also known as Fair Representation directors) are nominated by the nominating and governance committee of the ICE board of directors, which must designate as Non-Affiliated Director Candidates the candidates recommended jointly by the NYSE Market (DE) DCRC and NYSE Regulation DCRC. Section 2.03(a)(iv) describes the process whereby member organizations can nominate alternate candidates to those selected by the NYSE Market (DE) and NYSE Regulation DCRCs.

The Exchange proposes to establish a DCRC as a committee of the Board by adding a new section (h)(i) to Section 2.03 of the Operating Agreement and making conforming changes to Section 2.03(a)(iii) and Section 2.03(a)(iv) to substitute the new proposed DCRC for the NYSE Market (DE) DCRC and NYSE Regulation DCRC in the process for nominating Non-Affiliated Director Candidates. The Exchange believes that once the Delegation Agreement is terminated neither the NYSE Market (DE) DCRC nor the NYSE Regulation DCRC should have a role in process for nominating Non-Affiliated Director Candidates, as they will no longer be delegated regulatory and market responsibilities.

Proposed Section 2.03(h)(i) of the Operating Agreement would provide that the Board would appoint the NYSE DCRC on an annual basis and that the NYSE DCRC would be responsible for recommending Non-Affiliated Director Candidates to the ICE NGC.[36] Proposed Section 2.03(h)(i) would also set out the requirements for the composition of the NYSE DCRC.[37] Specifically, as proposed the DCRC would include individuals that are associated with a member organization and:

• Engage in a business involving substantial direct contact with securities customers;

• are registered as a DMM and spend a substantial part of their time on the trading floor; and

• spend a majority of their time on the trading floor of the Exchange and have as a substantial part of their business the execution of transactions on the trading floor of the Exchange for other than their own account or the account of his or her Member Organization, but are not registered as a DMM.

The proposed DCRC would include at least one individual from each of these categories.

Proposed Section 2.03(h)(i) would also provide that the Board would appoint such individuals after appropriate consultation with representatives of member organizations.

Finally, references to the ''NYSE Market DCRC'' and ''NYSE Regulation DCRC'' in Section 2.03(a)(iii) and Section 2.03(a)(iv) would be replaced by ''NYSE DCRC.''

The Exchange believes that the proposed rule change is consistent with the approach approved for its affiliate NYSE MKT, whose Operating Agreement providing for a DCRC was the model for the NYSE proposal.[38] The proposed rule change would also have the benefit of harmonizing the Exchange's process for selecting Non-Affiliated Director Candidates with its NYSE MKT affiliate. Finally, the proposed rule change would allow the SRO board to have a more direct role in the appointments of Non-Affiliated Director Candidates while respecting the fair representation requirement of Section 6(b)(3) of the Exchange Act,[39] which is intended to give members a voice in the selection of an exchange's directors and the administration of its affairs. In particular, as is the case with the NYSE Regulation DCRC and NYSE Market (DE) DCRC, the proposed DCRC would be composed of persons associated with Exchange member organizations and selected after appropriate consultation with those member organizations. As is the case now, the proposed Operating Agreement would include a process by which members can directly petition and vote for representation on the Exchange Board. The proposal would therefore continue to allow members to have a voice in the Exchange's ''use of its self-regulatory authority'' consistent with Section 6(b)(3) of the Exchange Act.[40]

Amend Operating Agreement To Establish Committee for Review as a Sub-Committee of the ROC

The Exchange proposes to establish a Committee for Review (''CFR'') as a sub-committee of the ROC by adding a new section (h)(iii) to Section 2.03 of the Operating Agreement and making conforming changes to Rules 308, 475, 476, 476A, and 9310. The proposed CFR would be the successor to current CFR, which is a committee of the NYSE Regulation board of directors. Proposed Section 2.03(h)(iii) of the Operating Agreement would accordingly incorporate the salient requirements of the current CFR as set forth in Article III, Section 5 of the NYSE Regulation Bylaws.[41]

Section 2.03(h)(iii) of the Operating Agreement would provide that the Board shall annually appoint a CFR as a sub-committee of the ROC. As is currently the case, proposed Section 2.03(h)(iii) would provide that the CFR would be comprised of both Exchange directors that satisfy the independence requirements[42] as well as persons who

[31] The Commission notes that Exhibit 5E is attached to the filing, not to this Notice.

[32] The Commission notes that Exhibit 5F is attached to the filing, not to this Notice.

[33] The Commission notes that Exhibit 5G is attached to the filing, not to this Notice.

[34] The Commission notes that Exhibit 5H is attached to the filing, not to this Notice.

[35] The Commission notes that Exhibit 5I is attached to the filing, not to this Notice.

[36] The Commission notes that ''ICE NGC'' is defined as ''the nominating and governance committee of the board of directors of ICE'' in Section 2.03(a)(iii) of the Exchange's Operating Agreement.

[37] The proposed requirements are substantially similar to those of the NYSE MKT, NYSE Regulation and NYSE Market (DE) DCRCs. *See* Seventh Amended and Restated Bylaws of NYSE Regulation, Inc., Article III, Section 5; Fourth Amended and Restated Bylaws of NYSE Market (DE), Inc., Article III, Section 5, and Sixth Amended and Restated Operating Agreement of NYSE MKT LLC, Section 2.03(h). However, NYSE MKT has a fourth category of requirements: Individuals that are associated with a member organization and spend a majority of their time on the trading floor of the Exchange and have as a substantial part of their business the execution of transactions on the trading floor of the Exchange for their own account or the account of his or her Member Organization, but are not registered as specialists. Because neither the NYSE Market (DE) DCRC nor the NYSE Regulation DCRC, which the NYSE DCRC is replacing, has this fourth category, the Exchange does not propose to include it in the revised Operating Agreement.

[38] *See* Securities Exchange Act Release No. 58673, 73 FR 57707, 57713 (September 29, 2008) (SR–Amex–2008–62) (''Release No. 34–58673''). In addition, neither NYSE Regulation nor NYSE Market (DE) participates in the NYSE Arca process whereby permit holders nominate directors of NYSE Arca. *See* NYSE Arca Rule 3.2(b)(2).

[39] *See* 15 U.S.C. 78f(b)(3).

[40] *See* Release No. 34–58673, 73 FR at 57713.

[41] *See* Arca Merger Approval Order, 71 FR at 11259 & 11266.

[42] *See* note 9 *supra*. Because the majority of the Exchange Board must be independent and any Non-Affiliated Director must be independent, as a

are not directors. Like the current CFR, the Exchange also proposes that a majority of the members of the CFR voting on a matter subject to a vote of the CFR must be directors of the Exchange.

Further, proposed Section 2.03(h)(iii) would provide that among the persons on the CFR who are not directors would be included representatives of member organizations that engage in a business involving substantial direct contact with securities customers (upstairs firms), DMMS, and floor brokers. Once again, this is the way the current CFR is structured.[43]

Like the current CFR, proposed Section 2.03(h)(iii) would provide that the CFR would be responsible for reviewing the disciplinary decisions on behalf of the Board and reviewing determinations to limit or prohibit the continued listing of an issuer's securities on the Exchange.[44]

As noted above, the Exchange does not propose to retain a Market Performance Committee or a Regulatory Advisory Committee to act in an advisory capacity regarding trading rules and disciplinary matters and regulatory rules other than trading rules, respectively. Historically, these advisory committees have been composed of persons associated with member organizations and representatives of both those member organizations doing business on the Exchange's trading floor and those who do not do business on the Floor.

The Exchange notes that the same categories of members would be represented on the proposed CFR, whose mandate as set forth in proposed Section 2.03(h)(iii) would include acting in an advisory capacity to the Board with respect to disciplinary matters, the listing and delisting of securities, regulatory programs, rulemaking and regulatory rules, including trading rules. The proposed CFR would therefore serve in the same advisory capacity as the Market Performance and Regulatory Advisory Committees. The Exchange accordingly believes that retaining the Market Performance Committee or Regulatory Advisory Committee would be redundant and unnecessary. Moreover, the Exchange believes that member participation on the proposed CFR would be sufficient to provide for the fair representation of members in the administration of the affairs of the Exchange, including rulemaking and the disciplinary process, consistent with Section 6(b)(3) of the Exchange Act.[45]

Finally, the Exchange proposes to make conforming amendments to Rules 308, 475, 476, 476A and 9310 to replace references to the current NYSE Regulation CFR with references to the ''Committee for Review''.

The Exchange believes that the proposed rule change is consistent with the approach approved for the current CFR which, as noted, was the model for the current proposal.[46] The proposed rule change is also consistent with the fair representation requirement of Section 6(b)(3) of the Exchange Act,[47] which is intended to give members a voice in the selection of an exchange's directors and the administration of its affairs. In particular, as is the case with the current CFR, the proposed CFR would be composed of persons associated with Exchange members and selected after appropriate consultation with those members. The proposal would therefore continue to provide for the fair representation of members in the ''administration of the affairs of the exchange'', including the disciplinary process, consistent with Section 6(b)(3) of the Exchange Act.[48]

Amendments to Rules 48, 49, 86 and 9310

The Exchange also proposes to amend Rule 48 (Exemptive Relief—Extreme Market Volatility Condition), Rule 49 (Emergency Powers) and Rule 86 (NYSE Bonds℠) to replace references to the Chief Executive Officer of NYSE Regulation with references to the CRO of the Exchange.

Rule 48 currently provides that, for purposes of the rule,[49] a ''qualified Exchange officer'' means the Chief Executive Officer of ICE, or his or her designee, or the Chief Executive Officer of NYSE Regulation, Inc., or his or her designee. Rule 86 currently provides that Clearly Erroneous Execution panels in connection with trades on NYSE MKT Bonds[50] be comprised of the Chief Executive Officer of NYSE Regulation or a designee and representatives from two members or member organizations that are users of NYSE Bonds. Finally, Rule 49 addresses the Exchange's emergency powers and defines the term ''qualified Exchange officer'' as, *inter alia,* the ''NYSE Regulation, Inc. Chief Executive Officer'' or his or her designee.

''Chief Executive Officer'' of NYSE Regulation is used in these four rules but CRO is used throughout the Exchange's rules to designate the same person.[51] In particular, CRO is used in Rule 128 (Clearly Erroneous Executions for NYSE Equities) to designate the individual who can participate or designate participants on a CEE panel. CRO is also used to identify the participant in various panels adjudicating Exchange decisions affecting member organizations, including panels convoked under Rule 13 (Orders and Modifiers) for member organizations to dispute an Exchange decision to disqualify it from submitting ''retail'' orders; Rule 88 (Bonds Liquidity Providers) for member organizations to dispute an Exchange decision to disapprove or disqualify it as a Bonds Liquidity Provider; Rule 107B (Supplemental Liquidity Providers) for member organizations to dispute a determination by the Supplemental Liquidity Provider Liaison Committee to impose a non-regulatory penalty under the Rule; and Rule 107C (Retail Liquidity Program) for member organizations to dispute an Exchange decision to disapprove or disqualify it from the participating in the Retail Liquidity Program. Accordingly, the Exchange proposes to replace references to ''Chief Executive Officer'' of NYSE Regulation in Rules 48, 49 and 86 with either the term

functional matter if the Exchange has a five person Board, four of the five directors would qualify for CFR membership. *See* Operating Agreement Article II, Section 2.03(a).

[43] *See id.*

[44] *See* Arca Merger Approval Order, 71 FR at 11259 & 11266. Currently, these powers are set forth in the charter of the NYSE Regulation CFR, which also states that the CFR can provide general advice to the NYSE Regulation board of directors of in connection with disciplinary, listing and other regulatory matters. The Exchange proposes to delineate the appellate and advisory powers of the proposed CFR in Section 2.03(h)(iii) of the Operating Agreement. Further, as discussed below, the Exchange proposes to conform Rules 308, 475, 476, 476A and 9310 governing review of disciplinary appeals to the proposal. Appeals of delisting determinations are governed by Rule 8.04 of the NYSE Listed Company Manual, which provides that delisting determinations are to be reviewed by a ''Committee of the Board of Directors of the Exchange''. The Exchange does not propose to amend Rule 8.04 because the proposed CFR would be the referenced committee of the Board.

[45] *See* 15 U.S.C. 78f(b)(3).

[46] *See* Arca Merger Approval Order, 71 FR at 11259 & note 41, *supra.*

[47] *See* 15 U.S.C. 78f(b)(3).

[48] *See* Arca Merger Approval Order, 71 FR at 11260.

[49] Rule 48 provides that the Exchange can invoke an extreme market volatility condition at the open (or reopen of trading following a market-wide halt of securities) during which time the Exchange can suspend NYSE Rules 15, 79A.30, and 123D(1) regarding obtaining certain prior Floor Official approvals and requirements for mandatory indications.

[50] NYSE Bonds is the Exchange's electronic bond trading platform. Rule 86 prescribes what bonds are eligible to trade on the NYSE Bonds platform and how bonds are traded on the platform, including the receipt, execution and reporting of bond transactions.

[51] *See, e.g.,* Rules 1, 13, 88, 107B, 107C, 128, 9120, 9216, 9270, 9522, 9523, 9610, 9810, 9524, 9556, 9557, 9558, 9559, and 9860.

''Chief Regulatory Officer'' or ''CRO'', as appropriate.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [52] in general, and with Section 6(b)(1) [53] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposed change would create an independent board committee to oversee the adequacy and effectiveness of the performance of the Exchange's self-regulatory responsibilities. The proposed ROC, similar in composition and functions to the approved ROCs of other SROs, would be designed to oversee the Exchange's regulatory and self-regulatory organization responsibilities and evaluate the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities; assess the Exchange's regulatory performance; and advise and make recommendations to the Board or other committees of the Board about the Exchange's regulatory compliance effectiveness and plans. Accordingly, the Exchange believes that the proposed rule change would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance by its members and persons associated with its members, with the provisions of the Exchange Act. The Exchange therefore believes that approval of the amendments to the Operating Agreement is consistent with Section 6(b)(1).

The proposal to terminate the Delegation Agreement would allow the Exchange to re-integrate its regulatory and market functions with an independent ROC to undertake the oversight of the Exchange's regulatory responsibilities. The Exchange believes that this proposed structure would adequately ensure sufficient independence in the regulatory process and would have the additional benefit of aligning the Exchange's corporate governance practices with its industry peers. The Exchange therefore believes that termination of the Delegation Agreement and deletion of Rule 20, which sets forth the terms of the Exchange's delegation to its subsidiaries, is consistent with Section 6(b)(1). For the same reasons, the proposal to remove from the Exchange rules certain organizational documents of NYSE Regulation and NYSE Market (DE) in connection with the proposed termination of the Delegation Agreement is also consistent with Section 6(b)(1).

Further, the proposal to create a DCRC that would also be similar in composition and functions to the DCRC of the Exchange's affiliate NYSE MKT would bring the Exchange's process for nominating Non-Affiliated Director Candidates into greater conformity with the process of its affiliate and give the Exchange a more direct role in the appointments of Non-Affiliated Director Candidates. Accordingly, the Exchange believes the proposed creation of a DCRC is consistent with the fair representation requirement of Section 6(b)(3) of the Exchange Act,[54] which is intended to give members a voice in the selection of an exchange's directors and the administration of its affairs.

Similarly, the proposal to establish a CFR as a sub-committee of the ROC, which, among other things, is charged with hearing appeals of disciplinary determinations, complies with the Exchange Act's requirement to provide for a fair procedure for the disciplining of member and persons associated with members. The proposed ROC [sic] would be composed of both Exchange directors that satisfy the independence requirements (*i.e.,* any Exchange director, other than the chief executive officer) as well as persons who are not directors; the Exchange proposes that a majority of the members of the CFR voting on a matter subject to a vote of the CFR, however, must be directors of the Exchange. Further, the proposed CFR would include among the members who are not directors representatives of member organizations that engage in a business involving substantial direct contact with securities customers (upstairs firms), DMMS, and floor brokers. Accordingly, the Exchange believes the proposed creation of a ROC [sic] is consistent with Section 6(b)(7) of the Exchange Act,[55] which, among other things, requires that the rules of a national securities exchange provide a fair procedure for the disciplining of members and persons associated with members.

The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act [56] because the proposed rule change would be consistent with and facilitate a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. As discussed above, the Exchange believes that the proposed creation of the ROC would align the Exchange's corporate governance practices with other SROs that have adopted a ROC to monitor the adequacy and effectiveness of the regulatory program, assess regulatory performance, and assist the board of directors in reviewing the regulatory plan and the overall effectiveness of the regulatory function. The Exchange believes that an independent ROC would ensure the integrity and independence of the regulatory process and would protect investors and the public interest. For the same reasons, the proposed termination of the Delegation Agreement and deletion of Rule 20 following creation of the proposed ROC would be consistent with Section 6(b)(5) of the Exchange Act.

Deletion of certain organizational documents of NYSE Regulation and NYSE Market (DE) from Exchange rules removes impediments to and perfects a national market system because it would reduce potential confusion that may result from having these documents remain Exchange rules following the proposed termination of the Delegation Agreement when NYSE Regulation and NYSE Market (DE) would no longer be performing the Exchange's regulatory and market functions, respectively.

Similarly, the Exchange believes that the proposed creation of a DCRC would carry forward the Exchange's current governance structure and continue to satisfy the fair representation requirements, thereby furthering the objectives of Section 6(b)(5) of the Exchange Act. The Exchange believes that the proposed rule change is therefore consistent with and facilitates a governance and regulatory structure that furthers the objectives of Section 6(b)(5) of the Exchange Act.

[52] 15 U.S.C. 78f(b).

[53] 15 U.S.C. 78f(b)(1).

[54] *See* 15 U.S.C. 78f(b)(3).

[55] *See* 15 U.S.C. 78f(b)(7).

[56] 15 U.S.C. 78f(b)(5).

The Exchange also believes that having the CFR serve in the advisory capacity of the Market Performance Committee and Regulatory Advisory Committee is consistent with and facilitates a governance and regulatory structure that furthers the objectives of Section 6(b)(5) of the Exchange Act. The Exchange believes that member participation on the proposed CFR would be sufficient to provide for the fair representation of members in the administration of the affairs of the Exchange, including rulemaking and the disciplinary process, consistent with Section 6(b)(3) of the Exchange Act.

The Exchange believes that eliminating references to ''Chief Executive Officer'' of NYSE Regulation in Rules 48, 49 and 86 and replacing them with CRO, which is used throughout the Exchange's rules, removes impediments to and perfects a national market system because it would reduce potential confusion that may result from retaining different designations for the same individual in the Exchange's rulebook. Removing potentially confusing conflicting designations would also further the goal of transparency and add consistency to the Exchange's rules.

Finally, making conforming amendments to Rules 0, 1, 22, 36, 37, 46, 46A, 48, 49, 54, 70, 103, 103A, 103B, 104, 308, 422, 475, 476, 476A, 497 and 9310 in connection with creation of the proposed ROC and the CFR subcommittee and termination of the Delegation Agreement removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete references in the Exchange's rulebook. The Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rulebook. The Exchange believes that eliminating obsolete references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with the administration and functioning of the Exchange's board of directors.

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 *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove 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–NYSE–2015–27 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–NYSE–2015–27. 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 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–NYSE–2015–27 and should be submitted on or before July 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[57]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15984 Filed 6–29–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75290; File No. SR–OCC–2014–810]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection to an Advance Notice Concerning Modifications To Backtesting Procedures in Order To Enhance Monitoring of Margin Coverage and Model Risk Exposure

June 24, 2015.

On November 13, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–OCC–2014–810 (''Advance Notice'') pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under

[57] 17 CFR 200.30–3(a)(12).

[1] 12 U.S.C. 5465(e)(1). The Financial Stability Oversight Council designated OCC a systemically important financial market utility on July 18, 2012. *See* Financial Stability Oversight Council 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.* Therefore, OCC is

Continued

the Securities Exchange Act of 1934 (''Exchange Act'') to modify backtesting procedures to better identify and make improvements to its monitoring of its margin methodology and to enhance its ability to manage risk.[2] The Advance Notice was published for comment in the **Federal Register** on December 11, 2014.[3] On January 9, 2015, pursuant to section 806(e)(1)(D) of the Payment, Clearing and Settlement Supervision Act,[4] the Commission required OCC to provide additional information concerning the Advance Notice.[5] The Commission did not receive any comments on the Advance Notice. This publication serves as a notice of no objection to the Advance Notice.

I. Description of the Advance Notice

As described in OCC's Notice,[6] the proposed change modifies OCC's backtesting procedures to enhance its monitoring of margin coverage and model risk exposure. Such monitoring will allow OCC to better identify and make improvements to its margin methodology and thus enhance OCC's ability to manage risk.[7]

OCC implements backtesting procedures to test its methodology for determining the amount of margin to collect from clearing members and validate the assumptions and mechanisms inherent in its methodology and to make any necessary changes to the methodology. Each trading day, OCC estimates the risk exposure of accounts and uses this estimate as a basis for each account's margin charge. On the following business day, OCC's current backtesting procedures compare an account's observed profit and loss (''P&L'') with the prior day's estimated risk using a variety of analytical and statistical tools. These daily tests measure the performance of OCC's risk measures for each account, and, therefore, also measure the performance of OCC's underlying margin methodology. OCC's backtesting program enables OCC to assess performance of its margining systems and determine whether financial risks are adequately or inadequately captured by the quantitative models in use.

OCC has conducted daily backtesting of margin accounts since 2006. OCC employs the ''traffic light'' test published by the Basel Committee on Banking Supervision in 1996 (the ''Traffic Light Test'').[8] In conducting the Traffic Light Test, OCC determines the actual number of instances in which the realized loss on an account exceeded the margin, referred to as an ''exceedance,'' over an observation period of one year. The number of exceedances during the observation period is compared against the number of expected exceedances under the assumption that the exceedances are independent and identically distributed over time. When backtesting results reveal the potential opportunity for remediation of OCC's margin methodology, OCC undertakes a root cause analysis to determine the cause of any issues. Any significant shortcomings of OCC's methodology lead to OCC undertaking a model improvement project designed to correct the problems. After analyzing the exceedances, OCC provides monthly reports to OCC's Enterprise Risk Management Committee (''ERMC''), which include, among other things, pertinent conclusions based on results from the full set of backtests.

OCC analyzed its backtesting program and identified several enhancements to the program, as discussed in more detail below: (1) Enhancement of and increase in the number of statistical tests, (2) data set changes, (3) forecast horizon changes, and (4) root cause analysis changes.

1. Enhancement of and Increase in the Number of Statistical Tests

As proposed in the Notice, OCC will enhance an existing statistical test and add three new statistical tests. OCC proposed to enhance its existing Traffic Light Test so that it may be applied to exceedances across all of OCC's margin accounts. Given that exceedances are not independent across margin accounts, OCC will enhance this test to address the dependency of exceedances between accounts.

In addition to the enhanced Traffic Light Test, OCC will implement three other industry standard tests related to exceedances in order to provide a more comprehensive set of tests. First, OCC will add the Kupiec Test,[9] which is a new proportion of failures test that compares the actual number of exceedances with the number that would be expected in light of the confidence level associated with the calculation of margin. For example, when calculating margin with a confidence level of 99%, the number of exceedances is expected to be 1% of the total observations (*i.e.,* the P&Ls for all accounts for all days during the measurement period). If the actual number of exceedances is near the expected number, this is an indication that the calculated margin requirements are not inaccurate estimates of the accounts' estimated losses.

Second, OCC will add the Christoffersen Independence Test,[10] which is a new statistical test that measures the extent to which exceedances are independent of each other. Specifically, if OCC's margin models are correctly assessing risk, the probability of an exceedance occurring at any two points in time should be the same as the probability of an exceedance occurring at either point in time, individually, without the exceedance occurring at the other point in time. Third, OCC will add the Probtile test, which compares the distribution of the daily observed P&L to the daily forecasted P&L distribution. If the distribution of these P&L ratios approximates a uniform random distribution, this is an indication that OCC's margin models are not providing inaccurate forecasts of potential losses in an account. Combined, these new statistical tests will provide OCC with additional pertinent information to evaluate the effectiveness of its models in determining margin coverage.

2. Data Set Changes

In addition to the changes to its backtesting program, as described above, OCC also will make two enhancements to the data sets being backtested to allow for testing against various assumed portfolio and market data scenarios, in addition to the performance of actual portfolios against actual, current market conditions. First, OCC will backtest hypothetical portfolios, allowing for the design and monitoring of portfolios that have magnified sensitivities to particular aspects of the models used in the

required to comply with the Clearing Supervision Act and file advance notices with the Commission. *See* 12 U.S.C. 5465(e).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] *See* Securities Exchange Act Release No. 73749 (December 5, 2014), 79 FR 73673 (December 11, 2014) (SR–OCC–2014–810) (''Notice'').

[4] 12 U.S.C. 5465(e)(1)(D).

[5] The Commission received a response from OCC with the additional information for consideration on April 29, 2015, which, pursuant to Sections 806(e)(1)(E) and (G) of the Payment, Clearing and Settlement Supervision Act, initiated a new 60 day period of review. *See* 12 U.S.C. 5465(e)(1)(E) and 12 U.S.C. 5465(e)(1)(G).

[6] *See supra* note 3.

[7] If OCC determines that the results of these modified backtesting procedures require changes to its margin model, OCC may be required to file an advance notice to effect those changes. *See id.*

[8] *See* ''Supervisory Framework for the Use of 'Backtesting' in Conjunction with Internal Model Approach to Market Risk Capital Requirement.'' Located at *http://www.bis.org/publ/bcbs22.htm.*

[9] *See,* Kupiec, P. ''Techniques for Verifying the Accuracy of Risk Management Models,'' Journal of Derivatives, v3, P73–84 (1995).

[10] *See,* Christoffersen, Peter, ''Evaluating Interval Forecasts.'' International Economic Review, 39 (4), 841–862 (1998).

margin computations. Backtesting against hypothetical portfolios will provide a more comprehensive insight into the adequacy of the underlying model assumptions under market conditions prevailing in the backtest observation periods.

Under the second data set enhancement, OCC will backtest current accounts against earlier observation periods. The market data observed over the observation period is used to generate the margin forecasts and P&L and observation periods will be chosen to reflect special market conditions. OCC believes this enhancement should be useful because even though margin coverage might be adequate in the current environment, margin coverage could be inadequate under stressed conditions, such as periods of high volatility. The ability to select specific observation periods will not limit the backtesting to the current environments but rather will highlight performance of margin coverage and model performance in market scenarios other than prevailing market conditions.

3. Forecast Horizons Changes

Currently, OCC conducts backtesting using a one-day time horizon, which means that it compares calculated margin with realized P&Lthat occur on the business day following the calculation. However, OCC's margin calculations assume that positions will be liquidated over a two-day period, resulting in the test comparing two-day margin numbers to a one-day P&L calculation. This difference requires OCC to make adjustments to its existing backtesting methodology in its testing to account for the difference between the two-day liquidation period used in its margin calculation and the one-day horizon used in the P&L calculation.

Pursuant to the proposal, OCC will revise its backtesting methodology to take into account losses over a two-day time horizon, which will match the two-day liquidation period used in the margin calculation without such adjustments. OCC will implement the necessary functionality into its backtesting system to conduct a two-day time horizon backtest, which will compare calculated margin against a two-day P&L calculation. OCC also will revise its backtesting methodology to compare one-day margin calculations against one-day P&L calculations, and will implement system functionality for such a test. All issues identified in any of these backtesting results will be reported to the ERMC. OCC believes that its adoption of the additional forecast horizons tests will allow it to have a more accurate view of the sufficiency of its margin methodology.

4. Root Cause Analysis Changes

Currently, OCC's backtesting staff conducts investigations, as necessary, in order to identify the root cause of exceedances. The investigation itself is a manual process that is dependent upon the facts and circumstances pertaining to a given exceedance. Pursuant to its proposal, OCC will now make system modifications that will provide OCC's backtesting staff with additional tools to facilitate such investigations. Specifically, OCC will add system functionality that should reveal attribution of losses due to underlying price movements and implied volatility movements. Further, these improvements will allow OCC to incorporate hypothetical accounts and positions into the tests and will allow OCC to identify risk factors that move above or below the projected values. These changes should improve OCC's ability to conduct investigations and root cause analyses that identify the root cause of exceedances by providing OCC with additional automated investigative tools which should, in turn, lead to improving OCC's backtesting methodology and its margin coverage.

II. Discussion and Commission Findings

Although Title VIII does not specify a standard of review for an advance notice, the Commission believes that the stated purpose of Title VIII is instructive.[11] The stated purpose of Title VIII is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically-important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[12]

Section 805(a)(2) of the Payment, Clearing and Settlement Supervision Act[13] authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator. Section 805(b) of the Payment, Clearing and Settlement Supervision Act[14] states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Payment, Clearing and Settlement Supervision Act (''Clearing Agency Standards'').[15] The Clearing Agency Standards became effective on January 2, 2013, and require registered clearing agencies that perform central counterparty (''CCP'') services to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[16] As such, it is appropriate for the Commission to review advance notices against these Clearing Agency Standards, and the objectives and principles of these risk management standards as described in Section 805(b) of the Payment, Clearing and Settlement Supervision Act.[17]

The Commission believes that the proposal in this Advance Notice is designed to further the objectives and principles of Section 805(b) of the Payment, Clearing and Settlement Supervision Act.[18] The Commission believes that the additional backtesting improvements should promote robust risk management by providing OCC with additional tools to test the performance of its margin methodology in a more comprehensive manner and better evaluate the effectiveness of its models in determining model coverage. First, the enhancement to OCC's existing Traffic Light Test and the adoption of the three new statistical tests should provide a more comprehensive set of tests for it to use to evaluate its margin models. Second, the enhancement of the data sets to be backtested should provide OCC with additional informative data on the performance of margin coverage and model performance in market scenarios other than prevailing market conditions.

[11] *See* 12 U.S.C. 5461(b).

[12] *Id.*

[13] 12 U.S.C. 5464(a)(2).

[14] 12 U.S.C. 5464(b).

[15] 17 CFR 240.17Ad–22.

[16] The Clearing Agency Standards are substantially similar to the risk management standards established by the Board of Governors of the Federal Reserve System governing the operations of designated financial market utilities that are not clearing entities and financial institutions engaged in designated activities for which the Commission or the Commodity Futures Trading Commission is the Supervisory Agency. *See* Financial Market Utilities, 77 FR 45907 (August 2, 2012).

[17] 12 U.S.C. 5464(b).

[18] 12 U.S.C. 5464(b).

Third, revising the backtesting methodology to take into account losses over a two-day time horizon, should allow OCC to have a more accurate view of the sufficiency of its margin methodology. Finally, system modifications that should reveal attribution of losses due to underlying price movements and implied volatility movements should provide OCC with additional, automated investigative tools to conduct analysis into the root causes of exceedances.

In addition, the Commission believes that the proposal in this Advance Notice is consistent with Clearing Agency Standards, in particular, Rule 17Ad–22(b)(4) under the Exchange Act,[19] which, in relevant part, requires registered clearing agencies that perform central counterparty services establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for an annual model validation consisting of evaluating the performance of the clearing agency's margin models and the related parameters and assumptions associated with such models. The Commission believes that this proposal is consistent with Exchange Act Rule 17Ad–22(b)(4)[20] because it provides OCC with the ability to employ improved statistical tests to better evaluate the performance of its margin models and thus improving its ability to validate such models.

III. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Payment, Clearing and Settlement Supervision Act,[21] that the Commission *does not object* to advance notice proposal (SR–OCC–2014–810) and that OCC is *authorized* to implement the proposal.

By the Commission.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15994 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 240.17Ad–22(b)(3).

[20] *Id.*

[21] 12 U.S.C. 5465(e)(1)(I).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Aspire Japan, Inc., Market & Research Corp. (n/k/a MRC Group Ltd.), McIntosh Bancshares Inc., Pure Minerals, Inc. (f/k/a Pure Pharmaceuticals Corp.) and Salamon Group, Inc.; Order of Suspension of Trading

June 26, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Aspire Japan, Inc. (CIK No. 1317838) (''ASJP'' [1]), a void Delaware corporation with its principal place of business in Los Angeles, California, with stock quoted on OTC Link (previously, ''Pink Sheets'') operated by OTC Markets Group Inc. (''OTC Link'') because it has not filed any periodic reports since the period ended April 30, 2011. On June 26, 2013, the Division of Corporation Finance (''Corporation Finance'') sent a delinquency letter to ASJP requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but ASJP did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Market & Research Corp. (n/k/a MRC Group Ltd. (CIK No.) 1009830) (''MTRE''), a void Delaware corporation with its principal place of business in Westport, Connecticut, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended June 30, 2010. On April 29, 2013, Corporation Finance sent a delinquency letter to MTRE requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but MTRE did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of McIntosh Bancshares Inc. (CIK No. 872545) (''MITB''), a Georgia corporation with its principal place of business in Jackson, Georgia, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended September 30, 2010. On April 29, 2013, Corporation Finance sent a delinquency letter to MITB requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but MITB did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pure Minerals, Inc. (f/k/a Pure Pharmaceuticals Corp.) (CIK No. 1364326) (''PPMA''), a revoked Nevada corporation with its principal place of business in Montreal, Quebec, Canada, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended December 31, 2010. On June 25, 2013, Corporation Finance sent a delinquency letter to PPMA requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission which was delivered.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Salamon Group, Inc. (CIK No. 1274211) (''SLMU''), a revoked Nevada corporation with its principal place of business in Kelowna, British Columbia, with stock quoted on OTC Link because it has not filed any periodic reports since the period ended June 30, 2012. On September 16, 2014, Corporation Finance sent a delinquency letter to SLMU requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but SLMU did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that

[1] The short form of each issuer's name is also its ticker symbol.

trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on June 26, 2015, through 11:59 p.m. EDT on July 10, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–16148 Filed 6–26–15; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, July 2, 2015 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Adjudicatory matters; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: June 25, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–16095 Filed 6–26–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75293; File No. SR–Phlx–2015–29]

Self-Regulatory Organizations; NASDAQ OMX Phlx LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, To Amend and Restate Certain Rules That Govern the NASDAQ OMX PSX

June 24, 2015.

I. Introduction

On March 20, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend and restate certain Phlx rules that govern NASDAQ OMX PSX (''PSX'') in order to provide a clearer and more detailed description of certain aspects of its functionality. The proposed rule change was published for comment in the **Federal Register** on April 6, 2015.[3] The Commission received no comment letters regarding the proposed rule change. On May 13, 2015, the Commission extended to July 5, 2015, the time period in which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.[4] On June 22, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.[5] This order approves the proposed rule change, as amended, on an accelerated basis.

II. Description of the Amended Proposal

The Exchange proposes to amend and restate certain Phlx rules that govern PSX in order to provide additional detail and clarity regarding its order type functionality.[6] This proposed rule change is a response to Chair White's request that each equities exchange conduct a comprehensive review of the operation of each of the order types that it offers to members.[7]

While the Exchange believes that its current rules and other public disclosures provide a comprehensive description of the operation of PSX and are sufficient for members and the investing public to have an accurate understanding of its market structure, it also acknowledges that a restatement of certain rules will further clarify the operation of its system.[8] For instance, Phlx believes that adding examples of order type operation to its rules will promote greater understanding of the Exchange's market structure.[9] In addition, Phlx asserts that certain functionality previously described as an ''order type'' is more precisely characterized as an attribute that may be added to a particular order.[10] Accordingly, this proposed rule change distinguishes between ''Order Types'' and ''Order Attributes,'' and provides descriptions of the Order Attributes that may be attached to particular Order Types.[11]

Currently, Phlx Rule 3301 (Definitions) sets forth most of the rules governing Order Types and Order Attributes, as well as other defined terms that pertain to trading securities on PSX.[12] Phlx proposes to amend Rule 3301. Phlx also proposes to amend the definitions pertaining to Order Types and Order Attributes and to relocate them from Rule 3301 to new Rules 3301A (Order Types) and 3301B (Order Attributes), respectively.[13] In addition, Phlx proposes to delete Rule 3305 as the information contained therein is superseded by proposed Rules 3301A and 3301B.[14] Lastly, Phlx proposes certain conforming and technical changes to Rule 3306.[15]

Phlx represents that, except where specifically stated otherwise, all proposed rules are restatements of existing rules and are not intended to reflect substantive changes to rule text or the operation of PSX.[16] Proposed Rule 3301A related to Order Types

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74618 (March 31, 2015), 80 FR 18452 (''Notice'').

[4] *See* Securities Exchange Act Release No. 74954, 80 FR 28739 (May 19, 2015).

[5] In Amendment No. 1, the Exchange proposed to correct typographical errors in the original filing, further improve the clarity of certain rule language, and include additional explanation with regard to the purpose of the proposed rule change.

[6] *See* Notice, 80 FR at 18452–53.

[7] *See id.* at 18453; *see also* Mary Jo White, Chair, Commission, Speech at the Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014), *available at http://www.sec.gov/News/Speech/Detail/Speech/1370542004312.*

[8] *See* Notice, 80 FR at 18453.

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *See* Rule 3301.

[13] *See* proposed Rules 3301A and 3301B.

[14] *See* Rule 3305.

[15] Phlx states that, in subsequent proposed rule changes, it plans to restate the remainder of its Rules numbered 3302 through 3316 so that they appear sequentially following Rule 3301B.

[16] *See* Notice, 80 FR at 18453.

contains definitions and descriptions of Price to Comply Orders, Price to Display Orders (referred to as ''Price to Comply Post Orders'' in current Rule 3301),[17] Non-Displayed Orders, Post-Only Orders, and Market Maker Peg Orders. Proposed Rule 3301B related to Order Attributes contains definitions and descriptions of time-in-force (''TIF'') modifiers, order size, order price, pegging, minimum quantity, routing, discretion, reserve size, attribution, intermarket sweep order designation, and display.[18]

In Amendment No. 1, the Exchange proposes to add language further explaining the operation of the following order types: Post-Only Orders, orders with a TIF of IOC, including Routable Orders and Post-Only Orders; Market Maker Peg Orders; orders with Midpoint Pegging, Primary Pegging or Market Pegging; and orders designated with both Pegging and Routing attributes.[19] For example, the Exchange states that for Order Types that list both Pegging and Routing as possible Order Attributes, the two Order Attributes may be combined since Pegging serves to establish the price of the order, while Routing establishes the market center(s) to which the system's routing functionality may direct a routed order if liquidity is available at that price.[20] The Exchange also proposes to add further specification regarding the availability of certain order types only through certain communication protocols by stating that a Post-Only Order with a TIF of IOC may not be entered through the RASH or FIX protocols.[21] In addition, the Exchange proposes to add language stating that one or more Order Attributes may be assigned to a single order, but if the use of multiple Order Attributes would result in contradictory instructions, the system will reject the order or remove non-conforming Order Attributes.[22]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[24] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that the Exchange believes that the proposal is consistent with section 6(b)(5) of the Act because the reorganized and enhanced descriptions of its Order Types, Order Attributes, and related System functionality should promote just and equitable principles of trade and perfect the mechanisms of a free and open market and the national market system by providing greater clarity concerning certain aspects of the System's operations.[25] In addition, the Commission notes that Phlx believes that the proposed rule change should contribute to the protection of investors and the public interest by making Phlx's rules easier to understand.[26] Further, Phlx believes that additional specificity in its rules will promote a better understanding of the Exchange's operation, thereby facilitating fair competition among brokers and dealers and among markets.[27]

The Commission notes that, according to the Exchange, the proposal does not add any new functionality but instead re-organizes the Exchange's order type rules and provides additional detail regarding the order type functionality currently offered by the Exchange. Based on the Exchange's representation, the Commission believes that the proposed rule change does not raise any novel regulatory considerations and should provide greater specificity, clarity and transparency with respect to the order type functionality available on the Exchange. In addition, the Commission notes that the Exchange's proposed rule changes provide additional detail related to functionality for certain order types and the handling of orders during initial entry and after posting to the PSX Book. Accordingly, the Commission believes that this proposed rule change should provide greater transparency with respect to the Exchange's order type functionality. For these reasons, the Commission believes that the proposal should help to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Commission finds good cause to approve the filing, as amended by Amendment No. 1 to the proposed rule change, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The proposed amendments should further increase the Exchange's transparency with respect to the operation of various order types and modifiers, and serve to enhance investors' understanding of the tools available with respect to the handling of their orders. Accelerated approval would allow the Exchange to update its rule text immediately, thus providing users with greater clarity with respect to the use and potential use of functionality offered by the Exchange. In addition, the initial proposal was open for comment for twenty-one days after publication and generated no comment. Accordingly, the Commission believes that good cause exists, consistent with sections 6(b)(5) and 19(b) of the Act,[28] to approve the filing, as amended by Amendment No. 1 to the proposed rule change, on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2015–029 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.

[17] *See* Notice, 80 FR at 18456 n.29.

[18] The Notice contains additional details related to proposed Rules 3301A and 3301B. *See* Notice, 80 FR at 18452–70.

[19] *See* Amendment No. 1.

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] 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).

[24] 15 U.S.C. 78f(b)(5).

[25] *See* Notice, 80 FR at 18467.

[26] *Id.*

[27] *Id.*

[28] 15 U.S.C. 78f(b)(5); 15 U.S.C. 78s(b).

All submissions should refer to File Number SR–Phlx–2015–029. 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–Phlx–2015–029 and should be submitted on or before July 21, 2015.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[29] that the proposed rule change (SR–Phlx–2015–29) be, and it hereby is, approved on an accelerated basis, as amended.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15974 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Accres Holding, Inc., FirstBank Financial Services, Inc., MicroSmart Devices, Inc., Polymedix, Inc., RegenoCELL Therapeutics, Inc., and The Sagemark Companies Ltd.; Order of Suspension of Trading

June 26, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Accres Holding, Inc. (CIK No. 1158201) (''ACCE'' [1]), a void Delaware corporation with its principal place of business in Shelton, Connecticut, with stock quoted on OTC Link (previously, ''Pink Sheets'') operated by OTC Markets Group Inc. (''OTC Link'') because it has not filed any periodic reports since the period ended September 30, 2010. On June 27, 2013, the Division of Corporation Finance (''Corporation Finance'') sent a delinquency letter to ACCE requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but ACCE did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of FirstBank Financial Services, Inc. (CIK No. 1316410) (''FBFS''), a non-compliant Georgia corporation with its principal place of business in McDonough, Georgia, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended June 30, 2008. On November 22, 2011, Corporation Finance sent a delinquency letter to FBFS requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but FBFS did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MicroSmart Devices, Inc. (CIK No. 1339225) (''MCMV''), a Nevada corporation with its principal place of business in Litchfield, Connecticut, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended September 30, 2012. On June 6, 2014, Corporation Finance sent a delinquency letter to MCMV requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but MCMV did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Polymedix, Inc. (CIK No. 1341843) (''PYMXQ''), a void Delaware corporation with its principal place of business in Radnor, Pennsylvania, with stock quoted on OTC Link, because it has not filed any periodic reports since the period ended September 30, 2012. On May 7, 2015, Corporation Finance sent a delinquency letter to PYMXQ requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but PYMXQ did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of RegenoCELL Therapeutics, Inc. (CIK No. 1221749) (''RCLL''), a Florida corporation with its principal place of business in Natick, Massachusetts, with stock quoted on OTC Link because it has not filed any periodic reports since the period ended December 31, 2011. On September 16, 2014, Corporation Finance sent a delinquency letter to RCLL requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but RCLL did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of The

[1] The short form of each issuer's name is also its ticker symbol.

Sagemark Companies Ltd. (CIK No. 89041) (''SKCO''), a New York corporation with its principal place of business in New York, New York, with stock quoted on OTC Link because it has not filed any periodic reports since the period ended September 30, 2012. On September 16, 2014, Corporation Finance sent a delinquency letter to SKCO requesting compliance with its periodic reporting obligations at the address shown in its then-most recent filing with the Commission, but SKCO did not receive the delinquency letter due to its failure to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of the EDGAR Filer Manual).

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on June 26, 2015, through 11:59 p.m. EDT on July 10, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–16147 Filed 6–26–15; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31689; 812–14392]

Context Capital Advisers, LLC, et al.; Notice of Application

June 24, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from rule 12d1–2(a) under the Act.

SUMMARY: Applicants request an order to permit open-end management investment companies relying on rule 12d1–2 under the Act to invest in certain financial instruments.

APPLICANTS: Context Capital Funds (the ''Trust''), Context Capital Advisers, LLC (''Context Capital'') and Context Advisers II, L.P. (''Context II'').

DATES: *Filing Date:* The application was filed on November 26, 2014, and amended on April 13, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 20, 2015 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants: Context Capital Funds, Three Canal Plaza, Suite 600, Portland, Maine 04101; Context Capital Advisers, LLC and Context Advisers II, L.P., 401 City Avenue, Suite 815, Bala Cynwyd, PA 19004.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Meeks, Senior Counsel, or Melissa R. Harke, Branch Chief, at (202) 551–6825 (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 under Delaware law as a statutory trust and is registered under the Act as an open-end management investment company. The Trust is a series trust which currently consists of two series. Context Capital is a limited liability corporation organized under the laws of Delaware and is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). Context Capital currently serves as the investment adviser to the Context Alternative Strategies Fund, a series of the Trust. Context II is a limited partnership organized under the laws of Delaware and is registered as an investment adviser under the Advisers Act. Context II currently serves as the investment adviser to the Context Macro Opportunities Fund.

2. Applicants request an exemption to the extent necessary to permit any existing or future series of the Trust and any other registered open-end management investment company or series thereof that: (a) is advised by Context Capital, Context II or any investment adviser controlling, controlled by, or under common control with Context Capital or Context II (any such adviser, Context Capital or Context II, an ''Adviser'' and collectively, the ''Advisers''); [1] (b) is in the same group of investment companies as defined in section 12(d)(1)(G) of the Act as the Trust; (c) invests in other registered open-end management investment companies (''Underlying Funds'') in reliance on section 12(d)(1)(G) of the Act; and (d) also is eligible to invest in securities (as defined in section 2(a)(36) of the Act) in reliance on rule 12d1–2 under the Act (each a ''Fund of Funds''), also to invest, to the extent consistent with its investment objectives, policies, strategies and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').[2]

3. Consistent with each Adviser's respective fiduciary obligations under the Act, each Fund of Funds' board of trustees will review the advisory fees charged by the applicable Fund of Funds' Adviser to ensure that they 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 Fund of Funds may invest.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company (''acquiring company'') may acquire securities of another investment company (''acquired company'') if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities 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 cause more than 10% of the acquired company's voting stock to be owned by investment

[1] Each Adviser will be registered as an investment adviser under the Advisers Act.

[2] Every existing entity that currently intends to rely on the requested order is named as an applicant. Any entity that relies on the order in the future will do so only in accordance with the terms and condition in the application.

companies and companies controlled by them.

2. Section 12(d)(1)(G) of the Act provides, in part, that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquired company and acquiring company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, 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 Securities Exchange Act of 1934 or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

3. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust 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: (i) 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; (ii) securities (other than securities issued by an investment company); and (iii) 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.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act, or from any rule under 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 policies and provisions of the Act. Applicants submit that their request for relief meets this standard.

5. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Funds of Funds to invest in Other Investments while investing in Underlying Funds. Applicants state that the Funds of Funds will comply with rule 12d1–2 under the Act, but for the fact that the Funds of Funds may invest a portion of their assets in Other Investments. Applicants assert that permitting the Funds of Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

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 Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15975 Filed 6–29–15; 08:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75280; File No. SR–NYSEArca-2015–51]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 to Exchange Rule 6.72 in Order To Extend the Penny Pilot in Options Classes in Certain Issues Through June 30, 2016

June 24, 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 15, 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Exchange Rule 6.72 in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through June 30, 2016. The Pilot Program is currently scheduled to expire on June 30, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange hereby proposes to amend Commentary .02 to Exchange Rule 6.72 to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2015, through June 30, 2016. The Exchange also proposes that the dates to replace issues in the Pilot Program that have been delisted be revised to the second trading day following July 1, 2015 and January 1, 2016.[5]

This filing does not propose any substantive changes to the Pilot Program: all classes currently participating will remain the same and all minimum increments will remain

[4] *See* Securities Exchange Act Release No. 73777 (December 8, 2014), 79 FR 73913 (December 12, 2014) (SR–NYSEArca–2014–136).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following July 1, 2015 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2014 through May 31, 2015. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Penny Pilot Program for one year, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2015. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[13] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change 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:

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 4.

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

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–2015–51 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–NYSEArca–2015–51. 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 20549–1090 on official business days between the hours of 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–2015–51 and should be submitted on or before July 21,2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15977 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75286; File No. SR–Phlx–2015–54]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted

June 24, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on June 18, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Phlx Rule 1034 (Minimum Increments) to extend through June 30, 2016 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.[3]

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is *in italics* and proposed deleted language is [bracketed].

NASDAQ OMX PHLX Rules

Options Rules

* * * * *

Rule 1034. Minimum Increments

(a) Except as provided in sub-paragraphs (i)(B) and (iii) below, all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at $3.00 or higher shall have a minimum increment of $.10, and all options on stocks and index options quoting in decimals under $3.00 shall have a minimum increment of $.05.

(i)(A) No Change.

(B) For a pilot period scheduled to expire June 30, [2015]*2016 or the date of permanent approval, if earlier* (the ''pilot''), certain options shall be quoted and traded on the Exchange in minimum increments of $0.01 for all series in such options with a price of less than $3.00, and in minimum increments of $0.05 for all series in such options with a price of $3.00 or higher, except that options overlying the PowerShares QQQ Trust (''QQQQ'')®, SPDR S&P 500 Exchange Traded Funds (''SPY''), and iShares Russell 2000 Index Funds (''IWM'') shall be quoted and traded in minimum increments of $0.01 for all series regardless of the price. A list of such options shall be communicated to membership via an Options Trader Alert (''OTA'') posted on the Exchange's Web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following *July 1, 2015 and* January 1, [2015]*2016.*

(C) No Change.

(ii)–(v) No Change.

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Penny Pilot was established in January 2007 and was last extended in 2014. *See* Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007)(SR–Phlx–2006–74)(notice of filing and approval order establishing Penny Pilot); and 73688 (November 25, 2014), 79 FR 71484 (December 2, 2014)(SR–Phlx–2014–77)(notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2015).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Phlx Rule 1034 to extend the Penny Pilot through June 30, 2016 or the date of permanent approval, if earlier, and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2015.

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2016 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2015 and January 1, 2016. The replacement issues will be selected based on trading activity in the previous six months.[4]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[5] in general, and furthers the objectives of section 6(b)(5) of the Act,[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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.

In particular, the proposed rule change, which extends the Penny Pilot for an additional twelve months through June 30, 2016 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following July 1, 2015 and January 1, 2016, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed

[4] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's Web site. The Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the July replacement, trading volume from December 1, 2014 through May 30, 2015 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the six-month analysis.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

rule change as operative upon filing with the Commission.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2015–54 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-Phlx-2015–54. 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 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the 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–Phlx–2015–54 and should be submitted on or before July 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15982 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75278; File No. SR–C2–2015–015]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amending Rule 6.4 To Extend the Penny Pilot through June 30, 2016

June 24, 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 17, 2015, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Penny Pilot Program (the ''Pilot Program'') is scheduled to expire on June 30, 2015. C2 proposes to extend the Pilot Program until June 30, 2016. C2 believes that extending the Pilot Program will allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

During this extension of the Pilot Program, C2 proposes that it may replace any option class that is currently included in the Pilot Program and that has been delisted with the next most actively traded, multiply listed option class that is not yet participating in the Pilot Program (''replacement class''). Any replacement class would be determined based on national average daily volume in the preceding six months,[3] and would be added on the second trading day following July 1, 2015 and January 1, 2016. C2 will announce to its Trading Permit Holders by circular any replacement classes in the Pilot Program. The Exchange notes that it intends to utilize the same parameters to prospective replacement classes as was originally approved.

C2 is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the

[3] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the six-month analysis. Thus, a replacement class to be added on the second trading day following July 1, 2015 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2014 through May 31, 2015.

''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In particular, the proposed rule change allows for an extension of the Pilot Program for the benefit of market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, the Exchange has been authorized to act jointly in extending the Pilot Program and believes the other exchanges will be filing similar extensions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] *Id.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[12] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[13]

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change 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–C2–2015–015 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–C2–2015–015. 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 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal

[14] 15 U.S.C. 78s(b)(2)(B).

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–C2–2015–015 and should be submitted on or before July 21,2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15976 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75287; File No. SR–CBOE–2015–060]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amending Rule 6.42 To Extend Its Penny Pilot Until June 30, 2016

June 24, 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 17, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[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 text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Penny Pilot Program (the ''Pilot Program'') is scheduled to expire on June 30, 2015. CBOE proposes to extend the Pilot Program until June 30, 2016. CBOE believes that extending the Pilot Program will allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

During this extension of the Pilot Program, CBOE proposes that it may replace any option class that is currently included in the Pilot Program and that has been delisted with the next most actively traded, multiply listed option class that is not yet participating in the Pilot Program (''replacement class''). Any replacement class would be determined based on national average daily volume in the preceding six months,[5] and would be added on the second trading day following July 1, 2015 and January 1, 2016. CBOE will employ the same parameters to prospective replacement classes as approved and applicable in determining the existing classes in the Pilot Program, including excluding high-priced underlying securities.[6] CBOE will announce to its Trading Permit Holders by circular any replacement classes in the Pilot Program.

CBOE is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In particular, the proposed rule change allows for an extension of the Pilot Program for the benefit of market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, the Exchange has been authorized to act jointly in extending the Pilot Program and believes the other exchanges will be filing similar extensions.

[15] 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)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the six-month analysis. Thus, a replacement class to be added on the second trading day following July 1, 2015 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2014 through May 31, 2015.

[6] *See* Securities Exchange Act Release No. 60864 (October 22, 2009), 74 FR 55876 (October 29, 2009) (SR–CBOE–2009–76).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing.[13] However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[15] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[16]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] of the Act to determine whether the proposed rule change 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–CBOE–2015–060 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–2015–060. 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 20549–1090 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–2015–060 and should be submitted on or before July 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15983 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75281; File No. SR–NYSEMKT–2015–43]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 to NYSE Amex Options Rule 960NY in Order To Extend the Penny Pilot in Options Classes in Certain Issues Through June 30, 2016

June 24, 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 15, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to NYSE Amex Options Rule 960NY in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

approved by the Securities and Exchange Commission (''Commission'') through June 30, 2016. The Pilot Program is currently scheduled to expire on June 30, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange hereby proposes to amend Commentary .02 to Exchange Rule 960NY to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2015, through June 30, 2016. The Exchange also proposes that the dates to replace issues in the Pilot Program that have been delisted be revised to the second trading day following July 1, 2015 and January 1, 2016.[5]

This filing does not propose any substantive changes to the Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with section 6(b)[6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of section 6(b)(5),[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the proposed rule change, which extends the Penny Pilot Program for one year, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2015. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between NYSE Amex Options market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing.[11] However,

[4] *See* Securities Exchange Act Release No. 73778 (December 8, 2014), 79 FR 73922 (December 12, 2014) (SR–NYSEMKT–2014–99).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following July 1, 2015 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2014 through May 31, 2015. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such

Continued

pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[13] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change 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–NYSEMKT–2015–43 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–NYSEMKT–2015–43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 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–NYSEMKT–2015–43 and should be submitted on or before July 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

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BILLING CODE 8011–01–P

shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 4.

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75282; File No. SR–NYSEArca–2015–52]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rules 7.25 and 8.800 in Order To Allow An Issuer to Elect for its Exchange Traded Product to Participate in the Crowd Participant Program or the ETP Incentive Program Monthly Rather than Quarterly and To Extend the Effectiveness of the Crowd Participant Program until June 23, 2016

June 24, 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 18, 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 7.25 (''Rule 7.25'') and NYSE Arca Equities Rule 8.800 (''Rule 8.800) in order to (1) allow an issuer to elect for its Exchange Traded Product (''ETP'') listed on the Exchange to participate in the Crowd Participant (''CP'') program (the ''CP Program'') or the ETP Incentive Program (the ''ETP Incentive Program''), respectively, at the time of listing or thereafter at the beginning of each month, rather than just at the beginning of each quarter; and (2) extend the effectiveness of the CP Program for an additional one-year pilot period, ending June 23, 2016. 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S. C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rules 7.25 and 8.800 in order to (1) allow an issuer to elect for its ETP [4] listed on the Exchange to participate in the CP Program or the ETP Incentive Program, respectively, at the time of listing or thereafter at the beginning of each month, rather than just at the beginning of each quarter; [5] and (2) extend the effectiveness of the CP Program for an additional one-year pilot period, ending June 23, 2016.[6]

Both the CP Program and the ETP Incentive Program are pilot programs that were designed to incentivize quoting and trading in ETPs and to add competition among existing qualified Market Makers.[7] The CP Program seeks to encourage Market Makers on the Exchange to quote and trade in certain low-volume ETPs by offering issuers an alternative fee program funded by participating issuers and credited to CPs from the Exchange's general revenues. By requiring CPs to quote at the ''National Best Bid'' or ''National Best Offer,'' for a percentage of the regular trading day, the CP Program rewards competitive liquidity-providing Market Makers. The ETP Incentive Program is also designed to enhance the market quality for ETPs by incentivizing Market Makers to take Lead Market Maker (''LMM'') [8] assignments in certain lower-volume ETPs by offering an alternative fee structure for such LMMs that would be funded from the Exchange's general revenues. The ETP Incentive Program is designed to improve the quality of market for lower-volume ETPs, thereby incentivizing issuers to list them on the Exchange. Moreover, as described in the ETP Incentive Program Release, the Exchange believes that the ETP Incentive Program, which is entirely voluntary, encourages competition among markets for issuers' listings and among Market Makers for LMM assignments.

Currently, an issuer can elect for an ETP to participate in either the CP Program or the ETP Incentive Program either at the time of listing or thereafter at the beginning of each quarter.[9] The Exchange proposes to amend Rules 7.25(c) and 8.800(b) to provide that ETPs already listed on the Exchange can be added to the CP Program or ETP Incentive Program, respectively, on a monthly basis rather than at the beginning of each quarter. The Exchange believes that increasing the frequency for when an ETP may be added to either the CP Program or the ETP Incentive Program will permit each of the programs to be utilized by an issuer on a more timely basis and without the need to wait as long as a calendar quarter before electing for its ETP to participate in the CP Program or applying to have its ETP participate in the ETP Incentive Program. By allowing issuers to enter listed ETPs into the CP Program and the ETP Incentive Program on a monthly rather than a quarterly basis, issuers would be provided with more frequent opportunities to add ETPs to each program. With respect to the CP Program, such an increase would provide the opportunity for increased competition among qualified Market Makers and thereby provide additional liquidity-providing opportunities for Market Makers. With respect to the ETP Incentive Program, the Exchange also anticipates that expanding the opportunity for issuers to enter the ETP Incentive Program will facilitate the provision of extra liquidity to lower-volume ETPs by incentivizing more Market Makers to take LMM assignments in certain lower-volume ETPs.

The Exchange also proposes to extend the current operation of the CP Program for an additional year to allow the Commission, the Exchange, LMMs, and issuers to further assess the impact of each program before making it available to other securities and implementing the programs on a permanent basis.[10] During the initial one-year pilot period, no ETP issuers have utilized the CP Program and the Exchange does not have any data to assess the impact of the CP Program on ETP market quality or whether any provisions of the CP Program should be modified. The Exchange believes that extending the CP Program pilot period for an additional year will provide additional time for issuers to participate in the CP Program so that the Exchange may assess the impact of the CP Program before making it available to other securities or implementing it on a permanent basis.

This filing is not otherwise intended to address any other issues and the Exchange is not aware of any problems that Equity Trading Permit Holders or issuers would have in complying with the monthly selection provisions or the proposed extension of the CP Program.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the

[4] For purposes of the CP Program and the ETP Incentive Program, ETPs include securities listed on the Exchange under the following rules: NYSE Arca Equities Rules 5.2(j)(3) (Investment Company Units), 5.2(j)(5) (Equity Gold Shares), 8.100 (Portfolio Depositary Receipts), 8.200 (Trust Issued Receipts), 8.201 (Commodity-Based Trust Shares), 8.202 (Currency Trust Shares), 8.203 (Commodity Index Trust Shares), 8.204 (Commodity Futures Trust Shares), 8.300 (Partnership Units), 8.600 (Managed Fund Shares), and 8.700 (Managed Trust Securities).

[5] The Commission approved the CP Program on a pilot basis in Securities Exchange Act Release No. 71804 (March 16, 2014), 79 FR 18357 (April 1, 2014) (SR–NYSEArca–2013–141) (CP Program Release). The Commission approved the ETP Incentive Program on a pilot basis in Securities Exchange Act Release No. 69706 (June 6, 2013), 78 FR 35340 (June 12, 2013) (SR–NYSEArca–2013–34) (ETP Incentive Program Release).

[6] The CP Program is scheduled to end on June 23, 2015.

[7] A Market Maker is an Equity Trading Permit Holder that acts as a Market Maker pursuant to NYSE Arca Equities Rule 7. *See* NYSE Arca Equities Rule 1.1(v). An Equity Trading Permit Holder is a sole proprietorship, partnership, corporation, limited liability company, or other organization in good standing that has been issued an Equity Trading Permit. *See* NYSE Arca Equities Rule 1.1(n).

[8] The LMM program is designed to incentivize firms to take on the LMM designation and foster liquidity provision and stability in the market. In order to accomplish this, the Exchange currently provides LMMs with an opportunity to receive incrementally higher transaction credits and incur incrementally lower transaction fees (''LMM Rates'') compared to standard liquidity maker-taker rates (''Standard Rates''). The Exchange generally employs a maker-taker transactional fee structure, whereby an Equity Trading Permit Holder that removes liquidity is charged a fee (''Take Rate''), and an Equity Trading Permit Holder that provides liquidity receives a credit (''Make Rate''). *See* Trading Fee Schedule, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.*

[9] *See* Rules 7.25(c)(2) and 8.800(b)(1).

[10] The Exchange notes that any proposed further continuance of the CP Program or a proposal to make the CP Program permanent would require a rule filing with the Commission pursuant to Section 19(b) of the Act and Rule 19b–4 thereunder.

[11] 15 U.S. C. 78f(b).

[12] 15 U.S. C. 78f(b)(5).

mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposal would remove impediments to and perfect the mechanics of a free and open market and national market system because increasing the frequency with which listed ETPs can join the respective programs will provide additional ETP issuers the opportunity to participate in the CP Program or ETP Incentive Program, which would result potentially in more competitive quoting and trading by additional Market Makers assigned to those ETPs. Accordingly, the proposed rule change would contribute to the protection of investors and the public interest because it may provide a better trading environment for investors in ETPs included in the programs and, generally, encourage greater competition among markets.

The Exchange believes that increasing the flexibility for issuers with regards to when they can enter an incentive program has the potential to expand the pool of ETP liquidity providers, encourage competitive trading and enhance the quality of the markets in ETPs by tightening quote spreads, increasing depth of liquidity and reducing execution costs for investors. As stated in the CP Program Release,[13] the Exchange believes that the CP Program would enhance quote competition, improve liquidity, support the quality of price discovery, promote market transparency, and increase competition for listings and trade executions while reducing spreads and transaction costs. The Exchange further believes that enhancing liquidity in CP Program ETPs would help raise investors' confidence in the fairness of the market generally and their transactions in particular. As such, the CP Program would foster cooperation and coordination with persons engaged in facilitating securities transactions, enhance the mechanism of a free and open market, and promote fair and orderly markets in ETPs on the Exchange. Increasing the frequency by which issuers can enter listed ETPs into the CP Program would provide additional opportunities for ETPs to reap the benefits of the CP Program on a more timely basis.

The Exchange further believes that the ETP Incentive Program is designed to enhance the market quality for ETPs by incentivizing Market Makers to take LMM assignments in certain lower volume ETPs by offering an alternative fee structure for such LMMs that would be funded from the Exchange's general revenues. The ETP Incentive Program is designed to improve the quality of market for lower-volume ETPs, thereby incentivizing them to list on the Exchange. Moreover, as described in the ETP Incentive Program Release, the Exchange believes that the ETP Incentive Program, which is entirely voluntary, encourages competition among markets for issuers' listings and among Market Makers for LMM assignments. Increasing the frequency by which issuers can enter listed ETPs into the ETP Incentive Program would allow ETPs to reap the benefits of the ETP Incentive Program on a more timely basis. The Exchange believes that the proposed amendments to Rules 7.25 and 8.800 to provide that ETPs listed on the Exchange can be added to the CP Program or ETP Incentive Program, respectively, on a monthly basis, by providing more frequent opportunities for issuers to add ETPs to the respective programs, would facilitate enhancements to liquidity and market quality as described in the CP Program Release and the ETP Incentive Program Release.

The Exchange believes that, by providing additional time for issuers to participate in the CP Program, through an extension of the pilot period until June 23, 2016, the CP Program would continue to provide an opportunity for rewarding competitive liquidity-providing Market Makers, with associated requirements for quoting by CPs at the National Best Bid or National Best Offer. The CP Program, therefore, has the potential to enhance competition among liquidity providers and thereby improve execution quality on the Exchange. An extension of such pilot period will permit additional time for the Commission, the Exchange, LMMs, and issuers to assess the impact of the CP Program before making it available to other securities. The Exchange will continue to monitor the efficacy of the CP Program during the extended pilot period.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues, but rather increase the frequency with which issuers of listed ETPs can elect to join either the existing CP Program or ETP Incentive Program and there are no other substantive changes being proposed to the respective programs. Rather, the Exchange believes that permitting issuers to utilize each program on a monthly rather than a quarterly basis, and extending the operation of the CP Program, will enhance competition among liquidity providers and thereby improve execution quality on the Exchange.

The proposed extension to the pilot period for the CP Program is not designed to address any competitive issues but rather to provide additional time for the Commission, the Exchange, LMMs and issuers to assess the impact of the CP Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change can be both effective and implemented upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it ensures that the CP Program pilot will be extended for another year without interruption.

[13] *See* note 5, *supra.*

[14] 15 U.S. C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–Arca–2015–52 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–NYSEArca–2015–52. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2015–52, and should be submitted on or before July 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15979 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

[18] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S. C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75289; File No. SR–NYSEArca–2015–54]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 1.1 Governing Definitions and Various Equity Trading Rules in Order To Eliminate Obsolete References

June 24, 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 22, 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1.1 governing Definitions and various equity trading rules in order to eliminate obsolete references. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1.1 governing Definitions and various equity trading rules in order to eliminate obsolete references. These proposed rule changes represent current functionality and would not propose any substantive changes to functionality. The Exchange has separately filed proposed rule changes to support the implementation of Pillar, which is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by NYSE Arca and its affiliates, New York Stock Exchange LLC (''NYSE'') and NYSE MKT LLC (''NYSE MKT'').[4] The Pillar I Filing proposed to adopt new rules relating to Trading Sessions, Order Ranking and Display, and Order Execution.

In anticipation of the implementation of Pillar, the Exchange has reviewed its rules governing equity trading and has identified a number of rules that could be streamlined both for the current trading platform and for Pillar.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 74951 (May 13, 2015), 80 FR 28721 (May 19, 2015) (SR–NYSEArca–2015–38) (Notice) (''Pillar I Filing''). In the Pillar I Filing, the Exchange described its proposed implementation of Pillar, including that it would be submitting more than one rule filing to correspond to the anticipated phased migration to Pillar.

[5] The Exchange has filed several rule filings to streamline its rules, but these filings generally addressed rules that describe the functionality associated with the Exchange's order types, and more specifically, how different order types may interact. *See* Securities Exchange Act Release Nos. 71331 (Jan. 16, 2014), 79 FR 3907 (Jan. 23, 2014) (SR–NYSEArca–2013–92) (Approval order for filing that updated rules relating to order types and

Continued

Specifically, the Exchange proposes to amend NYSE Arca Equities Rules 1.1 (Definitions) (''Rule 1.1''), 7.5 (Trading Units) (''Rule 7.5''), 7.6 (Trading Differentials) (''Rule 7.6''), 7.8 (Bid or Offer Deemed Regular Way) (''Rule 7.8''), 7.12 (Trading Halts Due to Extraordinary Market Volatility) (''Rule 7.12''), and 7.32 (Order Entry) (''Rule 7.32''). The proposed changes to these rules are non-substantive and would streamline the existing rule text and eliminate obsolete terms.

Because these proposed changes are applicable to the current trading platform, the Exchange would implement these changes as soon as this rule filing is effective.

Proposed Amendments to Rule 1.1

Rule 1.1 sets forth definitions in Exchange rules. The Exchange proposes to amend Rule 1.1 to revise definitions to eliminate obsolete references, make clarifying changes to existing definitions, add new short-hand terms for existing definitions, and propose non-substantive changes to replace the terms ''shall refer to'' or ''shall mean'' with the term ''means.'' The Exchange is not proposing any substantive changes to these rules.

The proposed amendments to Rule 1.1 would be:

• Amend the definition of ''BBO'' set forth in Rule 1.1(h) to add that the term ''BB'' would mean the best bid on the NYSE Arca Marketplace and the term ''BO'' would mean the best offer on the NYSE Arca Marketplace. The Exchange proposes to add these short-hand terms to the definition of BBO because the Exchange would be using these terms in its proposed Pillar rules. These are not novel terms and therefore the Exchange proposes to adopt these terms before the implementation of Pillar.

• Delete the definition of ''Limited Price Order'' in Rule 1.1(t) as obsolete and replace it with ''reserved.'' In the 2015 Order Type Filing, the Exchange eliminated use of the term ''Limited Price Order'' in Rules 7.36 and 7.37.[6] Because the term is not used in any other rules and the Exchange would not be proposing to use this term in rules governing trading in Pillar, the Exchange proposes to delete the definition.

• Amend the definition of ''Marketable'' in Rule 1.1(u) to mean for a Limit Order, an order that can be immediately executed or routed. The Exchange believes that this proposed definition better describes the term ''marketable,'' which is currently defined for Limited Price Orders as when the price matches or crosses the NBBO on the other side of the market. The proposed definition reflects more accurately circumstances of when an order would be marketable, which for a Limit Order, includes if the limit price is equal to or better than the contra-side PBBO or for Inside Limit Orders, includes if the limit price is equal to or better than the contra-side NBBO. The proposed new definition would also include in the definition of marketable if an order would be required to route, because it is priced through the PBBO or NBBO, or if it would be eligible to trade with non-displayed interest that is priced better than the PBBO or NBBO that may be on the NYSE Arca Book. The Exchange also proposes a non-substantive difference to capitalize the term ''Market Order.''

• Delete the definition of ''NASD'' in Rule 1.1(y) as obsolete and replace it with ''reserved.''

• Amend the definition of ''Nasdaq'' in Rule 1.1(z) to update the name of Nasdaq to its current official name, which is ''The Nasdaq Stock Market LLC,'' instead of ''The Nasdaq Stock Market, Inc.''

• Delete the definitions of ''Nasdaq Security,'' ''Nasdaq System,'' and ''Nasdaq System BBO'' in Rules 1.1(aa), 1.1(bb) and 1.1(cc) and replace them with ''reserved.'' The Exchange no longer uses these terms in its rules and therefore proposes to delete the definitions as obsolete for purposes of Exchange rules.

• Amend the definition of ''NBBO, Best Protected Bid, Best Protected Offer, Protected Best Bid and Offer (PBBO)'' in Rule 1.1(dd) to add new short-hand defined terms. As proposed, the term ''NBB'' would mean the national best bid and the term ''NBO'' would mean the national best offer. The Exchange also proposes to add the short-hand terms of ''PBB'' to correlate to ''Best Protected Bid'' and ''PBO'' to correlate to ''Best Protected Offer.'' The Exchange proposes to add these terms, which are not novel, because the Exchange would be proposing to use them in its proposed Pillar rules.

Proposed Amendments to Equity Trading Rules

The Exchange proposes to amend Rules 7.5 (Trading Units), 7.6 (Trading Differentials), 7.8 (Bid or Offered Deemed Regular Way), 7.12 (Trading Halts due to Extraordinary Market Volatility), and 7.32 (Order Entry) to eliminate obsolete references and streamline the rule text. The Exchange is not proposing any substantive changes to these rules.

Rule 7.5: Rule 7.5 sets forth Trading Units and currently provides:

The unit of trading in stocks shall be 1 share and the unit of trading in bonds shall be $1,000 in par value thereof unless otherwise designated by the Corporation. For stocks, 100 shares shall constitute a ''round lot,'' any amount less than 100 shares shall constitute an ''odd lot,'' and any amount greater than 100 shares that is not a multiple of a round lot shall constitute a ''mixed lot.'' For bonds, a designated unit of trading shall constitute a ''round lot'' and any lesser amount shall constitute an ''odd lot.''

The Exchange proposes non-substantive amendments to Rule 7.5 to streamline the rule text and eliminate obsolete references to bonds, which do not trade on the Exchange. As proposed, the amended rule would provide:

The unit of trading in stocks is 1 share. A ''round lot'' is 100 shares, unless specified by the primary listing market to be fewer than 100 shares. Any amount less than a round lot will constitute an ''odd lot,'' and any amount greater than a round lot that is not a multiple of a round lot will constitute a ''mixed lot.''

The Exchange believes that the proposed rule text streamlines the rule and provides greater transparency of what is considered a round lot or an odd lot. In addition, to reflect that a primary listing market may have securities with a trading unit fewer than 100 shares,[7] the Exchange proposes to amend the rule to provide that a ''round lot'' would be 100 shares, unless specified by the primary listing market to be fewer than 100 shares. Because a round lot would no longer be set at 100 shares, and instead would reflect the unit of trading designated by the primary listing Exchange, the Exchange proposes to delete the additional references to ''100 shares'' and instead provide that any amount less than a round lot would constitute an ''odd lot,'' and any amount greater than a round lot that is not a

modifiers); 72942 (Aug. 28, 2014), 79 FR 52784 (Sept. 4, 2014) (SR–NYSEArca-2014–75) (Approval order for filing that eliminated specified order types, modifiers, and related references); and 74796 (April 23, 2015), 80 FR 12537 (March 9, 2015) (SR–NYSEArca-2015–08) (Approval order for filing to clarify Exchange rules governing order types) (''2015 Order Type Filing''). The Exchange filed the 2015 Order Type Filing in part to respond to a request by the SEC's Division of Trading and Markets that equity exchanges conduct a comprehensive review of their order types and how they operate in practice, and as part of that review, consider appropriate rule changes. This rule filing addresses equity rules other than those addressing orders and modifiers.

[6] *See* 2015 Order Type Filing, *infra,* note 5.

[7] For example, Biglari Holdings Inc. (symbol: BH), an NYSE-listed security, has a 10-share round lot parameter.

multiple of a round lot would constitute a mixed lot. The Exchange also proposes non-substantive amendments to change the term ''shall'' to ''will.''

The Exchange believes the proposed changes would provide transparency regarding trading units on the Exchange and reduce confusion regarding the types of securities available to trade on the Exchange. Specifically, because the Exchange does not trade bonds, the proposed amendment to delete the reference to bonds represents current functionality.

Rule 7.6: Rule 7.6 sets forth the Exchange's Trading Differentials, also referred to as the minimum price variation (''MPV'') for quoting and entry of orders, and currently provides:

(a) The Corporation shall determine the trading differentials for equity securities traded on the Corporation.

Commentary:

.01 The Corporation may only change the trading differentials for equity securities traded on the Corporation by filing a rule change proposal with the SEC, pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 (effective upon filing); provided that no change in the trading differentials may be made while the industry wide Decimalization Implementation Plan is in effect.

.02 Notwithstanding Commentary .01, the Corporation may allow trading at smaller increments in order to match bids and offers displayed by other markets for the purpose of preventing Intermarket Trading System trade-throughs.

.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, provided, however, that the Corporation shall round the bid down to the next whole penny or the offer up to the next whole penny and display the rounded bid or offer in the consolidated quotation system.

(b) *Bonds.* Bids or offers in bonds shall not be made at a lesser variation than 1/8 of 1% of the principal amount, except that the Corporation may fix a lesser variation in specific issues.

The Exchange proposes non-substantive amendments to Rule 7.6 to eliminate obsolete references to the Decimalization Implementation Plan, Intermarket Trading System (''ITS''), and bonds, and instead have the rule simply provide what are the Exchange's trading differentials for equity securities.

Because Commentaries .01 and .02 refer to how trading differentials could be set before the industry-wide Decimalization Implementation Plan was in effect and to comply with the now-obsolete ITS requirements, respectively, the Exchange proposes to delete those two commentaries as obsolete text. The Exchange also proposes to delete the text that currently follows paragraph (a) of the Rule because the Exchange does not determine the trading differentials; these are now industry-wide standards. The Exchange also proposes to delete paragraph (b) of the rule, which relates to the MPV for bonds, because the Exchange does not trade bonds.

The Exchange proposes that current Commentary .03 would become the sole rule text, without any subparagraph number. The Exchange would amend the text currently set forth in Commentary .03 to delete the term ''equity'' as unnecessary, conform the rule text to use the clause ''quoting and entry of orders'' for securities priced less than $1.00, and delete the last clause in the commentary regarding rounding as an obsolete requirement.[8]

Accordingly, as proposed, amended Rule 7.6 would provide that the MPV for quoting and entry of orders in securities traded on the NYSE Arca Marketplace would be $0.01, with the exception of securities that are priced less than $1.00, for which the MPV for quoting and entry of orders would be $0.0001. The Exchange believes that the proposed streamlined rule would promote transparency in Exchange rules to identify the MPVs applicable to securities trading on the Exchange.

Rule 7.8: Rule 7.8 sets forth how bids or offers are deemed regular way, which relates to the settlement instructions for an order, and provides that ''[b]ids and offers made without stated conditions shall be considered to be 'regular way.' 'Regular way' bids or offers have priority over conditional bids or offers.''

The Exchange proposes non-substantive amendments to Rule 7.8 to eliminate obsolete rule text. Because the Exchange currently only accepts bids and offers made regular way, and does not accept any bids or offers with stated conditions, the Exchange proposes non-substantive amendments to delete text relating to stated conditions or that ''regular way'' bids or offers have priority over conditional bids or offers. Accordingly, as proposed, amended Rule 7.8 would provide that Bids and offers would be considered ''regular way.'' The Exchange believes the proposed rule change would reduce confusion by eliminating references to functionality that is not available on the Exchange.

Rule 7.12: Rule 7.12 sets forth the market-wide rule relating to trading halts due to extraordinary market volatility.[9] In the Pillar I Filing, the Exchange has proposed to replace references from Pacific Time to Eastern Time, and the Exchange believes that this proposed change should be made to rules that would not otherwise be amended for Pillar. Accordingly, the Exchange proposes non-substantive amendments to Rule 7.12 to replace Pacific Time references with Eastern Time references. The Exchange believes that references to Eastern Time rather than Pacific Time would reduce confusion because all other equity exchanges that have a rule similar to Rule 7.12, which was adopted on a market-wide basis, use Eastern Time references.

Rule 7.32: Rule 7.32 sets forth the Exchange's rules relating to order entry and currently provides:

Users may enter into the NYSE Arca Marketplace the types of orders listed in Rule 7.31; provided, however, no User may enter an order other than a PNP Order unless the User or the User's Sponsoring ETP Holder has entered into a Routing Agreement. Orders entered that are greater than five million shares in size shall be rejected. Upon at least 24 hours advance notice to market participants, the Exchange may decrease the maximum order size on a security-by-security basis.

The Exchange proposes to delete the first sentence of the current rule because in order to enter orders at the Exchange, an ETP Holder must have entered into a routing agreement, which is part of the ETP Holder's agreement to become a member of the Exchange. Because there is no possibility of being able to enter any orders at the Exchange without being approved as an ETP Holder and once approved as an ETP Holder, there is no limitation on the types of orders or modifiers that may be entered by that ETP Holder, the Exchange believes that the first sentence of the current rule text is no longer necessary and represents obsolete requirements. The Exchange also believes the proposed rule change would reduce confusion because it would streamline the rule to focus on

[8] The Exchange publishes bids and offers priced under $1.00 in sub-penny increments to the public data feeds and no longer rounds such quotes to the whole penny.

[9] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (Approval order of amendments to all equity exchange rules relating to trading halts due to extraordinary market volatility, including Rule 7.12).

the size of orders that may be entered at the Exchange.

With respect to the second sentence of the current rule, the Exchange proposes a non-substantive amendment to change the term ''shall'' to ''will.'' As amended, Rule 7.32 would therefore provide that Orders entered that are greater than five million shares in size would be rejected and upon at least 24 hours advance notice to market participants, the Exchange may decrease the maximum order size on a security-by-security basis.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[10] in general, and furthers the objectives of section 6(b)(5),[11] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule changes would remove impediments to and perfect the mechanism of a free and open market because they would not make any substantive changes to Exchange rules, but rather are designed to reduce confusion by eliminating obsolete references and terms and therefore streamline the Exchange's rules. The Exchange further believes that the proposed changes would remove impediments to and perfect a free and open market because the proposed changes would simplify the structure of the Exchange's rules and permit the use of consistent terminology throughout numerous rules, without changing the underlying functionality. The Exchange therefore believes that the proposed rule amendments would promote transparency in Exchange rules by using consistent terminology governing equities trading, thereby ensuring that members, regulators, and the public can more easily navigate the Exchange's rulebook and better understand how equity trading is conducted on the Exchange.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather to make non-substantive changes to streamline the Exchange's rules in order to promote transparency and reduce potential confusion, thereby making the Exchange's rules easier to navigate.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6)(iii) thereunder.[13]

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 change 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–NYSEArca–2015–54 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–NYSEArca–2015–54. 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 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–2015–54 and should be submitted on or before July 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15973 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75283; File No. SR–NASDAQ–2015–063]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted

June 24, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on June 18, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, which Items have been prepared by NASDAQ. 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

NASDAQ is filing with the Commission a proposal to amend chapter VI, section 5 (Minimum Increments) of the rules of the NASDAQ Options Market (''NOM'') to extend through June 30, 2016 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues (''Penny Pilot'' or ''Pilot''), and to change the date when delisted classes may be replaced in the Penny Pilot.[3]

The text of the amended Exchange rule is set forth immediately below.

Proposed new language is *in italics* and proposed deleted language is [bracketed].

NASDAQ Stock Market Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 5 Minimum Increments

(a) The Board may establish minimum quoting increments for options contracts traded on NOM. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Section within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1)—(2) No Change.

(3) For a pilot period scheduled to expire on June 30, [2015]*2016 or the date of permanent approval, if earlier,* if the options series is trading pursuant to the Penny Pilot program one (1) cent if the options series is trading at less than $3.00, five (5) cents if the options series is trading at $3.00 or higher, unless for QQQQs, SPY and IWM where the minimum quoting increment will be one cent for all series regardless of price. A list of such options shall be communicated to membership via an Options Trader Alert (''OTA'') posted on the Exchange's Web site.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following *July 1, 2015 and* January 1, [2015]*2016.*

(4) No Change.

(b) No Change.

* * * * *

The text of the proposed rule change is available from NASDAQ's Web site at *http://nasdaq.cchwallstreet.com,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ 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. NASDAQ has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend chapter VI, section 5 to extend the Penny Pilot through June 30, 2016 or the date of permanent approval, if earlier, and to change the date when delisted classes may be replaced in the Penny Pilot. The Exchange believes that extending the Penny Pilot will allow for further analysis of the Penny Pilot and a determination of how the program should be structured in the future.

Under the Penny Pilot, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot is currently scheduled to expire on June 30, 2015.

The Exchange proposes to extend the time period of the Penny Pilot through June 30, 2016 or the date of permanent approval, if earlier, and to provide a revised date for adding replacement issues to the Penny Pilot. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2015 and January 1, 2016. The replacement issues will be selected based on trading activity in the previous six months.[4]

This filing does not propose any substantive changes to the Penny Pilot Program; all classes currently participating in the Penny Pilot will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Penny Pilot was established in March 2008 and was last extended in 2014. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); and 73686 (November 25, 2014), 79 FR 71477 (December 2, 2014)(SR–NASDAQ–2014–115) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2015).

[4] The replacement issues will be announced to the Exchange's membership via an Options Trader Alert (OTA) posted on the Exchange's Web site. The Exchange proposes in its Penny Pilot rule that replacement issues will be selected based on trading activity in the previous six months. The replacement issues would be identified based on The Options Clearing Corporation's trading volume data. For example, for the July replacement, trading volume from December 1, 2014 through May 30, 2015 would be analyzed. The month immediately preceding the replacement issues' addition to the Pilot Program (*i.e.,* June) would not be used for purposes of the six-month analysis.

demonstrated to outweigh the potential increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[5] in general, and furthers the objectives of section 6(b)(5) of the Act,[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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.

In particular, the proposed rule change, which extends the Penny Pilot for an additional twelve months through June 30, 2016 or the date of permanent approval, if earlier, and changes the date for replacing Penny Pilot issues that were delisted to the second trading day following July 1, 2015 and January 1, 2016, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry-wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change 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–NASDAQ–2015–063 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–NASDAQ–2015–063. 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

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(2)(B).

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the 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–NASDAQ–2015–063 and should be submitted on or before July 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15980 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Vantone International Group, Inc.; Order of Suspension of Trading

June 26, 2015.

It appears to the Securities and Exchange Commission (''Commission'') that there is a lack of current and accurate information concerning the securities of Vantone International Group, Inc. (''VNTI [1]'') (CIK No. 1101423), a revoked Nevada corporation whose principal place of business is listed as Shenyang, Liaoning Province, China because it is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended December 31, 2011. As of June 18, 2015, VNTI's common stock was quoted on OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group Inc. On May 7, 2015, the Commission's Division of Corporation Finance sent a delinquency letter to VNTI at the address shown in its then-most recent filing in the Commission's EDGAR system requesting compliance with its periodic filing requirements, which VNTI failed to receive because . VNTI thus failed to maintain a valid address on file with the Commission as required by Commission rules (Rule 301 of Regulation S–T, 17 CFR 232.301 and Section 5.4 of EDGAR Filer Manual). To date, VNTI has failed to cure its delinquencies.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on June 26, 2015, through 11:59 p.m. EDT on July 10, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–16146 Filed 6–26–15; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75284; File No. SR–MIAX–2015–40]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 510 To Extend the Penny Pilot Program

June 24, 2015.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on June 18, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 510, Interpretations and Policies .01 to extend the pilot program for the quoting and trading of certain options in pennies (the ''Penny Pilot Program'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the ''Penny Pilot Program'' or ''Program''). Specifically, the Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of $0.01 for all series in such option classes with a price of less than $3.00; and in minimum increments of $0.05 for all series in such option classes with a price of $3.00 or higher. Options overlying the PowerShares QQQ Trust (''QQQQ'')®, SPDR S&P 500 Exchange Traded Funds (''SPY''), and iShares Russell 2000 Index Funds (''IWM''), however, are quoted and traded in minimum increments of $0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007 and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on June 30, 2015. The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through June 30, 2016.

In addition to the extension of the Penny Pilot Program through June 30, 2016, the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program. The replacement issues will be selected based on trading activity in the previous six months and will be added to the Penny Pilot Program on the second trading day following July 1, 2015 and January 1, 2016. Please note, the month immediately preceding a replacement

[14] 17 CFR 200.30–3(a)(12).

[1] The short form of the issuer's name is also its ticker symbol.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

class's addition to the Pilot program (*i.e.,* June) will not be used for purposes of the six-month analysis. Thus, a replacement added on the second trading day following July 1, 2015 will be identified based on trading activity from December 1, 2014 through May 31, 2015. Similarly, a replacement added on the second trading day following January 1, 2016 will be identified based on trading activity from June 1, 2015 through November 30, 2015. Rule 510 has been updated to reflect the new date replacement issues will be added to the Penny Pilot Program.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [3] in general, and furthers the objectives of Section 6(b)(5) of the Act [4] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, consistent with previous practices, the Exchange believes the other options exchanges will be filing similar extensions of the Penny Pilot Program.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [5] and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed under Rule 19b–4(f)(6) [7] normally does not become operative prior to 30 days after the date of the filing.[8] However, pursuant to Rule 19b–4(f)(6)(iii),[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Penny Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Penny Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Penny Pilot Program.[10] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[11]

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

[11] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–MIAX–2015–40 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–MIAX–2015–40. 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–MIAX–2015–40 and should be submitted on or before July 21,2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15981 Filed 6–29–15; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 14334 and # 14335]

Texas Disaster Number TX–00447

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of TEXAS (FEMA–4223–DR), dated 05/29/2015.

Incident: Severe Storms, Tornadoes, Straight-Line Winds and Flooding.

Incident Period: 05/04/2015 through 06/19/2015.

DATES: *Effective Date:* 06/19/2015.

Physical Loan Application Deadline Date: 07/28/2015.

EIDL Loan Application Deadline Date: 02/29/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of TEXAS, dated 05/29/2015 is hereby amended to establish the incident period for this disaster as beginning 05/04/2015 and continuing through 06/19/2015.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–15998 Filed 6–29–15; 8:45 am]

BILLING CODE 8025–01–P

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0298]

Harbert Mezzanine Partners II SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Harbert Mezzanine Partners II SBIC, L.P., 2100 Third Avenue North, Suite 600, Birmingham, Alabama, 35203, Federal Licensees under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Harbert Mezzanine Partners II SBIC, L.P. provided financing to Optical Experts Manufacturing, Inc., 8500 South Tyron Street, Charlotte, NC 28273. The financing was contemplated for working capital purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Harbinger Mezzanine Partners, L.P., an Associate of Harbert Mezzanine Partners II SBIC, L.P., owns more than ten percent of Optical Experts Manufacturing, Inc. Therefore, this transaction is considered a financing of an Associate requiring an exemption.

Notice is hereby given that any interested person may submit written comments on the transaction within fifteen days of the date of this publication to the Acting Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

John R. Williams,

Acting Deputy Associate Administrator, Office of Investment & Innovation.

[FR Doc. 2015–15996 Filed 6–29–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14336 and #14337]

Texas Disaster Number TX–00448

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Texas (FEMA–4223–DR), dated 05/29/2015.

Incident: Severe Storms, Tornadoes, Straight Line Winds and Flooding.

Incident Period: 05/04/2015 through 06/19/2015.

DATES: *Effective Date:* 06/19/2015.

Physical Loan Application Deadline Date: 07/28/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 02/29/2016

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of TEXAS, dated 05/29/2015, is hereby amended to establish the incident period for this disaster as beginning 05/04/2015 and continuing through 06/19/2015.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–15997 Filed 6–29–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 2.250 (2¼) percent for the July–September quarter of FY 2015.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted

by the constitution or laws of the given State.

Dianna L. Seaborn,

Acting Director, Office of Financial Assistance.

[FR Doc. 2015–15993 Filed 6–29–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before July 30, 2015.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: SBA is required to survey affected disaster areas within a state upon request by the Governor of that state to determine if there is sufficient damage to warrant a disaster declaration. Information is obtained from individuals, businesses, and public officials.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections:

Title: Disaster Survey Worksheet.

Description of Respondents: Disaster effected individuals and businesses.

Form Numbers: SBA Form 987.

Estimated Annual Respondents: 2,800.

Estimated Annual Responses: 2,800.

Estimated Annual Hour Burden: 239.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2015–15986 Filed 6–29–15; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9178]

30-Day Notice of Proposed Information Collection: Statement of Claim Related to Deportation During the Holocaust

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to July 30, 2015.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number (DS–7713), information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Alice Kottmyer, Office of the Legal Adviser for Management, who may be reached on 202–647–2318 or *kottmyeram@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Statement of Claim Related to Deportation During the Holocaust.
- *OMB Control Number:* None.
- *Type of Request:* New collection.
- *Originating Office:* Office of the Legal Adviser, Department of State.
- *Form Number:* DS–7713, Statement of Claim.
- *Respondents:* Individuals who were harmed as a result of deportation from France during the Holocaust by SNCF, the French national rail carrier.
- *Estimated Number of Respondents:* 2,000.
- *Estimated Number of Responses:* 2,000.
- *Average Time per Response:* 3 hours per response.
- *Total Estimated Burden Time:* 6,000 hours.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to obtain a benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: This collection will implement the *Agreement Between the Government of the United States of America and the Government of France to Address Claims Related to Deportation During the Holocaust*, signed on December 8, 2014. Upon final approval by the French government, the agreement will provide for the transfer of $60 million from France to the United States, to compensate eligible claimants for harms suffered as the result of deportation from France during the Holocaust by SNCF, the French national rail carrier. In exchange for a lump sum, which the

United States would use to compensate eligible claimants, the United States would undertake a commitment to prevent the prosecution of deportation-related claims in U.S. courts by recognizing and protecting France's and SNCF's sovereign immunity for such claims.

The 60-day **Federal Register** notice was published on April 22, 2015 (80 FR 22604). One individual submitted a comment, suggesting that the Department actively solicit responses through the U.S. Holocaust Memorial Museum email system. The Department believes that this is a good suggestion and will explore using that avenue to publicize this program.

Methodology: The information will be collected on a form, the DS–7713, Statement of Claim, which can be submitted by mail or fax.

Dated: June 25, 2015.

Alice Kottmyer,

Attorney-Adviser, Office of the Legal Adviser, Department of State.

[FR Doc. 2015–16097 Filed 6–29–15; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice: 9177]

30-Day Notice of Proposed Information Collection: Department of State Acquisition Regulation (DOSAR)

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to July 30, 2015.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Ms. Ismaela Ramirez, Office of the Procurement Executive, 2201 C Street NW., Suite 1060, State Annex Number 15, Washington DC 20522–0602; who may be reached on (703) 516–1693 or at *RamirezIM2@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Department of State Acquisition Regulation (DOSAR).
- *OMB Control Number:* 1405–0050.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Administration, Office of the Procurement Executive (A/OPE).
- *Form Number:* No Form.
- *Respondents:* Any business, other for-profit, individual, not-for-profit, or household.
- *Estimated Number of Respondents:* 267.
- *Estimated Number of Responses:* 831.
- *Average Time per Response:* Approximately 4 hours (4.176).
- *Total Estimated Burden Time:* 3,470 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: This information collection covers pre-award and post-award requirements of the DOSAR. During the pre-award phase, information is collected to determine which proposals offer the best value to the U.S. Government. Post-award actions include monitoring the contractor's performance; issuing modifications to the contract; dealing with unsatisfactory performance; and closing out the contract upon its completion. This program collects information pursuant to the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 302), the Omnibus Diplomatic Security and Antiterrorism Act (22 U.S.C. 4852), and the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864).

Methodology: Information is collected from prospective offerors to evaluate their proposals. The responses provided by the public are part of the offeror's proposals in response to Department solicitations. This information may be submitted electronically (through fax or email), or may require a paper submission, depending upon complexity. After contract award, contractors are required to submit information, on an as-needed basis, and related to the occurrence of specific circumstances.

Dated: June 23, 2015.

Corey M. Rindner,

Procurement Executive, Bureau of Administration, Department of State.

[FR Doc. 2015–16102 Filed 6–29–15; 8:45 am]

BILLING CODE 4710–05–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WT/DS478]

WTO Dispute Settlement Proceeding Regarding Indonesia—Importation of Horticultural Products, Animals and Animal Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on May 20, 2015, at the request of the United States, the World Trade Organization (WTO) has established a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') concerning certain measures imposed by Indonesia on the importation of horticultural products, animals and animal products. That request may be found at *www.wto.org,* contained in a document designated as WT/DS478/9. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of

the dispute settlement proceedings, comments should be submitted on or before July 31, 2015 to assure timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically at *www.regulations.gov,* docket number 2014–0010. If you are unable to provide submissions at *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Arthur Tsao and Kate Hadley, Assistant General Counsels, Office of the United States Trade Representative, (202) 395–6987 and (202) 395–5949, respectively.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that, at the request of the United States, a dispute settlement panel has been established pursuant to the WTO Dispute Settlement Understanding (''DSU''). The panel will hold its meetings in Geneva, Switzerland.

Major Issues Raised by the United States

On March 18, 2015, the United States requested the establishment of a dispute settlement panel to examine Indonesia's wide-ranging import restrictions on fruits and vegetables, animal products, and other agricultural products. These measures include a ban on poultry and certain meat products and Indonesia's trade-restrictive import licensing regimes for horticultural products and animals and animal products.

Specifically, Indonesia: (a) Imposes trade-restrictive import licensing regimes and related requirements on imports of horticultural products and of animals and animal products; (b) imposes prohibitions and restrictions on imports of such products; and (c) prohibits and restricts importation of such products when domestic production is deemed sufficient to fulfill domestic demand.

The legal instruments through which Indonesia imposes and administers these measures include but are not limited to the following instruments:

1. Regulation of the Ministry of Agriculture Number 86/Permentan/OT.140/8/2013 Concerning Import Recommendation of Horticulture Products (''MOA Regulation 86/2013''), which repeals and replaces Regulation of the Minister of Agriculture Number 47/Permentan/OT.140/4/2013 Concerning Recommendation on the Importation of Horticulture Products, which repealed and replaced Regulation of the Minister of Agriculture Number 60/Permentan/OT.140/9/2012;

2. Regulation of the Minister of Trade Number 16/M–DAG/PER/4/2013 Concerning Provisions on Horticulture Product Import (''MOT Regulation 16/2013''), which repeals and replaces Regulation of the Minister of Trade Number 30/M–DAG/PER/5/2012 Concerning the Provisions on Import of Horticultural Products and Regulation of the Minister of Trade Number 60/M–DAG/PER/9/2012 Regarding Second Amendment of Regulation of the Minister of Trade Number 30/M–DAG/PER/5/2012 Regarding Provisions on Import of Horticultural Products;

3. Regulation of the Ministry of Trade Number 47/M–DAG/PER/8/2013 Concerning Amendment of Regulation of the Minister of Trade Number 16/M–DAG/PER/4/2013 Concerning Import Provision of Horticulture Product (''MOT Regulation 47/2013'');

4. Regulation of the Ministry of Agriculture Number 139/Permentan/PD.410/12/2014 (''MOA Regulation 139/2014'') Regarding Importation of Carcass, Meat, and/or Its Derivatives into the Territory of the Republic of Indonesia as amended by Regulation of the Ministry of Agriculture Number 02/Permentan/PD.410/1/2015 Concerning Amendment of Regulation of the Ministry of Agriculture Number 139/Permentan/PD.410/12/2014 Regarding Importation of Carcass, Meat, and/or Its Derivatives into the Territory of the Republic of Indonesia, which repealed and replaced Regulation of the Ministry of Agriculture Number 84/Permentan/PD.410/8/2013 Concerning Importation of Carcass, Meat, Offal and/or Their Derivatives into the Territory of the Republic of Indonesia as amended by Regulations of the Ministry of Agriculture 96/Permentan/PD.410/9/2013 and Regulations of the Ministry of Agriculture 110/Permentan/PD.410/9/2014, which repeals and replaces Regulation of the Minister of Agriculture Number 50/Permentan/OT.140/9/2011 Concerning Recommendation for Approval on Import of Carcasses, Meats, Edible Offals and/or Processed Products Thereof to Indonesian Territory as amended by Regulation of the Minister of Agriculture Number 63/Permentan/OT.140/5/2013 Concerning Amendment of Regulation of the Minister of Agriculture Number 50/Permentan/OT.140/9/2011 Concerning Import Approval Recommendation of Carcass, Meat, Offal, and/or their Derivatives into the Territory of the Republic of Indonesia;

5. Regulation of the Minister of Trade Number 46/M–DAG/PER/8/2013 Concerning Animal and Animal Product Import and Export Provision (''MOT Regulation 46/2013'') as amended by Regulation of the Minister of Trade No. 57/M–DAG/PER/9/2013 and by Regulation of the Minister of Trade 17/M–DAG/PER/3/2014, which repeals and replaces Regulation of the Minister of Trade Number 22/M–DAG/PER/5/2013 Concerning Import and Export of Animals and Animal Products, which repealed and replaced Regulation of the Minister of Trade Number 24/M–DAG/PER/9/2011 Concerning Provisions on the Import and Export of Animal and Animal Product;

6. Law of the Republic of Indonesia Number 13 of Year 2010 Concerning Horticulture;

7. Law of the Republic of Indonesia Number 18/2012 Concerning Food;

8. Law of the Republic of Indonesia Number 19/2013 Concerning Protection and Empowerment of Farmers;

9. Law of the Republic of Indonesia Number 18/2009 on Animal Husbandry and Animal Health, as amended by Law of the Republic of Indonesia Number 41/2014 on Amendment of Law Number 18/2009 on Animal Husbandry and Animal Health;

10. Law of the Republic of Indonesia Number 18/2012 Concerning Food; and

11. Law of the Republic of Indonesia Number 19/2013 Concerning Protection and Empowerment of Farmers.

The legal instruments also include any amendments, related measures, or implementing measures.

Through these measures, Indonesia appears to have acted inconsistently with its obligations under the *General Agreement on Tariffs and Trade* (''GATT 1994'') and the *Agreement on Agriculture* (''Agriculture Agreement''). Specifically, as further elaborated in the U.S. panel request, the United States asserts that Indonesia's measures appear to be inconsistent with WTO rules, including, inter alia, provisions of the GATT 1994 and the Agriculture Agreement:

1. Article XI:1 of the GATT 1994 as these measures are ''prohibitions or restrictions other than duties, taxes or other charges'' instituted or maintained on the importation of products into Indonesia.

2. Article 4.2 of the Agreement on Agriculture as these measures are ''of the kind which have been required to be converted into ordinary customs duties.''

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *www.regulations.gov,* docket number USTR–2014–0010. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *www.regulations.gov,* enter docket

number USTR–2014–0010 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Submit a Comment'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comments'' field, or by attaching a document using an ''Upload File'' field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field.

A person requesting that information, contained in a comment that he submitted, be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted at *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection.

USTR may determine that information or advice contained in a comment submitted, other than business confidential information, is confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted at *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR–2014–0010, accessible to the public at *www.regulations.gov.*

The public file will include non-confidential comments received by USTR from the public regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from such a panel, the following documents will be made available to the public at *www.ustr.gov:* the United States' submissions, any non-confidential submissions received from other participants in the dispute, and any non-confidential summaries of submissions received from other participants in the dispute. In the event that a dispute settlement panel is convened, or in the event of an appeal from such a panel, the report of the panel, and, if applicable, the report of the Appellate Body, will also be available on the Web site of the World Trade Organization at *www.wto.org.* Comments open to public inspection may be viewed at *www.regulations.gov.*

Juan Millan,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 2015–15987 Filed 6–29–15; 8:45 am]

BILLING CODE 3290–F5–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Second Meeting: Special Committee 234 (SC 234)

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Second meeting notice of Special Committee 234.

SUMMARY: The FAA is issuing this notice to advise the public of the second meeting of the Special Committee 234.

DATES: The meeting will be held October 7th—9th from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at EASA, Ottoplatz 1, Cologne, Germany (CGN), Tel: (202) 330–0680.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Karan Hofmann, RTCA, Inc., *khofmann@rtca.org,* 202–330–0680.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Special Committee 234. The agenda will include the following:

Wednesday, October 7, 2015—9:00am–5:00pm

1. Welcome and Administrative Remarks
2. Agenda Review and Meeting #1 Minutes Review
3. Status Report of Task-Group Leaders (TG #1–#4)
   a. TG–1—General Background, Regulations, App, etc.
   b. TG–2—Front Door Guidance
   c. TG–3—Back Door Guidance
   d. TG–4—Continuous Airworthiness
4. Review of Completeness of previous WG–99/SC–234 tasks
5. Integration of outcome into Revised ED–130 and new RTCA document structure
6. Review of program schedule
7. Any other Business
8. Date and Place of Next Meeting
9. Adjourn

Thursday, October 8, 2015—9:00am–5:00pm

1. Continuation of Plenary or Working Group Session

Friday, October 9, 2015—9:00am–11:30am

1. Continuation of Plenary or Working Group Session

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 24, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–16058 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifth Meeting: Tiger Team 011 (TG 011)

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Seventh Meeting Notice of Tiger Team 011.

SUMMARY: The FAA is issuing this notice to advise the public of the seventh meeting of the Tiger Team 011.

DATES: The meeting will be held July 27th–30th from 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA, 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0663.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Sophie Bousquet, Program Director, RTCA, Inc., *sbousquet@rtca.org,* 202–330–0663.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Tiger Team 011. The agenda will include the following:

July 27–30, 2015

1. Introduction
2. Agenda Overview
3. Review of FRAC comments and proposed comment resolutions—Document under FRAC from June 22 to July 20, 2015
4. Approval of Final document for the PMC
5. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 24, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–16056 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2015–1006]

Discontinuation of Airport Advisory Service in the Contiguous United States, Puerto Rico, and Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed policy.

SUMMARY: The FAA is proposing to revise its policy concerning the provision of Airport Advisory services. Under the proposal, Airport Advisory services would be discontinued in the contiguous United States, Puerto Rico, and Hawaii. The policy would continue to apply to the state of Alaska only.

DATES: Submit comments on or before July 30, 2015.

ADDRESSES: You may send comments identified by docket number FAA–2015–1006 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: 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*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alan Wilkes, Manager, Flight Service NAS Initiative Operations/Implementation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone 202–267–7771; Fax (202) 267–6310; email *Alan.Wilkes@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The criteria for providing Airport Advisory (AA) services at Flight Service Stations (FSS) is provided in FAA Order 7210.3, Facility Operation and Administration; specifically, paragraph 13–4–5, addresses Local Airport Advisory (LAA), Remote Airport Advisory (RAA) and Remote Airport Information Service (RAIS). Section (b) of that paragraph requires, in part, that Flight Service Stations provide RAA when the employee productivity factor is high enough to justify the cost of providing the service.[1]

In 2005, Lockheed Martin took over flight service operations at 58 locations as part of a 5-year contract covering the Contiguous United States (CONUS), Puerto Rico, and Hawaii. Lockheed Martin subsequently consolidated operations, reducing the number of facilities from 58 to 18 to the current number of 5. Consolidation had previously been recommended by stakeholders, including both the FAA and the Office of Inspector General (OIG), to reduce cost and improve operational efficiency, regardless of whether those services continued to be provided by the FAA, or a contractor.[2] As part of Lockheed Martin's consolidation, AA services transitioned from Local Airport Advisory (LAA) services, located at the airport where the service is provided, to Remote Airport Advisory (RAA) services, not located at the airport where the service is provided.[3] Additionally, FAA exercised

[1] The facility's productivity factor is determined by dividing the annual RAA service count by 16,000. The productivity factor is compared to the number of employees used to provide the service and must be equal

to or greater than the number of employees needed to provide the service. Normally about 2.5 employees are factored annually to provide 10 hours of service per day.

[2] OIG Report Number AV–2002–064, ''Automated Flight Service Stations: Significant Benefits Could Be Realized by Consolidating AFSS Sites in Conjunction With Deployment of OASIS,'' December 7, 2001. IG reports and testimonies are available on our Web site: *www.oig.dot.gov.*

[3] On September 6, 2006 the FAA sought public comment regarding Notice concerning Airport Advisory Service at Certain Airports in the Continental United States, Excluding Alaska (71 FR 52602). This notice requested comment concerning the necessity, availability, importance, and use of the AA service. The FAA received 95 comments in response to the 2006 notice. When comment was solicited in 2006 users still regularly used AA services, and because providing the service was

the option to extend the contract by an additional 3 years, followed by another 2 years.

Today and where available, RAA service is provided upon request by FSS personnel via ground-to-air communication on the common traffic advisory frequency (CTAF) at certain airports without an operating control tower that have certified automated weather reporting via voice capability. The service provides information to pilots as needed, such as, wind direction and speed, favored or designated runway, altimeter setting, information about observed or reported traffic, weather, and appropriate Notice to Airman (NOTAM) information.

Currently, Lockheed Martin provides RAA services at 19 locations. The requirements of the FAA flight service contract with Lockheed Martin have been under review in preparation for the upcoming contract renewal. As part of the FAA review process, the Flight Services Quality Assurance Evaluation Group found low usage at the locations still receiving the service. At 18 of the 19 remaining locations, a sample of historical data reflects that pilots contact the RAA service an average of less than 1 time per day. At Millville Municipal Airport in Millville, NJ, pilots contact the RAA service an average of 14 times per day.[4] The frequency of RAA service no longer justifies the continuation of the service due to the lack of productivity.

Additionally, pilots are using other information resources, such as, Automated Surface Observing Systems (ASOS), Automated Weather Sensors System (AWSS), Automated Weather Observing System (AWOS), Unicom, and other commercial aviation information services. The combined resources provide the pilot the same or higher level of flight information as RAA service and the service has become redundant.

The FAA proposes to discontinue the requirement for FSSs to provide AA services in the Contiguous United States, Puerto Rico, and Hawaii effective October 1, 2015, which would result in the service no longer being available at the remaining 19 locations. The AA services in the state of Alaska would not be affected by this proposed change. Alaska depends on aviation because of the unique challenges presented by the remote mountainous terrain and weather conditions across the state. By soliciting comment to this notice, the FAA seeks to address public concerns and will consider any comments in determining whether to change the policy.

Applicability

The FAA proposes to revise the criteria set forth in FAA Order 7110.10, Chapter 4, Section 4; and FAA Order 7210.3, paragraph 13–4–5 to only be applicable to the State of Alaska. The policy would be discontinued at locations within the CONUS, Puerto Rico, and Hawaii. If adopted, RAA service would no longer be provided at the following airports:

Altoona-Blair County Airport (AOO), Altoona, Pennsylvania;
Columbia Regional Airport (COU), Columbia, Missouri;
Elkins-Randolph Airport (EKN), Elkins, West Virginia;
Huron Regional Airport (HON), Huron, South Dakota;
Jackson-McKellar-Sipes Regional Airport (MKL), Jackson, Tennessee;
Jonesboro Municipal Airport (JBR), Jonesboro, Arkansas;
Macon-Middle Georgia Regional Airport (MCN), Macon, Georgia;
Anderson Regional Airport (AND), Anderson, South Carolina;
Anniston Metropolitan Airport (ANB), Anniston, Alabama;
Casper-Natrona County International Airport (CPR), Casper, Wyoming;
Gainesville Regional Airport (GNV), Gainesville, Florida;
Grand Forks International Airport (GFK), Grand Forks, North Dakota;
Greenwood-Leflore Airport (GWO), Greenwood, Mississippi;
Louisville-Bowman Field Airport (LOU), Louisville, Kentucky;
Millville Municipal Airport (MIV), Millville, New Jersey;
Prescott-Ernest A. Love Field Airport (PRC), Prescott, Arizona;
St. Louis-Spirit of St. Louis Airport (SUS), St. Louis, Missouri;
St. Petersburg-Clearwater International Airport (PIE), St. Petersburg, Florida; and
Miami-Kendall-Tamiami Executive Airport (TMB), Miami, Florida.

II. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this notice by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the notice in this document. The most helpful comments reference a specific portion of the notice, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this action. Before acting on this notice, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this notice in light of the comments it receives.

Proprietary or Confidential Business Information: Do not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD–ROM, mark the outside of the disk or CD–ROM, and identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
3. Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/*.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or amendment number of this notice.

written into the contract with Lockheed Martin the FAA did not propose to discontinue the service.

[4] Lockheed Martin contact history daily averages, July 12–26 and October 1–15, 2014.

All documents the FAA considered in developing this notice, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

Issued in Washington, DC, on June 23, 2015.

Jeanne Giering,

Director of Flight Services.

[FR Doc. 2015–15949 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–13P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifteenth Meeting: Subcommittee 227 (SC 227)

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Fifteenth meeting notice of Subcommittee 227.

SUMMARY: The FAA is issuing this notice to advise the public of the fifteenth meeting of the Subcommittee 227.

DATES: The meeting will be held September 14th–18th from 9:00 a.m.–4:30 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0663.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Sophie Bousquet, Program Director, RTCA, Inc., *sbousquet@rtca.org,* 202–330–0663.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Subcommittee 227. The agenda will include the following:

Monday, September 14–18, 2015

1. Welcome and Administrative Remarks
2. Introductions
3. Agenda Overview
4. Approval of Meeting #14 Minutes
5. Overview of Planned Work Program for the Week
6. FRAC Resolution for DO–283A Update
7. Plenary Review/Discussion
8. Planned Work Schedule
9. Review of FRAC comments/worksheet, and committee resolution of comments
10. Approval of the document to go to the PMC
11. 9:00 a.m. to 4:30 p.m. each day (start and end times may be adjusted after opening plenary session)
12. Other Business
13. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 24, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–16053 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twenty Ninth Meeting: Special Committee 213 (SC 213)

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Twenty ninth meeting notice of Special Committee 213.

SUMMARY: The FAA is issuing this notice to advise the public of the twenty ninth meeting of the Special Committee 213.

DATES: The meeting will be held July 21st–23rd from 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at Boeing 2–122 Building, Conference Room 102L2, North End of Boeing Field, 7755 East Marginal Way S, Seattle, WA 98108, Tel: (202) 330–0662.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Jennifer Iversen, RTCA, Inc., *jiversen@rtca.org,* (202) 330–0662.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Special Committee 213. The agenda will include the following:

Tuesday, July 21, 2015

1. Plenary discussion (sign-in at 08:00 a.m.)
2. Introductions and administrative items
3. Review and approve minutes from last full plenary meeting
4. Review of terms of reference (if needed)
5. WG1, WG2 and WG3 status updates
6. Industry updates
7. SVGS Draft AC Discussion
8. WG2 Draft Document

Wednesday, July 22, 2015

1. Plenary discussion
2. WG2 Draft Document
3. WG3 Draft Document
4. WG1 Discussion

Thursday, July 23

1. Plenary discussion
2. WG2 Draft Document
3. Administrative items (new meeting location/dates, action items etc.)
4. Introductions
5. Agenda Overview
6. Approval of Meeting #14 Minutes
7. Overview of Planned Work Program for the Week
8. FRAC Resolution for DO–283A Update
9. Plenary Review/Discussion
10. Planned Work Schedule
11. Review of FRAC comments/worksheet, and committee resolution of comments
12. Approval of the document to go to the PMC
13. 9:00 a.m. to 4:30 p.m. each day (start and end times may be adjusted after opening plenary session)
14. Other Business
15. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 24, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–16054 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the Interstate 64 Peninsula Study in Virginia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to the second section of the Interstate 64 Peninsula Study from approximately Exit 247 in the east to approximately Exit 242 in the west in the City of Newport News and York County, Virginia. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the project will be barred unless the claim is filed on or before November 27, 2015. Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 150 days after publication of a notice in the **Federal Register** announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed.

FOR FURTHER INFORMATION CONTACT: Mr. Mack Frost, Planning and Environmental Specialist, Federal Highway Administration, 400 North 8th Street, Richmond, Virginia 23219; telephone: (804) 775–3352; email: *Mack.frost@dot.gov.* The FHWA Virginia Division Office's normal business hours are 7:00 a.m. to 5:00 p.m. (Eastern Time). For the Virginia Department of Transportation: Mr. Scott Smizik, 1401 East Broad Street, Richmond, Virginia 23219; email: *Scott.Smizik@vdot.virginia.gov;* telephone: (804) 371–4082.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following project in the State of Virginia: The second section of the Interstate 64 Peninsula Study from approximately Exit 247 in the east to approximately Exit 242 in the west. The project would involve constructing one additional lane in each direction in the median. The actions taken by FHWA, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS), the Request for the Record of Decision (ROD), and the ROD. The FEIS was signed on November 26, 2013. The ROD was issued on June 8, 2015. The FEIS, Request for the ROD, and ROD can be viewed on the project's internet site at *http://www.virginiadot.org/projects/hamptonroads/i-64_peninsula_study.asp.* These documents and other project records are also available by contacting FHWA or the Virginia Department of Transportation at the phone numbers and addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].

2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

6. Social and Economic: Farmland Protection Policy Act [7 U.S.C. 4201–4209].

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C 139(*l*)(1).

Issued On: June 24, 2015.

John Simkins,

Planning and Environment Team Leader.

[FR Doc. 2015–16024 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0065]

Notice of Buy America Waiver

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

ACTION: Notice of Buy America waiver; request for comment.

SUMMARY: This notice provides NHTSA's finding that a public interest waiver of the Buy America requirements is appropriate for any manufactured product whose purchase price is $5,000 or less, excluding a motor vehicle, when such product is purchased using Federal grant funds administered under Chapter 4 of Title 23 of the United States Code; and requests public comment.

DATES: The effective date of this waiver is July 30, 2015. Written comments regarding this notice may be submitted to NHTSA and must be received on or before July 30, 2015.

ADDRESSES: Written comments may be submitted using any one of the following methods:

- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Fax:* Written comments may be faxed to (202) 493–2251.
- *Internet:* To submit comments electronically, go to the Federal regulations Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Hand Delivery:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Instructions: All comments submitted concerning this notice must include the agency name and docket number. Please note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You may also call the Docket at 202–366–9324.

FOR FURTHER INFORMATION CONTACT: Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202–366–1834). You may send mail to Mr. DiMarsico at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The statutory requirement (''Buy America'') states that the Secretary ''shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or [title 23 of the United States Code] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.'' 23 U.S.C. 313(a). The Secretary of Transportation has delegated the authority to administer Buy America for NHTSA programs to the Administrator of NHTSA. 49 CFR 1.95; 49 CFR 501. Buy America provides that NHTSA may waive those requirements if ''(1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.'' 23 U.S.C. 313(b).

Buy America establishes a preference for domestically produced goods for use in Federally sponsored projects. The first Buy America legislation conditioning the expenditure of Federal funds by NHTSA grant recipients was enacted in 1978 as part of the Surface Transportation Assistance Act of 1978. Pub. L. 95–599, 92 Stat. 2689. The focus of that Buy America provision was on large procurements, such as bridge replacement projects, and not on smaller, routine purchases.[1] The House of Representatives considered excluding up to $5 million in project costs from the requirements of Buy America, but ultimately did not pursue a threshold.[2] The Senate bill sought to limit Buy America requirements to projects whose costs exceeded $1 million to avoid imposing excessive requirements on small, routine projects. *See* H.R. Conf. Rep. 95–1797 (1978), 1978 U.S.C.C.A.N. 6693, 6754. Ultimately, the Senate's proposed threshold was reduced in conference to $500,000, and the provision became law, establishing a preference for ''articles, materials, supplies mined, produced or manufactured'' in the United States and costing more than $500,000.

In 1983, Congress repealed that Buy America provision and substituted section 165 of the Surface Transportation Assistance Act of 1982. Pub. L. 97–424, 96 Stat. 2067.[3] The 1982 enactment specified that the Buy America prohibition applied to ''steel, cement and manufactured products'' and eliminated the $500,000 threshold.[4] Although the threshold was eliminated, Congress acknowledged circumstances where the prohibition would be difficult to apply and introduced exceptions under a waiver process that remains in place today. Pub. L. 97–424, 96 Stat. 2067. One of these exceptions is the public interest waiver. *Id.*

Agencies are permitted to waive the Buy America requirement when they determine that ''it is inconsistent with the public interest.'' 23 U.S.C. 313(b)(1). In consideration of this authority and consistent with the purposes of NHTSA's grant programs to reduce accidents and resulting fatalities and injuries, the agency has determined that it is appropriate to issue a public interest waiver for small, routine purchases by States under the highway safety grant programs. In making this decision and arriving at a reasonable threshold for waiver, NHTSA remains mindful of the overarching purposes of Buy America, while evaluating all relevant facts, including administrative burden, delay and impact on the congressionally authorized State grant programs.

NHTSA Highway Safety Grant Programs

NHTSA's mission is to reduce deaths, injuries and economic losses resulting from motor vehicle crashes. This is accomplished by setting and enforcing safety performance standards for motor vehicles and motor vehicle equipment, and through grants to States to enable them to conduct effective State and local highway safety programs. NHTSA's State highway safety programs are codified in Chapter 4 of Title 23, United States Code. Chief among these programs is section 402, which provides formula grants to States to administer a comprehensive highway safety program designed to reduce traffic accidents and resulting deaths, injuries and property damage. 23 U.S.C. 402. Section 402 authorizes State programs related to speeding, occupant protection, impaired driving, accident prevention, school bus safety, unsafe driving behavior (aggressive, fatigued and distracted driving), traffic safety law enforcement, driver education, pedestrian and bicycle safety, and traffic administration (record systems, accident investigation and emergency services). In addition to the core section 402 grants, NHTSA also administers other grants to the States, which Congress from time to time authorizes to address specific highway safety needs. Most recently, under the ''Moving Ahead for Progress in the 21st Century Act'' (Pub. L. 112–141), Congress authorized the ''National Priority Safety Programs,'' providing additional grants to States in the areas of occupant protection, State traffic safety information system improvements, distracted driving, motorcyclist safety, and State graduated driver licensing laws. *See* 23 U.S.C. 405.

In general, States may expend Federal section 402 or 405 funds for any item or service that is necessary and reasonable for proper and efficient performance and administration of their highway safety programs and activities, subject to the statutory requirements and implementing regulations. *See* 23 CFR 1200 *et seq.* Because of the broad reach of these Federally sponsored highway safety programs, States may expend grant funds on thousands of different items and activities. In the area of equipment, allowable purchases range from low cost items such as office supplies (DVDs, printers and ink cartridges), computers, cameras, child restraints, motorcycle helmets, and radar speed detection devices to higher cost items such as police cruisers. In recent years, NHTSA has seen an increase in waiver requests for purchases of these smaller commercial items, based on non-availability in the United States or availability only at a high price differential. Many of these items cost $5,000 or less. *See, e.g.,* 80 FR 9851 (Feb. 24, 2015) (printers); 79 FR 74811 (Dec. 16, 2014) (child restraints); 79 FR 74812 (Dec. 16, 2014) (training motorcycles); and 79 FR 55529 (Sept. 16, 2014) (DVDs and motorcycle safety vests).

Non-Availability and High Cost Differential Waivers Under Buy America

State grantees incur significant burdens when required to submit waivers for small, routine purchases of items that are increasingly not manufactured in the United States. As part of a waiver request, a State must demonstrate through a market analysis that the item for which it seeks a waiver is not available in the United States or will cost 25 percent more than a comparable non-domestic item. For each waiver request, the agency must, in the exercise of due diligence, perform

[1] H.R. Rep. No. 95–1485, 1978 U.S.C.C.A.N. 6575, 6644 (August 11, 1978).

[2] *Id.*

[3] Section 165 was originally included as a note to section 23 U.S.C. 101 and codified in 2005 to current its section, 23 U.S.C. 131. *See* Pub. L. 109–509, 119 Stat. 1464.

[4] Congress amended section 165 of the STAA of 1982 by removing ''cement'' in 1984, Pub. L. 98–229. 98 Stat. 55, and by adding ''Iron'' in 1991, Pub. L. 102–240, 105 Stat. 1914.

an additional independent review and market analysis to confirm that the item meets either the non-availability exemption or the high cost differential exemption of Buy America. *See* 23 U.S.C. 313(b)(2), (b)(3). This process substantially delays State grantees in obtaining the items needed to administer and implement important highway safety programs. It also consumes limited agency resources to administer the highway safety grants. Moreover, the staff time needed by a State to prepare individual waivers for many small purchases comes at the expense of time devoted to implementing these life-saving programs. This is especially concerning in an era of tight State budgets, where State highway safety offices administering these grants face increasingly serious staffing constraints.

It is important to consider these constraints and burdens in the historical context of Buy America. During the many years Buy America has been in place, a significant statutory focus has been on purchases of materials used in construction and large-scale fabrication. Its application to the grants of transportation agencies such as the Federal Highway Administration (for road and bridge building materials) and the Federal Transit Administration (for acquisition of rolling stock and manufactured end products) is plain, because those materials are of central importance to those grants. However, by statute, NHTSA grant funds may not be used for construction. 23 U.S.C. 402(g)(1)(A). As a result, while steel and iron purchases are not implicated in NHTSA's grant programs, Buy America's reach to include the small amount of manufactured products used in NHTSA's programs does not have any effect on the manufacturer of those items. Under NHTSA's State grant programs, purchases of small manufactured products that are largely ancillary rather than central to the purposes of the highway safety grants (*e.g.,* laptops, printers, ink cartridges, DVDs, and other office products) are captured by the restriction. Whereas the core expenses under NHTSA's State grant programs are for reimbursing performance (estimated at more than 90 percent), such as police enforcement of State traffic safety laws, safety education, and the like, Buy America has the effect of restricting or delaying the States' ability to acquire ancillary support items necessary to successfully deploy these important highway safety programs. The result is that critical safety program delivery to the States, and from the States to their localities, suffers.

Public Interest Waiver

Based upon the foregoing discussion, NHTSA believes that a public interest waiver is appropriate to address these delays and burdens and thereby promote the success of State highway safety programs. NHTSA concludes that it is in the public interest to waive the Buy America requirements for a manufactured product whose purchase price is $5,000 or less, with one exception—the purchase of a motor vehicle, as defined in 49 U.S.C. 30102.[5] We do not believe that the purchase of motor vehicles can be reasonably viewed as ancillary in the context of these highway safety programs, and therefore decline to extend this public interest waiver to such purchases. The agency has selected this per-item threshold based on our determination that it is the level necessary to alleviate the burdens associated with purchases of low-priced commercially available items that are required for the successful implementation of the highway safety projects required under NHTSA grants. In selecting this conservative threshold, we sought to balance the goals of Buy America with the life-saving goals of the State highway safety grant programs.

A threshold of $5,000 for this waiver is in step with government-wide requirements and procedures applicable to grantee purchases of equipment, where the Federal interest starts at the $5,000 level. Under the Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards, equipment is defined as an item having a per unit cost of $5,000 or more. 2 CFR 200.33. At levels of $5,000 and above, grantees are required to obtain prior approval and account for equipment purchases. *See* 2 CFR 200.313; 2 CFR 200.439. In contrast, at levels below $5,000, Federal procedures governing purchase, administration, and disposition of items needed for performance of the grant do not apply. This treatment has also been codified in the NHTSA regulation implementing these programs, the Uniform Procedures for State Highway Safety Grant Programs. *See* 23 CFR 1200.31.

Moreover, NHTSA's chosen threshold is very conservative when compared to small purchase waivers or exclusions under Buy America within the jurisdiction of other operating modes of the U.S. Department of Transportation. For example, the Federal Transit Administration issued a general public interest waiver for small purchases, as defined in DOT's grants management common rule at 49 CFR 18.36(d).[6] 60 FR 37930 et. seq. (July 24, 1995); 49 CFR 661.7, Appendix A(c). Also, Congress codified the public interest need for a small purchase waiver in the Buy America requirement applicable to the Federal Railroad Administration, setting the threshold at $100,000. 49 U.S.C. 24405(a)(11).

In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(1), NHTSA finds that it is appropriate to waive Buy America requirements for a manufactured product, excluding a motor vehicle, whose cost per unit is $5,000 or less. Therefore, in accordance with the provisions of Section 117 of the SAFFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), NHTSA is providing this notice of its finding that a waiver of the Buy America requirements is appropriate. Written comments on this finding may be submitted through any of the methods discussed above. This waiver is consistent with the general government initiatives that promote streamlined government contracting by Federal agencies and use of Federal funds by grantees to reduce administrative burdens and increase efficiency to accomplish agency missions. *See* E.O. 12931, 59 FR 52387 (October 13, 1994). It does not eliminate NHTSA's oversight of the State grantees' use of Federal grant funds. NHTSA's Regional Administrators will continue to ensure that Federal grantee purchases are necessary and reasonable for the purposes of the specific highway safety grant program. After the effective date, grantees must still request a waiver of Buy America requirements for purchases that exceed the threshold published in today's notice. The agency will monitor State purchases under the highway safety grant programs and under this waiver to ensure that the important policy goals and the spirit of Buy America are maintained.

Authority: 23 U.S.C. 313; Pub. L. 110–161.

[5] Under that statutory provision, motor vehicle means ''a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.'' We recognize that the cost of most motor vehicles would fall above the threshold in today's notice. However, this exception from the waiver is included because the cost of some motor vehicles (for example, certain motorcycles), may fall below the threshold.

[6] The DOT Grants Management common rule, 49 CFR part 18, was repealed and replaced by 2 CFR part 2. *See* 78 FR 78590 (December 26, 2013).

Issued in Washington, DC, on June 25, 2015 under authority delegated in 49 CFR part 1.95

Paul A. Hemmersbaugh,

Acting Chief Counsel.

[FR Doc. 2015–16099 Filed 6–29–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning information reporting for qualified tuition and related expenses, magnetic media filing requirements for information returns, information reporting for payments of interest on qualified education loans, and magnetic media filing requirements for information.

DATES: Written comments should be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to LaNita Van Dyke, or at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Lanita.VanDyke@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: REG–161424–01 (Final), Information Reporting for Qualified Tuition and Related Expenses; Magnetic Media Filing Requirements for Information Returns, and REG–105316–98 (Final), Information Reporting for Payments of Interest on Qualified Education Loans; Magnetic Media Filing Requirements for Information.

OMB Number: 1545–1678.

Regulation Project Numbers: REG–105316–98 and REG–161424–01.

Abstract: These regulations relate to the information reporting requirements in section 6050S of the Internal Revenue Code for payments of qualified tuition and related expenses and interest on qualified education loans. These regulations provide guidance to eligible education institutions, insurers, and payees required to file information returns and to furnish information statements under section 6050S.

Current Actions: There is no change to this existing regulation.

Type of review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

The burden is reflected in the burdens for Form 1098–T and Form 1098–E.

Estimated total annual reporting burden for Form 1098–T: 4,848,090 hours.

Estimated average annual burden hours per response for Form 1098–T: 13 minutes.

Estimated number of responses for Form 1098–T: 21,078,651.

Estimated total annual reporting burden for Form 1098–E: 1,051,357 hours.

Estimated average annual burden hours per response for Form 1098–E: 7 minutes. Estimated number of responses for Form 1098–E: 8,761,303.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 22, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–16060 Filed 6–29–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to LaNita Van Dyke, or at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Assumptions of Partner Liabilities.

OMB Number: 1545–1843.

Regulation Project Number: TD 9207 (Final & Temp), REG–106736–00 (NPRM).

Abstract: In order to be entitled to a deduction with respect to the economic performance of a contingent liability that was contributed by a partner and assumed by a partnership, the partner, or former partner of the partnership, must receive notification of economic performance of the contingent liability from the partnership or other partner assuming the liability.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 250.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 22, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–16062 Filed 6–29–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Tip Rate Determination Agreement (Gaming Industry).

DATES: Written comments should be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to LaNita Van Dyke, or at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tip Rate Determination Agreement (Gaming Industry).

OMB Number: 1545–1530.

Abstract: Information is required by the Internal Revenue Service in its compliance efforts to assist employers and their employees in understanding and complying with Internal Revenue Code section 6053(a), which requires employees to report all their tips monthly to their employers.

Current Actions: There is no change this existing information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 43 hours, 40 minutes.

Estimated Total Annual Burden Hours: 4,367.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 22, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–16059 Filed 6–29–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning information collection requirements related to Clear Reflection of Income in the Case of Hedging.

DATES: Written comments should be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions

should be directed to LaNita Van Dyke, Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *LaNita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Clear Reflection of Income in the Case of Hedging Transactions.

OMB Number: 1545–1412.

Regulation Project Number: FI–54–93 (TD 8554).

Abstract: This regulation provides guidance to taxpayers regarding when gain or loss from common business hedging transactions is recognized for tax purposes and requires that the books and records maintained by a taxpayer disclose the method or methods used to account for different types of hedging transactions.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 110,000.

Estimated Time per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 22,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 22, 2015,

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–16057 Filed 6–29–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–105–75 (TD 8348), Limitations on Percentage Depletion in the Case of Oil and Gas Wells (Section 1.613A–3(l)).

DATES: Written comments should be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to LaNita Van Dyke, Internal Revenue Service, room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *LaNita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Limitations on Percentage Depletion in the Case of Oil and Gas Wells.

OMB Number: 1545–0919.

Regulation Project Number: PS–105–75 (TD 8348).

Abstract: Section 1.613A–3(1) of the regulation requires each partner to separately keep records of his or her share of the adjusted basis of partnership oil and gas property and requires each partnership, trust, estate, and operator to provide to certain persons the information necessary to compute depletion with respect to oil or gas.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

The burden associated with this collection of information is reflected on Forms 1065, 1041, and 706.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 22, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–16055 Filed 6–29–15; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 80 Tuesday,
No. 125 June 30, 2015

Part II

Environmental Protection Agency

40 CFR Part 63
National Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2010–0895; FRL–9928–66–OAR]

RIN 2060–AQ11

National Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Ferroalloys Production source category regulated under national emission standards for hazardous air pollutants (NESHAP). These final amendments include revisions to particulate matter (PM) standards for electric arc furnaces, metal oxygen refining processes, and crushing and screening operations, and expand and revise the requirements to control process fugitive emissions from furnace operations, tapping, casting, and other processes. We are also finalizing opacity limits, as proposed in 2014. However, regarding opacity monitoring, in lieu of Method 9, we are requiring monitoring with the digital camera opacity technique (DCOT). Furthermore, we are finalizing emissions standards for four previously unregulated hazardous air pollutants (HAP): Formaldehyde, hydrogen chloride (HCl), mercury (Hg) and polycyclic aromatic hydrocarbons (PAH). Other requirements related to testing, monitoring, notification, recordkeeping, and reporting are included. This rule is health protective due to the revised emissions limits for the stacks and the requirement of enhanced fugitive emissions controls that will achieve significant reductions of process fugitive emissions, especially manganese.

DATES: This final action is effective on June 30, 2015. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of June 30, 2015.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2010–0895. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov*, or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Phil Mulrine, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–5289; fax number: (919) 541–3207; and email address: *mulrine.phil@epa.gov.* For specific information regarding the risk modeling methodology, contact Darcie Smith, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2076; fax number: (919) 541–0840; and email address: *smith.darcie@epa.gov*. For information about the applicability of the NESHAP to a particular entity, contact Cary Secrest, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8661; and email address: *secrest.cary@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble Acronyms and Abbreviation

We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ATSDR Agency for Toxic Substances and Disease Registry
BLDS bag leak detection system
BTF Beyond-the-Floor
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
EJ environmental justice
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guidelines
ERT Electronic Reporting Tool
FeMn Ferromanganese
FR Federal Register
HAP hazardous air pollutants
HCl hydrochloric acid
HI Hazard Index
HQ Hazard Quotient
ICR Information Collection Request
IRIS Integrated Risk Information System
km kilometer
MACT maximum achievable control technology
mg/dscm milligrams per dry standard cubic meter
mg/m^3 milligrams per cubic meter
MIR maximum individual risk
MOR metal oxygen refining
MRL Minimal Risk Level
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NESHAP National Emissions Standards for Hazardous Air Pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OECA Office of Enforcement and Compliance Assurance
OMB Office of Management and Budget
PAH polycyclic aromatic hydrocarbons
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PM particulate matter
POM polycyclic organic matter
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RTR residual risk and technology review
SAB Science Advisory Board
SBA Small Business Administration
SiMn Silicomanganese
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
TPY tons per year
TRIM.FaTE Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure model
TTN Technology Transfer Network
µg/dscm micrograms per dry standard cubic meter
µg/m^3 micrograms per cubic meter
UMRA Unfunded Mandates Reform Act
UPL Upper Prediction Limit
VCS voluntary consensus standards

Background Information

On November 23, 2011, and October 6, 2014, the EPA proposed revisions to the Ferroalloys Production NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the NESHAP. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments are available in document titled: *National Emission Standards for Hazardous Air Pollutant Emissions: Ferroalloys Production Summary of Public*

Comments and the EPA's Responses on Proposed Rule (76 FR 72508, November 23, 2011) and Supplemental Proposal (79 FR 60238, October 6, 2014), Docket ID No. EPA–HQ–OAR–2010–0895, which is available in the docket. A ''track changes'' version of the regulatory language that incorporates the changes in this action is also available in the docket.

Organization of this Document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Regulated Entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [a] Code
Ferroalloys Production	331112

[a] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in 40 CFR part 63, subpart XXX (National Emission Standards for Hazardous Air Pollutants (NESHAP): Ferroalloys Production). If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Internet through the Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *http://www.epa.gov/ttn/atw/ferroa/ferropg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same Web site.

Additional information is available on the RTR Web site at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes an overview of the RTR program, links to project Web sites for the RTR source categories and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review and Administrative Reconsideration

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by August 31, 2015. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the Clean Air Act (CAA) further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to reconsider the rule ''[i]f the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. For existing sources the MACT standards can be less stringent than the floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor, under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 79 FR 60238.

B. What is the Ferroalloys Production source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Ferroalloys Production NESHAP on May 20, 1999 (64 FR 27450). The standards are codified at 40 CFR part 63, subpart XXX. The ferroalloys production industry consists of facilities that produce ferromanganese (FeMn) or silicomanganese (SiMn). The source category covered by this MACT standard currently includes two facilities.

The rule applies to ferroalloys production operations that are located at major sources of HAP emissions or are co-located at a major source of HAP emissions. The HAP emission sources at facilities subject to the Ferroalloys Production NESHAP are open, semi-sealed, or sealed submerged arc furnaces, tapping operations, casting operations, metal oxygen refining (MOR) process, crushing and screening operations, other processes, such as ladle treatment and slag raking, and outdoor fugitive dust sources. The 1999 NESHAP regulated these emissions sources through emission limits for PM, opacity limits, and work practices.

C. What changes did we propose for the Ferroalloys Production source category in our November 23, 2011, proposal and our October 6, 2014, supplemental proposal?

On November 23, 2011, the EPA published a proposed rule in the **Federal Register** (76 FR 72508) for the Ferroalloys Production NESHAP, 40 CFR part 63, subpart XXX that took into consideration the RTR analyses. In the 2011 proposed rule, we proposed:

- Revisions to the numeric emission limits for PM from furnace stacks to reflect the current performance of control devices in place at ferroalloys production facilities to control furnace emissions (primary and tapping), crushing and screening operations, and the MOR operation at one plant;
- Addition of Hg, HCl, PAH, and formaldehyde furnace stack emission standards that reflected the MACT determination for control of these pollutants;
- Requirements to capture process fugitive emissions using full building enclosure with negative pressure building ventilation and duct the captured emissions to a control device; and
- Revisions to the opacity standards to reflect effective capture and control of process fugitive emissions.

On October 6, 2014, the EPA published a supplemental proposed rule in the **Federal Register** (79 FR 60238). For the supplemental proposal, we proposed:

- Revisions to the proposed PM furnace stack emission standards based on additional test data submitted by the facilities;
- Revisions to the proposed Hg, HCl, and PAH furnace stack emission standards based on additional test data submitted by the facilities;
- Requirements to capture process fugitive emissions using effective, enhanced local capture, and duct the captured emissions to control devices;
- Revisions to the opacity standards to reflect effective, enhanced capture, and control of process fugitive emissions;
- To demonstrate compliance with the opacity limits, we proposed facilities would need to take opacity readings for an entire furnace cycle once per week per furnace using Method 9 or

[1] The U.S. Court of Appeals has affirmed this approach of implementing CAA section 112(f)(2)(A); *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

as an option they could take the readings using DCOT; and

- Several minor clarifications and corrections.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Ferroalloys Production source category and amends the existing Ferroalloys Production NESHAP based on those determinations. Among the changes finalized in this action are: The promulgation of MACT-based limits for previously unregulated HAP; requirements to effectively capture and control process fugitive emissions; the removal of startup, shutdown, and malfunction (SSM) exemptions; and the addition of DCOT monitoring. This action also reflects several changes to the November 2011 and October 2014 proposals in consideration of comments received during the public comment periods as described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Ferroalloys Production source category?

This section provides a summary of the final amendments to the Ferroalloys Production NESHAP being promulgated pursuant to CAA section 112(f).

1. Stack Emissions

We are promulgating PM emission limits for stacks at the following levels: 4.0 milligrams per dry standard cubic meter (mg/dscm) for new or reconstructed electric arc furnaces; 25 mg/dscm for existing electric arc furnaces; and 4.0 mg/dscm for any new, reconstructed, or existing local ventilation control device. These emission limits are the same as the limits proposed in the 2014 supplemental proposal.

In addition, we are promulgating a PM limit of 3.9 mg/dscm for any new, reconstructed, or existing MOR process and a PM limit of 13 mg/dscm for any new, reconstructed, or existing crushing and screening equipment, which are consistent with what we proposed in our November 23, 2011, proposal.

2. Process Fugitive Emissions Sources

We are promulgating a requirement that facilities in this source category must achieve effective enhanced capture of process fugitive emissions using a system of primary hoods (that capture process fugitive emissions near the source) and/or secondary capture of fugitives (which would capture remaining fugitive emissions near the roof-line). Facilities must install, operate, and maintain a process fugitives capture system that is designed to capture 95 percent or more of the process fugitive emissions. We are also promulgating an opacity limit of 8-percent to ensure process fugitive emissions are effectively captured. This is what we proposed in the October 6, 2014, supplemental proposal. However, we have revised the rule based on public comment, to provide more flexibility on how facilities achieve 95-percent capture of process fugitive emissions. We also strengthened the monitoring provisions to ensure that the required reductions are achieved.

B. What are the final rule amendments based on the technology review for the Ferroalloys Production source category?

We determined that there are developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category for both stack PM emissions and process fugitive emissions. Therefore, under the authority of CAA section 112(d)(6), we are promulgating the same PM stack emission limits and enhanced fugitive control requirements that we are promulgating under CAA section 112(f), as described in section A above.

C. What are the final rule amendments pursuant to CAA section 112(d)(2) & (3) for the Ferroalloys Production source category?

We are promulgating emission limits for formaldehyde, HCl, Hg, and PAH, which were previously unregulated HAP, pursuant to CAA section 112(d)(2) and 112(d)(3).

We are promulgating a formaldehyde emission limit of 201 micrograms per dry standard cubic meter (µg/dscm) for any new, reconstructed, or existing electric arc furnace. This is the same limit that we proposed on November 23, 2011.

We are promulgating an HCl emission limit of 180 µg/dscm for new or reconstructed electric arc furnaces and 1,100 µg/dscm for existing electric arc furnaces. This is the same limit that we proposed on October 6, 2014.

For electric arc furnaces producing FeMn, we are promulgating Hg emission limits of 13 µg/dscm for new or reconstructed electric arc furnaces and 130 µg/dscm for existing electric arc furnaces. For electric arc furnaces producing SiMn, we are promulgating Hg emission limits of 4 µg/dscm for new or reconstructed electric arc furnaces and 12 µg/dscm for existing electric arc furnaces. The Hg limit for new SiMn furnaces is the same as in the October 6, 2014, supplemental proposal. The final Hg limits for new and existing FeMn and existing SiMn furnaces are generally consistent with the supplemental proposal; however, there were changes to these three limits due to the inclusion of new emission data we received shortly before or during the supplemental proposal comment period.

For electric arc furnaces producing FeMn, we are promulgating a PAH emission limit of 12,000 µg/dscm for new or reconstructed and existing electric arc furnaces. The FeMn furnace PAH emission limits are significantly higher than what we proposed in the October 6, 2014, supplemental proposal due to the inclusion of new PAH emission data we received a few weeks before signature of the supplemental proposal and during the supplemental proposal comment period. We explained in the supplemental proposal preamble that we received data shortly before that notice and provided the data for comment (i.e., the data were available in the docket). The data received during the comment period were consistent with the data mentioned in the supplemental proposal. For electric arc furnaces producing SiMn, we are promulgating a PAH emission limit of 72 µg/dscm for new or reconstructed electric arc furnaces and 130 µg/dscm for existing electric arc furnaces. The SiMn furnace new PAH emission limit is the same as the limit in the October 6, 2014, supplemental proposal. There was a slight revision to the existing SiMn furnace PAH limit due to the inclusion of new emission data we received during the supplemental proposal comment period.

D. What are the requirements during periods of startup, shutdown and malfunction?

We are finalizing, as proposed in the supplemental proposal, changes to the Ferroalloys Production NESHAP to eliminate the SSM exemption. Consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008), the EPA is establishing standards in this rule that apply at all times. Table 1 to subpart XXX of part 63 (General Provisions applicability table) is being revised to change several references related to requirements that apply during periods of SSM. We also are eliminating or revising certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. We determined that facilities in this source category can meet the applicable emission standards

in the Ferroalloys Production NESHAP at all times, including periods of startup and shutdown; therefore, the EPA determined that no separate standards are needed to address emissions during these periods.

E. What other changes have been made to the NESHAP?

This rule also finalizes revisions to several other Ferroalloys Production NESHAP requirements as proposed, or in some cases with some modification as described in this section.

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing, as proposed, a requirement that owners and operators of ferroalloys production facilities submit electronic copies of certain required performance test reports through an electronic performance test report tool called the Electronic Reporting Tool (ERT). This requirement to submit performance test data electronically to the EPA does not require any additional performance testing and applies only to those performance tests conducted using test methods that are supported by the ERT.

We are finalizing the opacity standards, as proposed in the supplemental proposal. However, regarding compliance demonstration, we are requiring that facilities measure opacity using DCOT. In the supplemental proposal, we proposed facilities would need to monitor opacity with Method 9 or DCOT. However, after considering public comments, we decided to require DCOT rather than have it as optional. Regarding monitoring frequency, we proposed facilities would need to do opacity readings weekly per furnace building with no opportunity to reduce frequency overtime. After considering public comments, we have decided to require weekly readings initially, as proposed, but allow a facility an opportunity to decrease frequency of opacity readings to monthly per furnace building after 26 weeks of successful, compliant opacity readings.

In addition, due to the large variation in PAH emissions from furnace stacks during FeMn production, we are requiring quarterly compliance tests for PAHs (i.e., four PAH compliance tests per year) for furnaces while producing FeMn, with an opportunity for facilities to request decreased frequency of such compliance testing from their permit authority after the first year and after four or more successful PAH compliance tests have been completed and submitted electronically.

We are also finalizing other minor changes to the NESHAP in response to comments received during the public comment period for the proposal and supplemental proposal, as described in this preamble.

F. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on June 30, 2015. The compliance date for existing ferroalloys production sources for all the requirements promulgated in this final rule is June 30, 2017. Facilities must comply with the changes set out in this final rule (which are being promulgated under CAA sections 112(d)(2), 112(d)(3), 112(d)(6), and 112(f)(2) for all affected sources) no later than 2 years after the effective date of the final rule. CAA section 112(f)(4) generally provides that a standard promulgated pursuant to CAA section 112(f)(2) applies 90 days after the effective date, but further provides for a compliance period of up to 2 years when the Administrator determines that such time is necessary for the installation of controls and that steps will be taken during that period to assure protection to health from imminent endangerment. We conclude that 2 years are necessary to complete the installation of the enhanced local capture system and other controls. In the period between the effective date of this rule and the compliance date, existing sources will need to continue to comply with the requirements specified in 40 CFR 63.1650 through 40 CFR 63.1660. New sources must comply with the all of the standards immediately upon the effective date of the standard, June 30, 2015, or upon startup, whichever is later.

G. What are the requirements for submission of performance test data to the EPA?

As we proposed, the EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Specifically, the EPA is finalizing the requirement for owners and operators of ferroalloys production facilities to submit electronic copies of certain required performance test reports.

Data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. This EPA-provided software is an electronic performance test report tool called the ERT. The ERT will generate an electronic report package which will be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and then archived to the EPA's Central Data Exchange (CDX). A description and instructions for use of the ERT can be found at *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site (*http://www.epa.gov/cdx*).

The requirement to submit performance test data electronically to the EPA does not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT Web site. The EPA believes, through this approach, industry will save time in the performance test submittal process. Additionally, this rulemaking benefits industry by reducing recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept in hard copy.

State, local, and tribal agencies will benefit from more streamlined and accurate review of performance test data that will become available through WebFIRE. The public will also benefit. Having these data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, see the discussion in the preamble of the proposal.

In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, tribal agencies, and the EPA significant time, money, and effort while improving the quality of emission inventories and air quality regulations and enhancing the public's access to this important information.

IV. What is the rationale for our final decisions and amendments for the Ferroalloys Production source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document, which is available in the docket.

A. Residual Risk Review for the Ferroalloys Production Source Category

1. What did we propose pursuant to CAA section 112(f) for the Ferroalloys Production source category?

Pursuant to CAA section 112(f), we conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the October 6, 2014, supplemental proposal for the Ferroalloys Production NESHAP (79 FR 60238). The results of the risk assessment for the 2014 supplemental proposal are presented briefly below in Table 2 and in more detail in the residual risk document, *Residual Risk Assessment for the Ferroalloys Source Category in Support of the September 2014 Supplemental Proposal*, which is available in the docket for this rulemaking.

Based on actual emissions estimates for the Ferroalloys Production source category supplemental proposal, the maximum individual risk (MIR) for cancer was estimated to be up to 20-in-1 million driven by emissions of chromium compounds, PAHs, and nickel compounds. The maximum chronic non-cancer target organ-specific hazard index (TOSHI) value was estimated to be up to 4 driven by fugitive emissions of manganese. The maximum off-site acute hazard quotient (HQ) value was estimated to be 1 for arsenic compounds, hydrogen fluoride (HF), and formaldehyde. The total estimated national cancer incidence from this source category, based on actual emission levels, was 0.002 excess cancer cases per year, or one case in every 500 years.

Based on MACT-allowable emissions estimated for the Ferroalloys Production source category supplemental proposal, the MIR was estimated to be up to 100-in-1 million driven by emissions of arsenic and cadmium compounds from the MOR process baghouse outlet. The maximum chronic non-cancer TOSHI value was estimated to be up to 40 driven by emissions of manganese from the MOR process. The total estimated national cancer incidence from this source category, based on MACT-allowable emission levels, was 0.005 excess cancer cases per year, or one case in every 200 years.

We also found there were emissions of four persistent and bioaccumulative HAP (PB–HAP) with an available RTR multipathway screening value, and the reported emissions of these four HAP (cadmium compounds, dioxins/furans, Hg compounds, and PAH) were greater than the Tier 1 multipathway screening values for these compounds for both facilities at the time of the supplemental proposal. We conducted a Tier 2 multipathway screen for both facilities, and conducted a refined multipathway assessment for one facility in the source category. Results of the refined multipathway assessment predict a potential lifetime cancer risk of 10-in-1 million to the maximum exposed individual due to exposure to dioxins and PAHs. The non-cancer HQ was predicted to be below 1 for cadmium compounds and 1 for Hg compounds.

However, as explained in the *Revised Development of the Risk and Technology Review (RTR) Emissions Dataset for the Ferroalloys Production Source Category for the 2014 Supplemental Proposal* document, it is important to note that about 75 percent of the emissions test results for dioxins were below the detection limit. To be conservative, in our calculations of emissions estimates, we assumed all the test results that were recorded as below detection were one half the detection limit. Therefore, there are considerable uncertainties in estimated emissions for dioxins. Nevertheless, since we assumed emissions were at the level of one half the detection limit in all these cases where emissions were not even detected, we believe our emissions estimates are conservative (*i.e.*, more likely to be overestimates rather than underestimates of the true emissions).

Emissions of the four PB–HAP and two environmental HAP (HCl and HF) were reported by ferroalloys facilities. Tier 1 results for PB–HAP indicate that concentrations of cadmium compounds and dioxins are below the ecological benchmarks. Mercury compounds and PAHs concentrations were greater than the benchmark so a Tier 2 screen was conducted. For PAH and methylmercury, none of the individual modeled concentrations for any facility exceeded any of the ecological benchmarks. For mercuric chloride, the weighted average modeled concentrations for all soil parcels were well below the soil benchmarks. For HCl and HF, the average modeled concentrations around each facility did not exceed any ecological benchmarks.

For the supplemental proposal, we weighed all health risk factors in our risk acceptability determination and we proposed that the residual risks from the Ferroalloys Production source category are unacceptable.

TABLE 2—FERROALLOYS INHALATION RISK ASSESSMENT RESULTS IN THE OCTOBER 2014 SUPPLEMENTAL PROPOSAL

Maximum individual cancer risk (in 1 million) [a]		Estimated population at increased risk levels of cancer	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [b]		Maximum screening acute non-cancer HQ [d]
Actual emissions level	MACT-allowable emissions level [c]			Actual emissions level	MACT-allowable emissions level	
20	100	>= 1-in-1 million: 31,000 ..... >= 10-in-1 million: 400 ..... >= 100-in-1 million: 0	0.002	4	40	HQ_{REL} = 1 (arsenic compounds, formaldehyde, hydrofluoric acid).

[a] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.

[b] Maximum TOSHI. The target organ with the highest TOSHI for the Ferroalloys Production source category for both actual and allowable emissions is the neurological system. The estimated population at increased levels of noncancer hazard is 1,500 based on actual emissions and 11,000 based on allowable emissions.

[c] The development of allowable emission estimates can be found in the memorandum titled *Revised Development of the RTR Emissions Dataset for the Ferroalloys Production Source Category for the 2014 Supplemental Proposal*, which is available in the docket.

[d] See section III.A.3 of the supplemental proposal or the risk assessment document supporting the supplemental proposal for explanation of acute dose-response values. Acute assessments are not performed on allowable emissions.

As described above, to address the unacceptable risks in the supplemental proposal, we proposed tighter PM emission limits for the stacks, which significantly reduce risks due to allowable emissions. To reduce risks

due to process fugitive emissions, we proposed facilities must achieve effective enhanced capture of process fugitive emissions using a system of primary hoods (that capture process fugitive emissions near the source) and/or secondary capture of fugitives (which would capture remaining fugitive emissions near the roof-line). As described in the supplemental proposal, we estimated that these controls would reduce the MIR cancer risk estimate to 10-in-1 million and that the chronic noncancer hazard index (HI) would be reduced to an HI of 1. Acute screening and multipathway results were also reduced. In the supplemental proposal, we concluded that these risks, after the implementation of proposed controls, were acceptable.

We then considered whether the Ferroalloys Production NESHAP provides an ample margin of safety to protect public health and whether more stringent standards are necessary to prevent an adverse environmental effect, taking into consideration costs, energy, safety, and other relevant factors. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risks associated with emissions from the source category. Based on our ample margin of safety analysis for the supplemental proposal, we did not identify any additional cost-effective controls to further reduce risks beyond the requirements we proposed to achieve acceptable risks. Therefore, we proposed that additional HAP emissions controls are not necessary to provide an ample margin of safety. Based on the results of our screening analysis for risks to the environment, we also proposed that more stringent standards are not necessary to prevent an adverse environmental effect.

2. How did the risk review change for the Ferroalloys Production source category?

Information received by the EPA shortly before and during the supplemental proposal comment period included additional PAH and Hg test data that were not included in the supplemental proposal risk assessment due to timing and the need to review the data. We described the data in the supplemental proposal and asked for comment on the use of these data. After completion of the data review, these data were included in the risk assessment for the final rule. Therefore, PAH and Hg emissions estimates were revised for the final rule assessment. Some revisions were also made for other HAP emissions. These changes are discussed further in section IV of this preamble.

With the exception of the revised emissions described above, the risk assessment supporting the final rule was conducted in the same manner, using the same models and methods, as that conducted for the supplemental proposal. The documentation for the final rule risk assessment can be found in the document titled *Residual Risk Assessment for the Ferroalloys Source Category in Support of the 2015 Risk and Technology Review Final Rule*, which is available in the docket for this rulemaking.

a. Inhalation Risk Assessment Results. Table 3 provides an overall summary of the results of the inhalation risk assessment supporting the final rule.

TABLE 3—FERROALLOYS INHALATION RISK ASSESSMENT RESULTS IN THE 2015 FINAL RULE

Maximum individual cancer risk (in 1 million) [a]		Estimated population at increased risk levels of cancer	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [b]		Maximum screening acute non-cancer HQ [d]
Actual emissions level	MACT-allowable emissions level [c]			Actual emissions level	MACT-allowable emissions level	
20	100	>= 1-in-1 million: 41,000 ..... >= 10-in-1 million: 90 ..... >= 100-in-1 million: 0	0.003	4	40	HQ_{REL} = 1 (hydrofluoric acid, arsenic compounds).

[a] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.

[b] Maximum TOSHI. The target organ with the highest TOSHI for the Ferroalloys Production source category for both actual and allowable emissions is the neurological system. The estimated population at increased levels of noncancer hazard is 1,300 based on actual emissions and 11,000 based on allowable emissions.

[c] The development of allowable emission estimates can be found in the memorandum titled *Revised Development of the RTR Emissions Dataset for the Ferroalloys Production Source Category for the 2014 Supplemental Proposal*, which is available in the docket.

[d] See section III.A.3 of the supplemental proposal or the risk assessment document supporting the supplemental proposal for explanation of acute dose-response values. Acute assessments are not performed on allowable emissions.

The inhalation risk modeling performed to estimate risks based on actual and allowable emissions for the final rule relied primarily on updated emissions estimates based on data received through two Information Collection Requests (ICRs), additional data submitted by the companies voluntarily, and revised calculations as described further in the *Revised Development of the Risk and Technology Review (RTR) Emissions Dataset for the Ferroalloys Production Source Category for the 2015 Final Rule*, which is available in the docket for this action.

The results of the chronic baseline inhalation cancer risk assessment indicate that, based on updated estimates of actual emissions, the cancer MIR posed by the Ferroalloys Production source category is 20-in-1 million, with chromium compounds, PAHs, and nickel compounds from tapping fugitives, furnace fugitives, and furnace stacks accounting for more than 70 percent of the MIR. The total estimated cancer incidence from ferroalloys production sources based on updated actual emission levels is 0.003 excess cancer cases per year, or one case every 333 years, with emissions of PAH, chromium compounds, and cadmium compounds contributing 49 percent, 15 percent, and 12 percent, respectively, to this cancer incidence. In addition, we note that approximately 90 people are estimated to have cancer risks greater than or equal to 10-in-1 million, and approximately 41,000 people are estimated to have risks greater than or equal to 1-in-1 million because of actual emissions from this source category. These results, based on updated actual

emissions, are very similar to those presented in the supplemental proposal.

When considering the updated MACT-allowable emissions, the maximum individual lifetime cancer risk is estimated to be up to 100-in-1 million, driven by emissions of arsenic and cadmium compounds from the MOR process baghouse outlet. The estimated cancer incidence is estimated to be 0.006 excess cancer cases per year or one excess case in every 167 years. Approximately 3,300 people are estimated to have cancer risks greater than or equal to 10-in-1 million and approximately 120,000 people are estimated to have cancer risks greater than or equal to 1-in-1 million considering updated allowable emissions from ferroalloys facilities. These results, based on updated MACT-allowable emissions, are very similar to those presented in the supplemental proposal.

The maximum modeled chronic non-cancer HI (TOSHI) value for the source category based on updated actual emissions is estimated to be 4, with manganese emissions from tapping fugitives accounting for more than 50 percent of the HI. Approximately 1,300 people are estimated to have exposure to HI levels greater than 1 as a result of updated actual emissions from this source category. When considering updated MACT-allowable emissions, the maximum chronic non-cancer TOSHI is estimated to be 40, driven by manganese emissions from the MOR process baghouse outlet. Approximately 12,000 people are estimated to have potential exposure to TOSHI levels greater than 1 considering updated allowable emissions from these ferroalloys facilities. These results, for both updated actual and MACT-allowable emissions, are very similar to those presented in the supplemental proposal.

b. Acute Risk Results. Based on the updated emissions described above, our screening analysis for worst-case acute impacts based on actual emissions indicates the potential for hydrofluoric acid and arsenic compounds to have HQ results of 1, based on their respective REL values. Both facilities have estimated acute HQs of 1 for these pollutants. Acute HQs for other pollutants (*e.g.,* hydrochloric acid) are less than one. These acute results, based on updated emissions, are very similar to those presented in the supplemental proposal.

All the HAP in this analysis have worst-case acute HQ values of 1 or less, indicating that they carry no potential to pose acute concerns. In characterizing the potential for acute non-cancer impacts of concern, it is important to remember the upward bias of these exposure estimates (*e.g.*, worst-case meteorology coinciding with a person located at the point of maximum concentration during the hour) and to consider the results along with the conservative estimates used to develop peak hourly emissions as described earlier, as well as the screening methodology. More discussion of our acute screening methods can be found in the supplemental proposal or in the risk assessment document, *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the 2015 Final Rule,* which are available in the docket.

c. Multipathway Risk Screening Results. Results of the worst-case Tier I screening analysis indicate that PB–HAP emissions (based on updated estimates of actual emissions) from one or both facilities in this source category exceed the screening emission rates for cadmium compounds, Hg compounds, dioxins, and PAHs. For the compounds and facilities that did not screen out at Tier I, we conducted a Tier II screen.

Based on the Tier II screening analysis, no facility emits cadmium compounds above the Tier II screening levels. One facility emits Hg compounds above the Tier II screening levels and exceeds that level by a factor of 8. Both facilities emit chlorinated dibenzodioxins and furans (CDDF) as 2,3,7,8-tetrachlorodibenzo-p-dioxin toxicity equivalent (TEQ) above the Tier II screening levels and the facility with the highest emissions of dioxins exceeds its Tier II screening level by a factor of 10. Both facilities emit POM as benzo(a)pyrene TEQ above the Tier II screening levels and the facility with the highest emissions exceeds its screening level by a factor of 50. These multipathway screening results, based on updated emissions, are very similar to those presented in the supplemental proposal. More information about our multipathway screening approach can be found in the supplemental proposal or in the risk assessment document, *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the 2015 Final Rule,* which are available in the docket.

d. Multipathway Refined Risk Results. A refined multipathway analysis was conducted for one of the two facilities in this source category using the TRIM.FaTE model and the updated emissions as described above. The facility, Eramet Marietta Incorporated, in Marietta, Ohio, was selected based upon its close proximity to nearby lakes, and farms as well as having the highest potential multipathway risks for three of the four PB–HAP based on the Tier II analysis. In addition, it was selected for a refined multipathway assessment in the supplemental proposal. These three PB–HAP were cadmium, Hg, and PAHs. Even though neither facility exceeded the Tier II screening levels for cadmium, Eramet had the higher value. Eramet also emits dioxins, but the other facility had a higher exceedance of its Tier II screening level. The refined analysis was conducted on all four PB–HAP using updated emissions as described above. The refined analysis for this facility showed that the Tier II screen for each pollutant over-predicted the potential risk when compared to the refined analysis results.

Overall, the refined analysis predicts a potential lifetime cancer risk of 20-in-1 million to the maximum most exposed individual due to exposure to dioxins and PAHs. The non-cancer HQ is predicted to be below 1 for cadmium compounds and 1 for Hg compounds. These results, based on updated emissions, are very similar to those presented in the supplemental proposal.

Further details on the refined multipathway analysis can be found in Appendix 10 of the *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the 2015 Final Rule,* which is available in the docket.

e. Environmental Risk Screening Results. As described in section III.A of the supplemental proposal preamble (79 FR 60238), we conducted an environmental risk screening assessment for the Ferroalloys Production source category. In the Tier I screening analysis for PB–HAP (other than lead, which was evaluated differently as noted in section III.A of the supplemental proposal preamble, 79 FR 60238), the individual modeled Tier I concentrations for one facility in the source category exceeded some sediment, fish-avian piscivorus, and surface soil benchmarks for PAHs, methylmercury, and mercuric chloride. Therefore, we conducted a Tier II assessment.

In the Tier II screening analysis for PAHs and methylmercury, none of the individual modeled concentrations for any facility in the source category exceeded any of the ecological benchmarks (either the lowest-observed-adverse-effect level or the no-observed-adverse-effect level). For mercuric chloride, soil benchmarks were exceeded for some individual modeled points that collectively accounted for 11 percent of the modeled area. However, the weighted average modeled concentration for all soil parcels was well below the soil benchmarks. For

lead, we did not estimate any exceedances of the secondary lead National Ambient Air Quality Standards (NAAQS).

For HCl, each individual concentration (*i.e.*, each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities. The average modeled HCl concentration around each facility (*i.e.*, the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark. For HF, some individual modeled points exceeded the ecological benchmark but accounted for less than 0.02 percent of the modeled area. The average modeled HF concentration around each facility (*i.e.*, the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmarks. These results, based on updated emissions, are very similar to those presented in the supplemental proposal.

f. Facility-Wide Risk Assessment Results. As in the supplemental proposal, for both facilities in this source category, there are no other HAP emissions sources present beyond those included in the source category. Therefore, we conclude that the facility-wide risk is the same as the source category risk and that no separate facility-wide analysis is necessary.

g. Demographic Analysis Results. To examine the potential for any environmental justice (EJ) issues that might be associated with the source category, we updated the demographic analysis that was conducted for the supplemental proposal, using the risk results based on the updated emissions. A demographic analysis is an assessment of risks to individual demographic groups of the population close to the facilities. In this analysis, we evaluated the distribution of HAP-related cancer risks and noncancer hazards from the Ferroalloys Production source category across different social, demographic, and economic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report, *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Ferroalloys Facilities,* which is available in the docket for this action.

The results of the demographic analysis are summarized in Table 4 below. These results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 kilometers (km) of the facilities.

TABLE 4—FERROALLOYS PRODUCTION DEMOGRAPHIC RISK ANALYSIS RESULTS FOR 2015 FINAL RULE

	Nationwide	Population with cancer risk at or above 1-in-1 million due to Ferroalloys Production	Population with chronic hazard index above 1 due to Ferroalloys Production
Total Population	312,861,265	40,748	1,348
Race by Percent			
White	72	97	99
All Other Races	28	3	1
Race by Percent			
White	72	97	99
African American	13	1	0
Native American	1	0	0
Other and Multiracial	14	2	1
Ethnicity by Percent			
Hispanic	17	1	1
Non-Hispanic	83	99	99
Income by Percent			
Below Poverty Level	14	15	6
Above Poverty Level	86	85	94
Education by Percent			
Over 25 and without High School Diploma	15	11	10
Over 25 and with a High School Diploma	85	89	90
Age by Percent			
Ages 0 to 17	24	21	22
Ages 18 to 64	63	61	59
Ages 65 and up	13	18	19

The results of the Ferroalloys Production source category demographic analysis indicate that emissions from the source category expose approximately 41,000 people to a cancer risk at or above 1-in-1 million and approximately 1,300 people to a chronic non-cancer TOSHI greater than 1 (we note that many of those in the first risk group are the same as those in the second). The percentages of the at-risk population in each demographic group

(except for ages 65 and up) are similar to or lower than their respective nationwide percentages. These results are very similar to those presented in the supplemental proposal.

3. What key comments did we receive on the risk review, and what are our responses?

Several comments were received regarding the risk assessment for the Ferroalloys Production source category. The following is a summary of some of the more significant comments and our responses to those comments. Other comments received and our responses to those comments can be found in the document titled *National Emission Standards for Hazardous Air Pollutant Emissions: Ferroalloys Production Summary of Public Comments and the EPA's Responses on Proposed Rule (76 FR 72508, November 23, 2011) and Supplemental Proposal (79 FR 60238, October 6, 2014)*, which is available in the docket for this action (EPA–HQ–OAR–2010–0895).

Comment: Several comments were received on the reference value used in the risk assessment to evaluate chronic noncancer effects due to exposure to manganese. In the 2011 proposal, we used the Integrated Risk Information System (IRIS) reference concentration (RfC), and we received negative comments regarding that value not being the ''best available science.'' We evaluated the available values and, in accordance with our prioritized dose-response values and Scientific Advisory Board (SAB) comments, we used the Agency for Toxic Substances and Disease Registry (ATSDR) minimum risk level (MRL) for manganese in the risk assessment for the 2014 supplemental proposal. We received mixed comments in response to the supplemental proposal. Some comments were negative regarding our use of the ATSDR MRL, while others were generally supportive of our use of the MRL compared to the IRIS value, yet still thought the MRL was not the appropriate reference value to use in the assessment.

Regarding use of the IRIS RfC for manganese in the 2011 proposal risk assessment, commenters stated that the manganese RfC was outdated, did not constitute the best available science (including use of benchmark dose statistical analyses or physiologically-based pharmacokinetic models), and substantial research has been conducted since the 1993 IRIS RfC was last updated. The commenters refer to their own calculations and studies and developed their own reference value for manganese and state that the EPA should use that value. Regarding use of the ATSDR MRL for manganese in the 2014 supplemental proposal risk assessment, the same commenters stated that the manganese MRL was an improvement over the IRIS RfC, but was still not the best available science because, in their review, ATSDR did not apply physiologically-based pharmacokinetic models. The commenters again refer to their own calculations and studies developing a reference value for manganese and state that EPA should use that value. Another commenter disagrees with the use of the ATSDR MRL because the EPA has not provided sufficient rationale for using a less-protective value. Instead, this commenter recommended that we continue to use the IRIS RfC value.

Response: We agree that there were newer information and assessments available at the time of the 2011 proposal and also for the 2014 supplemental proposal, some of which may use the currently preferred approach for developing dose-response values (i.e., the benchmark dose approach). However, we only use reference values which meet certain criteria in regards to how they are derived (using EPA guidelines or similar), derived by credible sources with health-protective goals similar to those of the EPA, using peer-review procedures also similar to the level applied to the EPA values, and with an open public comment process. We have a tiered priority list for sources of chronic dose-response information, which meet these criteria (as described in the supplemental proposal, 79 FR 60238). The tiered prioritized list has been through a SAB review and was favorably received.

In the risk assessment for the 2011 proposal, we used the IRIS RfC for chronic exposure to manganese and received numerous comments regarding use of that value. In response to those comments, we considered the existing peer-reviewed health effect reference values for chronic inhalation exposure to manganese from other federal, state, and international agencies and organizations. We developed a reference value array document [2] providing additional details for the available values. We noted that the ATSDR MRL value available for the 2011 proposal was a draft value. The ATSDR MRL was subsequently finalized in 2012.

In our consideration of available reference values, we did not include some values specifically noted in public comments. The level of peer review for non-governmental scientific publications is qualitatively different than the governmental processes used to derive the values described in our tiered prioritized list, and some of the values in the manganese reference value array document. The information provided by these additional references from the commenter(s) may prove useful in an IRIS reassessment for manganese, and we agree that the physiologically-based models, along with all other relevant available peer-reviewed literature, will be considered in any IRIS reassessment of manganese. Yet, a direct application of any of these values instead of an established value in our tiered list of prioritized dose-response values would be inconsistent with the EPA policy as implemented in the RTR Program, and with recommendations from the SAB.

After considering the values in our tiered list of prioritized dose-response values, and consistent with Agency policy supported by SAB, we decided to rely on the 2012 ATSDR MRL value for the 2014 supplemental proposal. Both the 1993 IRIS RfC and the 2012 ATSDR MRL were based on the same study (Roels et al., 1993). In developing their assessment, ATSDR used updated dose-response modeling methodology (benchmark dose approach) and considered recent pharmacokinetic findings to support their selection of uncertainty values in the MRL derivation.

4. What is the rationale for our final approach and final decisions for the risk review?

As noted in section II.A.1 of this preamble, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty and includes a presumptive limit on maximum individual lifetime risk (MIR) of approximately 1 in 10 thousand.'' [3] (54 FR 38045, September 14, 1989).

a. Acceptability Determination. As in the supplemental proposal, the EPA concludes that the risks are unacceptable for the following reasons. First, the EPA considered the fact that the noncancer hazard HQ ranges from 4 based on actual emissions to 40 based on allowable emissions. The EPA has not established under section 112 of the CAA a numerical range for risk

[2] U.S. EPA. Mn and BTEX Reference Value Arrays (Final Reports). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R-12/047F, 2013.

[3] 1-in-10 thousand is equivalent to 100-in-1 million. The EPA currently describes cancer risks as 'n-in-1 million.'

acceptability for noncancer effects as it has with carcinogens, nor has it determined that there is a bright line above which acceptability is denied. However, the Agency has established that, as exposure increases above a reference level (as indicated by a HQ or TOSHI greater than 1), confidence that the public will not experience adverse health effects decreases and the likelihood that an effect will occur increases. For the Ferroalloys Production source category, the potential for members of the public to be exposed to manganese at concentrations up to 40 times the MRL reduces the Agency's confidence that the public is protected from adverse health effects and diminished the Agency's ability to determine that such exposures are acceptable. Second, the EPA considered the fact that the cancer risk estimate for actual emissions is 20-in-1 million and up to 100-in-1 million for allowable emissions. While 20-in-1 million is well within the acceptable range, risks from allowable emissions are at the upper end of the range of acceptability. This fact, combined with the fact that the noncancer hazard is up to 40 times the MRL and the refined multipathway HQ for Hg is at the RfD, leads the Agency to conclude that the risk from this source category is unacceptable.

b. What is EPA requiring in the final rule to address the unacceptable risks? As mentioned above, to address the unacceptable risks, we are promulgating tighter PM emission limits for the stacks, which significantly reduces risks due to allowable emissions. Furthermore, to reduce risks due to process fugitive emissions, we are promulgating a requirement that facilities must achieve effective enhanced capture of process fugitive emissions using a system of primary hoods (that capture process fugitive emissions near the source) and/or secondary capture of fugitives (which would capture remaining fugitive emissions near the roof-line). Facilities must install, operate, and maintain a process fugitives capture system that is designed to capture and control 95 percent or more of the process fugitive emissions. We are also promulgating an opacity limit of 8 percent to ensure process fugitive emissions are effectively captured and controlled. Facilities will need to meet an average opacity of 8 percent for the entire furnace cycle (about 90–120 minutes) with a maximum opacity of no more than 20-percent opacity for any 12-minute period. Moreover, facilities will need to monitor various control parameters (such as fan speed, amperage, pressure drops, and/or damper positioning) to ensure the process fugitive capture systems and controls are working properly.

c. Remaining Risks After Implementation of the Requirements to Address Unacceptable Risks. To determine the remaining risks after implementation of the lower stack PM emissions limits and requirements to effectively control process fugitives (described above), we conducted a post control risk assessment, which is described in detail in the document titled *Residual Risk Assessment for the Ferroalloys Source Category in Support of the 2015 Final Rule,* which is available in the docket for this rulemaking.

Based on this post control risk assessment, we conclude that after the requirements described above to address unacceptable risks are implemented, the risks to public health will be substantially reduced.

For example, the results of the post-control chronic inhalation cancer risk assessment indicate that the maximum individual lifetime cancer risk posed by these two facilities, after the implementation of the promulgated controls, will be no higher than 10-in-1 million, with an estimated reduction in cancer incidence to 0.002 cases per year. In addition, the number of people estimated to have a cancer risk greater than or equal to 1-in-1 million would be 26,000. The results of the post-control risk assessment also indicate that the maximum chronic noncancer inhalation TOSHI value would be reduced to 1. The number of people estimated to have a TOSHI greater than 1 would be reduced to 0. We also estimate that after the implementation of controls, the maximum worst-case acute HQ value would be less than 1 (based on REL values).

Considering post-control emissions of multipathway HAP, Hg emissions would be reduced by approximately 3 pounds per year (lbs/yr), lead would be reduced by about 1,600 lbs/yr, polycyclic organic matter (POM) emissions would be reduced by approximately 3,600 lbs/yr, cadmium would be reduced by about 150 lbs/yr, and dioxins and furans would be reduced by about 0.002 lbs/yr from the baseline emission rates.

d. Ample Margin of Safety Analysis. Under the ample margin of safety analysis, we again considered all of the health factors evaluated in the acceptability determination and evaluated the cost and feasibility of available control technologies and other measures (including the controls, measures, and costs reviewed under the technology review) that could be applied in this source category to further reduce the risks due to emissions of HAP identified in our risk assessment.

As described above, we estimate that the actions finalized under CAA section 112(f)(2) to address unacceptable risks will reduce the MIR to 10-in-1 million. The cancer incidence will be reduced to 0.002 cases per year and the number of people estimated to have cancer risks greater than 1-in-1 million will be reduced to 26,000 people. The chronic noncancer inhalation TOSHI will be reduced to 1 and the number of people exposed to a TOSHI level greater than 1 will be reduced to 0. In addition, the potential multipathway impacts will be reduced.

Based on all of the above information, we conclude that the risks will be acceptable after implementation of the lower stack limits for PM and the control requirements to reduce process fugitive emissions, as we concluded in the supplemental proposal. Based on our research and analysis, we did not identify any cost-effective controls beyond those described above that would achieve further reduction in risk. While in theory, the 2011 proposed approach of total enclosure with negative pressure would provide some additional risk reduction, the additional risk reduction is minimal and, similar to our assessment and conclusions described in the supplemental proposal, we continue to believe the total enclosure approach would not be economically feasible and may not be technically feasible for these facilities. No other technology advances were identified during the comment period. Therefore, we are not promulgating any additional requirements under the ample margin of safety analysis beyond the requirements being finalized to address unacceptable risks (as described above). We conclude that the controls to achieve acceptable risks will also provide an ample margin of safety to protect public health.

B. Technology Review for the Ferroalloys Production Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the Ferroalloys Production source category?

Pursuant to CAA section 112(d)(6), we conducted a technology review, which focused on identifying and evaluating developments in practices, processes, and control technologies for the emission sources in the Ferroalloys Production source category. For the 2011 proposal (76 FR 72508), we

identified developments in practices, processes or control technologies for PM emissions from stacks (as a surrogate for metal HAP) and for process fugitive metal HAP emissions. Based on the comments received from the public and information received through a 2012 ICR, we revised both the technology review and risk assessment for the Ferroalloys Production source category, which were described in detail in the 2014 supplemental proposal (79 FR 60238).

a. PM Emission Limits From Stacks. For PM stack emissions limits, we determined for the 2011 proposal that the test data received from the two facilities indicate that all five furnaces that are in operation have PM emission levels that are well below their respective emission limits in the 1999 MACT rule, which were based on size and product being produced. The test data received from the facilities also indicate that the PM emission levels for MOR and crushing and sizing are well below their respective emission limits in the 1999 MACT rule. These findings demonstrate that add-on particulate control technologies (Venturi scrubber, positive pressure fabric filter, negative pressure fabric filter) used to control emissions from the sources are effective in reducing PM (used as a surrogate for metal HAP). Based on these findings, in 2011 we proposed a PM limit of 24 mg/dscm corrected to 2 percent carbon dioxide (CO_2) for existing furnaces.

We received additional test data after the 2011 proposal and re-evaluated the PM limit using available PM emissions test data and consideration of variability across these data. Based on this analysis, we determined that it was appropriate to propose a revised PM limit of 25 mg/dscm for existing furnaces. No additional add-on control is expected to be required by the facilities to meet this revised existing source limit. To demonstrate compliance, we proposed these sources would be required to conduct periodic performance testing and develop and operate according to a baghouse operating plan or continuously monitor Venturi scrubber operating parameters. We also proposed that furnace baghouses would be required to be equipped with bag leak detection systems (BLDS).

For the 2011 proposal, the proposed new source PM standard was determined by evaluating the available data from the best performing furnace (which was determined to be furnace #2 at Felman). The proposed new source limit was determined to be 9.3 mg/dscm. We received additional test data after the 2011 proposal and re-evaluated the new source limit using the available test data. The revised new source PM standard for furnaces for the 2014 supplemental proposal was determined by evaluating the available data from the best performing furnace (which was again determined to be furnace #2 at Felman). The new source MACT limit was determined to be 4.0 mg/dscm based on data from furnace #2 and was proposed as the MACT emissions limit for PM from new and reconstructed source furnace stacks in the 2014 supplemental proposal.

The PM emission limit for the local ventilation control device outlet was also re-evaluated using compliance test data and test data from the 2012 ICR. A local ventilation control system is used to capture tapping, casting, or ladle treatment emissions and direct them to a control device other than one associated with the furnace. The 2011 proposal included a proposed PM limit for the local ventilation control device that was based on PM data from the furnaces. After the 2011 proposal, we received test data from three different emissions tests (for a total of nine test runs) specifically for this local ventilation source. We determined these data were more appropriate for the development of a limit for this source than the furnace data we had used for the 2011 proposal. There is currently only one local ventilation control device outlet emissions source in this source category. Using the new data for the one existing local ventilation source, we calculated a revised emissions limit of 4.0 mg/dscm and determined that this was an appropriate emissions limit for this source. Therefore, we proposed an emissions limit of 4.0 mg/dscm for existing, new, and reconstructed local ventilation control device emissions sources in the supplemental proposal.

For crushing and screening operations, we proposed an emission limit of 13 mg/dscm for new and existing crushing and sizing operations in the 2011 proposal. We did not receive any additional data for this emission source and, therefore, made no revisions to this proposed limit in the 2014 supplemental proposal.

The MOR operation is a unique process that is operated by only one facility (Eramet). We calculated a proposed emission limit of 3.9 mg/dscm in the 2011 proposal that would apply to both new and existing MOR operation sources. We did not receive any additional data for this emission source and, therefore, made no revisions to this proposed limit in the 2014 supplemental proposal.

b. Emission Standards for Process Fugitives. For process fugitive metal HAP emissions, we identified two potential developments in practices and control techniques. One option would require facilities to install and operate enhanced capture of process fugitive emissions using a combination of primary hoods and ductwork in close proximity to the emission sources, such as tapping or casting and/or secondary hoods located near the roofline. Another option would be to require full enclosure of the furnace building(s) with negative pressure and evacuate the process fugitive emissions to a control device(s). In the 2011 proposal, we proposed that the full furnace building enclosure option represented an advance in emission control measures since the Ferroalloys Production NESHAP was originally promulgated in 1999.

For day-to-day continuous monitoring to demonstrate compliance with the proposed full building enclosure requirements, the 2011 proposal relied mainly on requiring monitoring differential pressure to ensure facilities maintained a negative pressure of at least 0.007 inches of water and that emissions within the facilities would need to be vented to PM control devices. This was to be supplemented by operation and work practice standards that required preparation of a process fugitive emissions ventilation plan for each shop building. In the 2011 proposal, we also proposed a requirement that emissions exiting from a shop building may not exceed more than 10-percent opacity for more than one 6-minute period, to be demonstrated every 5 years as part of the periodic required performance tests.

We received significant comments in response to the 2011 proposal. Commenters claimed that we had significantly underestimated the costs for full building enclosure and that it would not be feasible for these facilities. After reviewing and considering the comments along with other information, we decided to re-evaluate the proposed requirement for negative pressure ventilation and consider other options.

Based on our re-evaluation, for the 2014 supplemental proposal, we concluded that the full-building enclosure option may not be feasible and would have significant economic impacts on the facilities. However, we concluded that an option based on enhanced local capture and control of process fugitive emissions using a combination of primary and secondary hoods is a feasible and cost-effective approach to achieve significant reductions in process fugitive HAP emissions. Therefore, in the 2014 supplemental proposal, we proposed

that facilities would need to install and operate a local capture system using a combination of primary and/or secondary hoods that is designed to achieve at least 95-percent capture and control of process fugitive emissions.

With the move to the proposed enhanced local capture alternative in the 2014 supplemental proposal, we no longer had a day-to-day continuous requirement of monitoring negative pressure. Instead, in the 2014 supplemental proposal, continuous compliance demonstration would be based mainly on meeting an opacity limit, monitoring ventilation parameters (such as fan speed, amperage, and/or damper positioning), and documenting the design of the system to achieve 95-percent capture. Since opacity monitoring would be a primary method to demonstrate continuous compliance, we proposed that facilities would need to meet an average opacity of 8 percent for an entire furnace cycle (about 90–120 minutes) with a maximum opacity of no more than 20 percent opacity for any 12-minute period. Furthermore, we proposed facilities would need to monitor opacity for a full furnace cycle (about 90–120 minutes) at least once per week per furnace building. We also proposed that, if the average opacity reading from the shop building is greater than 8-percent opacity during an observed furnace process cycle, an additional two more furnace process cycles must be observed such that the average opacity during the entire observation period is less than 7-percent opacity. A furnace process cycle means the period in which the furnace is tapped to the time in which the furnace is tapped again and includes periods of charging, smelting, tapping, casting, and ladle raking.

Regarding the design requirements, in the supplemental proposal, we proposed that the facilities in this source category must install, operate, and maintain a process fugitives capture system that is designed to collect 95 percent or more of the process fugitive emissions from furnace operations, casting MOR process, ladle raking, and slag skimming and crushing and screening operations and convey the collected emissions to a control device that meets specified emission limits and the proposed opacity limits. We proposed that this plan be submitted to the permitting authority, incorporated into the source's operating permit and updated every 5 years or when there is a significant change in variables that affect process fugitive emissions ventilation design. We proposed that this list of design criteria, coupled with the requirement for frequent opacity observations and operating parameter monitoring, would ensure process fugitive emissions are effectively controlled and would result in enforceable requirements.

More information concerning our proposed technology review can be found in the memoranda titled, *Revised Technology Review for the Ferroalloys Production Source Category, and Cost Impacts of Control Options Considered for the Ferroalloys Production NESHAP to Address Fugitive HAP Emissions,* which are available in the docket, and in the preamble to the 2014 supplemental proposed rule, 79 FR at 60271 to 60273.

2. How did the technology review change for the Ferroalloys Production source category?

For the October 6, 2014, supplemental proposal, we solicited comment regarding the use of new technologies to provide continuous or near continuous long term approaches to monitoring emissions from industrial sources for the Ferroalloy Production source category. After considering comments received and after evaluating the technologies further, we are replacing the weekly Method 9 opacity requirement with a weekly requirement to measure opacity using ASTM D7520–13 and DCOT to demonstrate compliance with the process fugitives standards. The final rule amendments require facilities to use the DCOT to measure opacity at least once per week for each of the furnace and MOR buildings to demonstrate compliance with the opacity limits. However, as mentioned above, facilities will have the opportunity to reduce the frequency of opacity readings to monthly after 26 consecutive weeks of compliant weekly readings. The facilities would still be required to meet an average opacity standard of 8-percent opacity for the furnace cycle (90–120 minutes) and at no time during operation may any two consecutive 6-minute block opacity readings be greater than 20-percent opacity. The cost of implementing the DCOT system is estimated to be approximately $200,000 per year for the source category with weekly readings. However, these costs decrease to about $90,000 per year for the source category if they do monthly readings per furnace building. All other requirements we proposed under CAA section 112(d)(6) in the supplemental proposal have not changed.

3. What key comments did we receive on the technology review, and what are our responses?

Several comments were received regarding the technology review for the Ferroalloys Production source category. The following is a summary of the more significant comments and our responses to those comments. Other comments received and our responses to those comments can be found in the document titled *National Emission Standards for Hazardous Air Pollutant Emissions: Ferroalloys Production Summary of Public Comments and the EPA's Responses on Proposed Rule (76 FR 72508, November 23, 2011) and Supplemental Proposal (79 FR 60238, October 6, 2014),* which is available in the docket for this action (EPA–HQ–OAR–2010–0895).

Comment: One commenter supported the EPA's decision to re-evaluate the feasibility and cost-effectiveness of the controls that the Agency proposed in its 2011 proposal. However, the commenter objects to the EPA's conclusion that an alternative system involving both primary and secondary capture is available and represents an ''advancement in technology'' pursuant to CAA section 112(d)(6). The commenter states that this type of system does not currently exist in practice at any ferroalloy operation. They explain that, in theory, such a system appears likely to provide some degree of additional reductions. However, the commenter notes some of the specific potential control methods mentioned by the EPA have already been proven not to work. As an example, the commenter states that curtains have previously been installed in an attempt to contain additional furnace emissions, but the curtains burned up due to the extreme heat in only a few weeks. The commenter, therefore, objects both to the characterization of these additional controls as a currently available ''advancement in technology,'' and to the EPA's conclusion that the cost of almost $100,000 per ton of HAP reductions for these additional controls is cost effective.

Response: In their supplemental comments on the 2011 proposed rule, industry representatives provided suggested alternative designs to address fugitive emissions from the furnace buildings. The designs suggested by the industry representatives included improving the existing primary hooding and capture systems close to the emissions sources and/or adding secondary capture to ensure effective capture and control of process fugitive

emissions. The use of a primary hooding and exhaust system in conjunction with general secondary hooding and exhaust system was estimated to provide a total capture of 95 percent of process fugitive emissions, including emissions from the tapping, casting, crushing/screening, and skimming/slag raking processes.

We reviewed these designs and discussed the designs with ventilation experts. The ventilation experts agreed that the suggested primary system along with secondary capture could achieve 95 percent reduction of process fugitive emissions from the buildings. They noted that many of the designs and improvements were based on the elements of good ventilation systems that are used in other industries to capture and control fugitive emissions. Because these designs have been only partially deployed in this industry, they constitute a relevant development in technology beyond what is required by the current rule. We view the successful deployment of these technologies in other industries and the expert judgement of industrial ventilation experts as establishing that the technologies are technically available for transfer to the Ferroalloy Production source category.

As part of our technology review, we evaluated the costs and effectiveness of a regulatory option that is based on the general emission control scenario suggested by the industry representatives which would include a system of primary and/or secondary hooding designed to capture 95 percent of process fugitive emissions. The process fugitive emissions would be captured by the primary and/or secondary hoods and routed to PM control devices. This option for the control of process fugitive emissions under CAA section 112(d)(6) is exactly the same option that we are promulgating under CAA section 112(f)(2) to capture and control fugitives (described in section IV.A of this preamble). We estimate that the total capital cost including monitoring would be about $40.3 million, the total annualized costs would be about $7.7 million per year, and that it would achieve 77 tpy reduction of HAP, mostly manganese and other HAP metals (e.g., cadmium compounds, chromium compounds, nickel compounds) and also achieve about 229 tpy reduction of PM. Based on our evaluation, we conclude that installing and operating such a system is a feasible and cost-effective approach to achieve significant reductions in process fugitive HAP emissions and will achieve almost as much reductions as the full building enclosure option (229 vs. 252 tons PM reductions). In light of the technical feasibility and cost effectiveness of this enhanced fugitive capture option (that includes a combination of primary capture and/or secondary capture designed to capture and control 95 percent of process fugitive), we are promulgating this option under the authority of section 112(d)(6) of the CAA. The control requirements and compliance requirements under this CAA section 112(d)(6) option are the exact same requirements we are promulgating under CAA section 112(f)(2) to address unacceptable risks for process fugitive emissions (described in section IV.A of this preamble). As described in that section, facilities must install, operate, and maintain a process fugitives capture system that is designed to capture 95 percent or more of the process fugitive emissions. Facilities will also need to meet an average opacity of 8 percent for each furnace cycle (about 90–120 minutes) with a maximum opacity of no more than 20 percent opacity for any two consecutive 6-minute block opacity readings (12-minute period). To demonstrate compliance, facilities will need to initially monitor opacity for a full furnace cycle (about 90–120 minutes) at least once per week per furnace building using the DCOT. Moreover, facilities will need to monitor various control parameters (such as fan speed, amperage, pressure drops, and/or damper positioning) to ensure the fugitive capture system and controls are working properly.

Comment: One commenter states that the only notable development that occurred in ferroalloys emission practices, processes, and control technologies since the 1999 NESHAP took effect is the installation of scrubbers and baghouses. Since scrubbers and baghouses have demonstrably different performance in controlling particulate emissions, the commenter claims that developments since 1999 warrant separate particulate emission limits based on the type of control device involved. The commenter states that the EPA did not acknowledge this development and proposed a single stack particulate limit for all furnaces. The commenter provided proposed PM limits of 27 mg/dscm for wet particulate scrubbers and 6.2 mg/dscm for baghouses, and notes that these limits would actually reduce the total allowable particulate emissions from their facility in comparison to the EPA's proposed single limit of 25 mg/dscm.

Response: Section 112 of the CAA grants the EPA discretion to establish ''categories and subcategories'' of sources to be regulated under CAA section 112, and further allows the EPA to ''distinguish among classes, types and sizes of sources within a category or subcategory'' when establishing MACT standards. However, we believe it is not appropriate to establish subcategories based on type of control technology used by these emission sources.

In the case of the PM emissions from the ferroalloy furnaces, we believe if it was appropriate, we could subcategorize based on the size of the furnace or the product being produced in that furnace. However, we determined that there was no statistical difference in PM emissions based on the size of the individual furnaces or by the product being produced in those furnaces. Therefore, we decided it was not appropriate to subcategorize for PM emissions and instead established a single PM limit for all of the furnaces, regardless of size or product being produced.

Comment: One commenter believes that the EPA's proposed requirements to reduce process fugitive emissions under CAA section 112(d)(6) are not based on control practices in use in the ferroalloys industry, but rather simply reflect a decision by the EPA that the sources at Eramet and Felman should be subject to additional requirements. By putting the enhanced fugitive control requirements under CAA section 112(d)(6), the commenter believes that the EPA dispenses with any attempt to justify the requirements as cost effective, as would be required to impose for ''beyond the MACT floor'' standards under CAA section 112(d)(2), and the EPA dispenses with any attempt to present a risk-based justification for the requirements, as would be required under CAA section 112(f)(2).

Response: As an initial matter, we note the process fugitive control requirements are justified as risk-based requirements under CAA section 112(f)(2). See section IV.A of this preamble. Therefore, the premise of this comment is factually incorrect. That said, the requirements of this rule also are justified under CAA section 112(d)(6). Under CAA section 112(d)(6), we are required to review emission standards no less frequently than every 8 years and revise them ''as necessary (taking into account developments in practices, processes, and control technologies).'' The ferroalloys industry already includes some of the controls envisioned under this control scenario. For example, all 5 furnaces in the source category in the U.S. already have some type of primary hooding to capture some process fugitive emissions from tapping and/or casting operations. In fact, one of the five furnaces in the U.S. already achieves good capture of

tapping emissions with their current configuration. Furthermore, effective primary and secondary capture systems are currently used in other metals industries (e.g., steel production, secondary lead production) to effectively capture and control process fugitives.

Moreover, as described above, representatives from the ferroalloys companies have provided suggestions as to how such a system could be designed, installed and operated to achieve 95-percent capture of fugitives. Therefore, we conclude such a system is technically feasible. Furthermore, as we described above, we conclude these controls would be cost effective ($91,000 per ton of HAP metal reduced). Therefore, we conclude it is appropriate to promulgate this control option under section 112(d)(6) of the CAA.

4. What is the rationale for our final approach for the technology review?

a. PM Emissions Limits from Stacks. The available test data from the five furnaces located at the two facilities indicate that all of these furnaces have PM emission levels that are well below their respective emission limits in the 1999 MACT rule. These findings demonstrate that the add-on emission control technologies (Venturi scrubber, positive pressure fabric filter, negative pressure fabric filter) used to control emissions from the furnaces are effective in reducing particulate matter (used as a surrogate for metal HAP).

The PM emissions, used as a surrogate for metal HAP, that were reported by the industry in response to the 2010 ICR, were far below the level specified in the current NESHAP, indicating improvements in the control of PM emissions since promulgation of the current NESHAP. We re-evaluated the data received in 2010, along with additional data received in 2012 and 2013, to determine whether it is appropriate to promulgate revised emissions limits for PM from the furnace process vents. More details regarding the available PM data and this re-evaluation are provided in the *Revised Technology Review for the Ferroalloys Production Source Category for the Supplemental Proposal,* which is available in the docket. Unlike PAH and Hg stack data, we did not see significant differences in emissions based on product produced (*e.g.,* FeMn or SiMn). Therefore, we are not promulgating separate PM stack limits based on product type.

Based on this analysis, we determined it is appropriate to finalize the revised existing source furnace stack PM emissions limit of 25 mg/dscm, which is the same limit we proposed in the supplemental proposal. No additional add-on controls are expected to be required by the facilities to meet the revised existing source limit of 25 mg/dscm. However, this revised limit will result in significantly lower ''allowable'' PM emissions from the source category compared to the level of emissions allowed by the 1999 MACT rule and would help prevent any emissions increases. To demonstrate compliance, these sources will be required to conduct periodic performance testing and develop and operate according to a baghouse operating plan or continuously monitor Venturi scrubber operating parameters. Also furnace baghouses will be required to be equipped with BLDS.

The final PM standard for new and reconstructed furnaces is 4.0 mg/dscm and was determined by evaluating the available data from the best performing furnace (which was determined to be furnace #2 at Felman).

As described above, the PM emission limit for the local ventilation control device outlet was re-evaluated for the supplemental proposal using compliance test data and test data from the 2012 ICR. We did not receive any additional data since the supplemental proposal for this source. Using all the available data for the one existing local ventilation source, we calculated an emissions limit of 4.0 mg/dscm, which is the exact same limit we proposed in the supplemental proposal. We conclude that this is still an appropriate emissions limit for this source. Therefore, we are promulgating this emissions limit of 4.0 mg/dscm for existing, new, and reconstructed local ventilation control device emissions sources. In addition, we are promulgating a PM limit of 3.9 mg/dscm for any new, reconstructed, or existing MOR process, and a PM limit of 13 mg/dscm for any new, reconstructed, or existing crushing and screening equipment, which are consistent with what we proposed in our November 23, 2011, proposal.

Furthermore, as mentioned in section III of this preamble, we are promulgating a PM limit of 3.9 mg/dscm for any new, reconstructed, or existing MOR process, and a PM limit of 13 mg/dscm for any new, reconstructed, or existing crushing and screening equipment.

2. Standards for Process Fugitive Metal HAP Emissions

In the 2011 proposal, we proposed a requirement for sources to enclose the furnace building, collect fugitive emissions such that the furnace building is maintained under negative pressure, and duct those emissions to control devices. As described above, commenters on the 2011 proposal disagreed with our assessment.

Commenters also raised concerns about worker safety and comfort in designing and operating full enclosure systems. We believe that such issues can be overcome with proper ventilation design and installation of air conditioning systems and other steps to ensure these issues are not a problem. However, after further review and evaluation, we conclude that it would be quite costly for these facilities to become fully enclosed with negative pressure and achieve the appropriate ventilation and conditioning of indoor air.

We re-evaluated the costs and operational feasibility associated with the full building enclosure with negative pressure. We consulted with ventilation experts who have worked with hot process fugitives similar to those found in the ferroalloys industry (*e.g.,* electric arc furnace steel mini-mills and secondary lead smelters). We determined that substantially more air flow, air exchanges, ductwork, fans and control devices and supporting structural improvements would be needed (compared to what we had estimated in the 2011 proposal) to achieve negative pressure and also ensure adequate ventilation and air quality in these large furnace buildings. Therefore, as explained in the supplemental proposal, we determined that the proposed negative pressure approach presented in the 2011 proposal would be much more expensive than what we had estimated in 2011 and may not be feasible for these facilities.

As mentioned above, for the supplemental proposal, we also evaluated another option based on enhanced capture of the process fugitive emissions using a combination of effective local capture with primary hooding close to the emissions sources and/or secondary capture of remaining fugitives with roof-line capture hoods and control devices. These buildings are currently designed such that fugitive emissions that are not captured by the primary hoods flow upward with a natural draft to the open roof vents and are vented to the atmosphere uncontrolled. Under our enhanced control scenario, the primary capture close to the emissions sources would be significantly improved with effective local hooding and ventilation and the remaining fugitive emissions (that are not captured by the primary hoods) would be drawn up to the roof-line and

captured with secondary hooding and vented to control devices.

In cases where additional collection of fugitives from the roof areas is needed to comply with the rule, fume collection areas may be isolated via baffles (so the area above the furnace where fumes collect may be kept separated from ''empty'' spaces in large buildings) and roof openings over fume collection areas can be sealed and fumes directed to control devices. The fugitive emission capture system should achieve inflow at the building floor, but outflow toward the roof where most of the remaining fugitives would be captured by the secondary hooding. We concluded that a rigorous, systematic examination of the ventilation requirements throughout the building is the key to developing a fugitive emission capture system (consisting of primary hoods, secondary hoods, enclosures, and/or building ventilation ducted to PM control devices) that can be designed and operated to achieve very low levels of fugitive emissions. Such an evaluation considers worker health, safety, and comfort and it is designed to optimize existing ventilation options (fan capacity and hood design). Thus, we concluded that an enhanced capture system based on these design principles does represent an advancement in technology. We estimate that this type of control system could capture 95 percent of the process fugitive emissions and vent those emissions to PM control devices. This enhanced local capture option is described in more detail in the *Revised Technology Review for the Ferroalloys Production Source Category* and in the *Cost Impacts of Control Options to Address Fugitive HAP Emissions for the Ferroalloys Production NESHAP Supplemental Proposal* documents, which are available in the docket.

Under this control option, the cost elements vary by plant and furnace and include the following:

- Curtains or doors surrounding furnace tops to contain fugitive emissions;
- Improvements to hoods collecting tapping emissions;
- Upgrade fans to improve the airflow of fabric filters controlling fugitive emissions;
- Addition of ''secondary capture'' or additional hoods to capture emissions from tapping platforms or crucibles;
- Addition of fugitives capture for casting operations;
- Improvement of existing control devices or addition of fabric filters; and
- Addition of rooftop ventilation, in which fugitive emissions escaping local capture are collected in the roof canopy over process areas through addition of partitions, hoods, and then directed through ducts to control devices.

We estimate the total capital costs of installing the required ductwork, fans and control devices under the enhanced capture option (which is described above and in more detail in the *Cost Impacts of Control Options to Address Fugitive HAP Emissions for the Ferroalloys Production NESHAP Supplemental Proposal* document) to be $40.3 million and the total annualized cost to be $7.7 million for the two plants. The total estimated HAP reduction for the enhanced capture option is 77 tpy at a cost per ton of $103,000 ($52 per pound). We also estimate that this option would achieve PM emission reductions of 229 tpy, resulting in cost per ton of PM removed of $34,600 per ton and achieve particulate matter 2.5 microns and less ($PM_{2.5}$) emission reductions of 48 tons per year, resulting in a cost per ton of $PM_{2.5}$ removal of $165,000 per ton. We believe these controls for process fugitive HAP emissions (described above), which are based on enhanced capture (with primary and secondary hooding) are feasible for the Ferroalloys Production source category from a technical standpoint and are cost effective. These cost effectivenesses are in the range of cost effectiveness for PM and HAP metals from other previous rules. However, it is important to note that there is no bright line for determining acceptable cost effectiveness for HAP metals. Each rulemaking is different and various factors must be considered. Some of the other factors we consider when making decisions whether to establish standards beyond-the-floor (BTF) under CAA section 112(d)(2) or under CAA section 112(d)(6) include, but are not limited to, the following: which of the HAP metals are being reduced and by how much; total capital costs; annual costs; and costs compared to total revenues (*e.g.*, costs to revenue ratios).

As described in the supplemental proposal, we also re-evaluated the option based on full building enclosure with negative pressure.

Based on those analyses, we concluded in the supplemental proposal and conclude again in this action that the full-building enclosure option with negative pressure may not be feasible and would have significant economic impacts on the facilities (including potential closure for one or more facilities). Therefore, we are not promulgating an option based on full building enclosure with negative pressure.

However, consistent with the supplemental proposal, we conclude that the enhanced local capture option is a feasible and cost-effective approach to achieve significant reductions in fugitive HAP emissions and will achieve almost as much reductions as the full-building enclosure option (229 vs. 252 tons PM reductions) and, thus, achieving most of the emission reductions at significantly lower costs. In light of the technical feasibility and cost effectiveness of the enhanced capture option, we are promulgating the enhanced capture option under the authority of section 112(d)(6) of the CAA.

Regarding monitoring requirements, as described above, in the 2011 proposal, we proposed that facilities would need to conduct day-to-day continuous monitoring of differential pressure to comply with the proposed full building enclosure with negative pressure requirements.

With the move to the enhanced local capture alternative option, there is no longer any requirement to monitor negative pressure. Under this option, the main ongoing compliance requirements will be based on opacity readings and parametric monitoring. Therefore, since opacity is a main method of monitoring compliance for process fugitive emissions controls, we believe that frequent opacity monitoring is necessary, as reflected in the supplemental proposal. Furthermore, as we explained in the supplemental proposal, we believe an average opacity limit of 8 percent is appropriate to ensure effective capture and control of process fugitive emissions over the entire furnace cycles and that a maximum opacity of 20 percent for any 2 consecutive 6-minute periods is appropriate to prevent spikes in fugitive emissions. Therefore, we are promulgating an average opacity limit of 8 percent and a maximum opacity limit of 20 percent for any 2 consecutive 6-minute periods.

Regarding opacity monitoring, we are promulgating a requirement that facilities conduct opacity observations at least once per week for a full furnace cycle for each operating furnace and each MOR operation using the DCOT instead of Method 9. We believe the DCOT is appropriate for the final rule because it provides more objective and better substantiated opacity readings. However, as described above, we are allowing an opportunity for facilities to decrease frequency of opacity monitoring to monthly after 26 compliant weekly readings.

Similar to the supplemental proposal, we are also finalizing the requirement

that, if the average opacity reading from the shop building is greater than 8-percent opacity during an observed furnace process cycle, an additional two more furnace process cycles must be observed such that the average opacity during the entire observation period is less than 7-percent opacity. A furnace process cycle means the period in which the furnace is tapped to the time in which the furnace is tapped again and includes periods of charging, smelting, tapping, casting, and ladle raking.

As mentioned above, we are also promulgating the requirement that at no time during operation may any two consecutive 6-minute block opacity readings be greater than 20-percent opacity.

We believe that the source should demonstrate that the overall design of the ventilation system is adequate to achieve the final standards. Therefore, we are promulgating the requirement that facilities in this source category must install, operate, and maintain a process fugitives capture system that is designed to collect 95 percent or more of the process fugitive emissions from furnace operations, casting MOR process, ladle raking and slag skimming and crushing, and screening operations, and convey the collected emissions to a control device that meets specified emission limits and the opacity limits. We are also requiring continuous monitoring of key ventilation operating system parameters and periodic inspections of the ventilation systems to ensure that the ventilation systems are operating as designed.

We believe that if the facilities design the capture and control systems according to the most recent (at the time of construction) ventilation design principles recommended by the American Conference of Governmental Industrial Hygienists (ACGIH), including detailed schematics of the ventilation system design, addressing variables that affect capture efficiency such as cross drafts and describes protocol or design characteristics to minimize such events and identifies monitoring and maintenance steps, the plan will be capable of ensuring the system is properly designed and continues to operate as designed. Therefore, we are promulgating the requirement that facilities develop such a plan and submit this plan to the permitting authority. The plan must also be incorporated into the source's operating permit and updated every 5 years or when there is a significant change in variables that affect process fugitive emissions ventilation design. This design plan, coupled with the requirement for frequent opacity observations and operating parameter monitoring, will ensure fugitive emissions are effectively controlled and will result in enforceable requirements. We recognize that other design requirements and/or more frequent opacity observations may yield more compliance certainty, but incur greater costs and not result in measurable decreases in emissions.

We believe the additional PM data we received justifies the revised PM stack emission limits we are promulgating under the authority of section 112(d)(6) of the CAA. We also believe the enhanced capture and control is a development in technology that is feasible and cost effective, so we are promulgating the enhanced local capture and control option under the authority of section 112(d)(6) of the CAA. Furthermore, we believe it is appropriate to promulgate the DCOT to ensure adequate furnace capture and control.

C. CAA Section 112(d)(2) & (3) Revisions for the Ferroalloys Production Source Category

1. What did we propose pursuant to CAA section 112(d)(2) & (3) for the Ferroalloys Production source category?

In the November 23, 2011, proposal, we proposed a formaldehyde emission limit of 201 µg/dscm for any new, reconstructed, or existing electric arc furnace.

In the October 6, 2014, supplemental proposal, we proposed the following:

- HCL emission limit of 180 µg/dscm for new or reconstructed electric arc furnaces and 1,100 µg/dscm for existing electric arc furnaces;
- Hg emission limit of 17 µg/dscm for new or reconstructed electric arc furnaces producing FeMn, and 170 µg/dscm for existing electric arc furnaces producing FeMn;
- Hg emission limit of 4 µg/dscm for new or reconstructed electric arc furnaces producing SiMn and 12 µg/dscm for existing electric arc furnaces producing SiMn;
- PAH emission limit of 880 mu;g/dscm for new or reconstructed electric arc furnaces producing FeMn and 1,400 µg/dscm for existing electric arc furnaces producing FeMn; and
- PAH emission limit of 72 µg/dscm for new or reconstructed electric arc furnaces producing SiMn and 120 µg/dscm for existing electric arc furnaces producing SiMn.

2. How did the CAA section 112(d)(2) & (3) revisions change for the Ferroalloys Production source category?

In mid-August 2014, a few weeks prior to the signature of the supplemental proposal, we received a test report with Hg and PAH data, which we were unable to incorporate into the proposed limits in the supplemental proposal, in part because of the timing and in part because we had not completed our review and technical analysis of the data. We noted receipt of the data and invited comment on it in the supplemental proposal, and made the data available for review. We committed to considering these data in the final rule based on public comment and our technical analysis. In addition to the pre-supplemental proposal data, another Hg and PAH test report was received during the comment period. The new test data for FeMn production received in August 2014 and during the comment period had much higher PAH concentrations than the data that were previously provided. The new PAH test data for SiMn production were only slightly higher than previous data received from the facilities. The new Hg data for both FeMn and SiMn production were comparable to the test data that we used to develop the proposed limits for the supplemental proposal.

For this action, we re-evaluated the PAH and Hg emission limits to include the new test data. The 99-percent upper prediction limit (UPL) calculation using all the available reliable data for PAH emissions results in an emissions limit of 12,000 µg/dscm for existing furnaces producing FeMn and 130 µg/dscm for existing furnaces producing SiMn.

With regard to new source limits, as mentioned previously, there are only two furnaces in the source category that produce FeMn, and both furnaces are located at Eramet. The units are similar in design and process the same types of raw materials, and we, therefore, expect little or no difference in the performance of these units. The available emissions data, which show that the two units mean emissions are only 2-percent different, support this hypothesis. We conclude, based on the similarities in the units and the available data, that these two furnaces achieve the same degree of control of PAH emissions with their current control devices. Accordingly, we consider these two units to be equal performers with regard to PAH emissions and therefore, we used all the data from both units to calculate the new source emissions limit. Using the 99-percent UPL calculation, we derive

an emissions limit of 11,500 μg/dscm for new furnaces producing FeMn.

For SiMn, there were no changes to the best performing source and the PAH limit of 72 μg/dscm proposed in the supplemental proposal is the same limit selected for the final rule for new furnaces producing SiMn.

The 99-percent UPL for PAHs for FeMn production is about 8 times higher than the proposed PAH limit for FeMn in the supplemental proposal, whereas the 99-percent UPL for PAHs for SiMn production is comparable to the proposed limit in the supplemental proposal. The new data show there is substantial variability in PAH emissions from the furnaces, especially during FeMn production.

As mentioned in section III.E of this preamble, due to the large variation in PAH emissions from furnace stacks during FeMn production, we are requiring quarterly compliance tests for PAHs (i.e., four PAH compliance tests per year) for furnaces while producing FeMn, with an opportunity for facilities to apply for decreased frequency of such compliance testing from their permit authority after the first year and after four or more successful PAH compliance tests have been completed and submitted to the permit authority.

We expect that any application submitted by an affected source to request reduced frequent compliance testing for PAHs should include information regarding the four or more compliant test results and what factors or conditions are contributing to the quantity and variation of PAH emissions. For example, the application could include, among other things, information about the amounts and types of input materials, types of electrodes used, electrode consumption rates, furnace temperature and other furnace, process or product information that may be affecting the PAH emissions.

The re-evaluation of the Hg test data, which includes the new test data, produced a 99-percent UPL of 130 μg/dscm for existing furnaces producing FeMn and 12 μg/dscm for existing furnaces producing SiMn. For new sources, the new test data did not affect the 99-percent UPL of 4 μg/dscm for new furnaces producing SiMn.

With regard to the new source limit in the supplemental proposal for Hg for furnaces producing FeMn, the proposed new source limit was based on BTF controls using activated carbon injection (ACI), and assuming 90-percent reduction. We continue to conclude that it is appropriate to require BTF controls for new FeMn sources consistent with the supplemental proposal (assuming 90-percent reduction). Therefore, we calculate that the new source limit for the final rule for Hg for furnaces producing FeMn will be 13 μg/dscm (i.e., 130 μg/dscm minus 90-percent control). These UPL values are generally consistent with, but a bit lower than, the proposed limits in the supplemental proposal.

3. What key comments did we receive on the CAA section 112(d)(2) & (3) proposed revisions, and what are our responses?

Several comments were received regarding the CAA section 112(d)(2) & (3) proposed revisions for the Ferroalloys Production source category. The following is a summary of these comments and our responses. Other comments received and our responses can be found in the document titled *National Emission Standards for Hazardous Air Pollutant Emissions: Ferroalloys Production Summary of Public Comments and the EPA's Responses on Proposed Rule (76 FR 72508, November 23, 2011) and Supplemental Proposal (79 FR 60238, October 6, 2014)*, which is available in the docket for this action (EPA–HQ–OAR–2010–0895).

Comment: Commenters claimed the EPA was establishing MACT floors for the newly regulated HAP based on limited data. The commenters noted that for many of these pollutants, there is limited understanding of the mechanism of their generation in the process and the variability in the level of their occurrence. As a result, it is essential that EPA use all reasonably available data in establishing these standards.

The commenters noted the EPA excluded PAH data for both SiMn and FeMn production, that showed higher levels of emissions. They believe the exclusion of these data led to calculation of a proposed MACT floor for PAH that is below the level that can be demonstrably achieved by the best performing sources.

The commenters argued that the EPA should reconsider its decision not to include these data in calculation of the MACT floor. One commenter noted that additional testing to better characterize variability, particularly for PAH, was being performed prior to the comment period for the supplemental proposal and encouraged the EPA to consider these additional data in calculating the MACT floor levels for the final standard.

Response: We have received multiple test reports from the industry during the development of the supplemental proposal and during the comment period for the supplemental proposal. Each test report received was reviewed to determine if the test met the quality assurance/quality control (QA/QC) requirements for this RTR. Only test data that met these requirements were used to estimate emissions used for determining residual risk from the emissions sources and for determining the MACT floor limits. Most data we received passed the QA/QC process and were judged to be valid data and were used in our risk analyses and MACT floor calculations, including data received shortly before publication of the supplemental proposal and data received during the comment period. The final rule MACT floor limits include the updated data. However, a few tests we received previously did not meet the QA/QC requirements and, therefore, were not used in these analyses. For further explanation of the data evaluation, see the *Revised Development of the Risk and Technology Review (RTR) Emissions Dataset for the Ferroalloys Production Source Category for the 2015 Final Rule* document, which is available in the docket.

Even though some of the test data received did not meet the QA/QC requirements for this RTR, we believe we still have a robust set of test data for most of the HAP and the majority of the MACT floor analyses are based on multiple tests from each of the facilities.

Comment: One commenter believes the EPA has not demonstrated that ACI on new furnaces will provide any benefits. The commenter notes that the EPA estimated that Eramet emits only an estimated 274 pounds of Hg per year, and Hg emissions do not contribute to multipathway exposures exceeding an HQ of 1. Thus, reducing Hg emissions would not address any existing risks.

If no added cost was involved, lowering Hg emissions might be a worthwhile objective. But, the fact is that cost is a relevant concern under CAA section 112(d)(2) and, as discussed below, achieving the proposed new source standards would be prohibitively expensive.

The commenter states that the EPA justifies its conclusion that ACI is affordable for new sources based on the assumption that any new source will be built with a baghouse. As a threshold matter, the EPA's assertion that ACI is cost effective when applied to baghouse-controlled sources is contradicted by its own supporting memorandum. According to Table 6–3 of the Memorandum from Bradley Nelson, EC/R, Inc. to Phil Mulrine, EPA OAQPS/SPPD/MICG on *Mercury Control Options and Impacts for the Ferroalloys Production Industry* (Aug. 29, 2014),

adding ACI is 5 times more expensive to add to a baghouse than to a scrubber, and operational costs are 3 times higher. The table, thus, indicates that the cost per pound of Hg removed would be higher, not lower, for EMI's baghouse-controlled source, and EPA's estimated marginal cost is $22,195 per pound, almost twice the cost presented by the EPA in the preamble to the 2014 proposal. Since this is based on an unrealistic removal rate, the unit cost would actually be at least $44,000 per pound of Hg removed.

Second, the commenter states that the sole economic justification for ACI is the EPA's substantially understated unit cost of $17,600 for each pound of Hg removed. The EPA's cost-per-pound metric is completely untethered to any cost-benefit analysis. To say how much it will cost to remove a pound of Hg provides no practical basis for assessing the relative value of removing that pound of Hg or the relative ability of a ferroalloys producer to absorb that cost. The docket contains no demonstration, much less substantial evidence, that the lower cost would nevertheless be affordable by EMI.

Finally, the commenter notes that the facility is captive to the pricing structure imposed by low-cost foreign ferroalloy producers who will not be subject to the requirements of this rule. Accordingly, foreign producers prevent the facility from passing on costs such as this to customers via higher prices. Before that facility can construct a new furnace, it would have to determine that the new furnace would produce a positive return large enough to cover the cost of constructing and operating that additional furnace, while charging the same price charged by producers not incurring the added costs of ACI. The EPA provides no explanation for why it believes this would be possible and our analysis strongly suggests that it would not be possible.

The commenter states that the net result is that the proposed new source standard effectively prevents EMI from increasing FeMn production in the future via a new furnace and ensures that when the existing furnaces require replacement, they will not be replaced with furnaces capable of producing FeMn. The EPA's proposed new source standard is inconsistent with EPA's recognition in the 2014 proposal that EMI is the sole U.S. source of FeMn for domestic steel production, and its judgment that ACI should not be immediately required, in part, because such a requirement would likely force EMI out of business. The proposed Hg ''beyond-the-MACT-floor standard'' produces the same result that the EPA agrees should be avoided, only at a later date.

Response: Activated carbon injection in conjunction with fabric filter technology has been successfully used to reduce emissions of Hg from a number of different industries. In addition, the use of brominated carbon has been used to oxidize the Hg allowing even greater control effectiveness for Hg.

The determination of the Hg limits for new or major reconstructed furnaces is based on the assurance that such sources would be constructed to include a baghouse as the primary PM control device (in order to comply with the proposed lower new source limits for PM) and then they could add ACI after the baghouse for Hg control along with a polishing baghouse and would achieve at least 90-percent reduction of Hg.

In the supplemental proposal, the estimated costs for beyond the floor controls for mercury for new and reconstructed sources were based on the costs of installing and operating brominated ACI and a polishing baghouse. Based on this, in the supplemental proposal, we estimated that the cost effectiveness of BTF controls for a new and major reconstructed FeMn production source would be about $12,000/lb. This cost effectiveness estimate is well within the range of cost effectiveness levels we have decided were reasonable in other rules. Furthermore, no other significant economic factors were identified that would indicate that these limits would be inappropriate or infeasible for new sources. Therefore, in the supplemental proposal, we concluded that BTF controls would be cost-effective and feasible for any new or major reconstructed furnace that produces FeMn.

We received new Hg test data prior to and during the comment period for the supplemental proposal. Using these new test data along with the previous data we re-evaluated the cost of installing ACI to reduce Hg. Similar to the supplemental proposal, we estimated costs for BTF controls for Hg for new and reconstructed sources based on the costs of installing and operating brominated ACI and a polishing baghouse. Based on this re-evaluation, we estimate that the cost effectiveness of installing ACI for a new and major reconstructed FeMn production source would be about $13,600/lb for a furnace producing FeMn 50 percent of the year, and $7,100/lb for a furnace producing FeMn 100 percent of the year.

These cost effectiveness estimates are similar to the estimate we presented in the supplemental proposal for the beyond the floor option for new FeMn furnaces and continue to be within the range of cost effectivenesses we have determined are reasonable for mercury control in other rulemakings. Furthermore, no other significant economic factors were identified that would indicate these limits would be inappropriate or infeasible for new or major reconstructed furnaces that produce FeMn. Therefore, we believe the BTF control option for Hg emissions is economically and technically feasible for new and major reconstructed FeMn furnaces and that these cost effectivenesses are acceptable for any new or major reconstructed furnace that produces FeMn. Additional discussion of the EPA's BTF analyses for mercury are available in the *Final Rule Mercury Control Options and Impacts for the Ferroalloys Production Industry* document and in the *Mercury Control Options and Impacts for the Ferroalloys Production Industry* document (dated August 2014) that EPA published in support of the 2014 supplemental proposal. These documents are available in the docket for this action.

An assessment of the cost effectiveness of emission reductions, along with other economic factors, is an appropriate method for assessing cost impacts in standard setting when CAA section 112 allows cost to be a factor in EPA's decision-making. Nothing in CAA section 112 compels EPA to use cost-benefit analysis in standard-setting decisions. Moreover, to the extent the commenter bases its position that the new source BTF standard for mercury lacks benefits because it does not address ''any existing risk,'' the court of appeals has held that risk is not a consideration when setting MACT standards, as in *Sierra Club* v. *EPA*, 353 F.3d 976, 981 (D.C. Cir. 2004). The emission standards in this rule discharge EPA's CAA section 112(d)(2) duties with respect to Hg emissions from new and existing electric arc furnaces in this source category.

4. What is the rationale for our final approach for the CAA section 112(d)(2) and (3) revisions?

We evaluated and rejected BTF options for the CAA section 112(d)(2) and (3) revisions in the supplemental proposal and proposed MACT floor emissions limits for formaldehyde, HCl, Hg, and PAH for existing sources. We also evaluated and rejected BTF options for new sources for formaldehyde, HCl, and PAHs. For Hg, we also evaluated BTF options for new furnaces. We rejected BTF for new SiMn furnaces. However, we proposed BTF limits for Hg for FeMn furnaces. See the *Revised*

MACT Floor Analysis for the Ferroalloys Production Source Category document and the *Final Rule Mercury Control Options and Impacts for the Ferroalloys Production Industry* document, which are available in the docket.

We are promulgating MACT floor-based limits for the four HAP described above for existing sources under CAA section 112(d)(2) and (3) as described above, which is the same approach as in the supplemental proposal. Regarding new sources, we are promulgating MACT floor limits for new sources for formaldehyde, HCl, and PAHs, and for Hg for new SiMn furnaces. However, we are promulgating a BTF limit for Hg for FeMn furnaces.

The limits for HCl and formaldehyde are exactly the same as proposed. The Hg limits for FeMn and SiMn production and PAH limits for SiMn production changed slightly due to the inclusion of additional data. The only significant change was for the PAH limit for FeMn production, which is about 8 times higher than what we proposed. In our supplemental proposal, we provided notice of receipt of the highest test data (i.e., the data received in August 2014) which when combined with the other data resulted in a higher PAH limit. While these data had not been completely QA/QCed before the supplemental proposal, both the method for calculating a limit and most of the data on which the final limit was calculated were available and addressed in the supplemental proposal. Furthermore, commenters agreed that the final limit should be based on all available valid data. As we stated previously, any changes to the Hg and PAH emissions limits were a result of using all of the available valid data which resulted in a change to the MACT floor calculations. Additional data received during the comment period confirmed a higher PAH limit was justified.

D. What changes did we make to the Ferroalloys Production opacity monitoring requirement?

1. What changes did we propose for the ferroalloys production opacity monitoring requirement?

In the 2014 supplemental proposal, the EPA solicited comment regarding the use of new technologies to provide continuous or near continuous long term approaches to monitoring emissions from industrial sources such as the ferroalloys production facilities within this source category. Specifically, we were seeking comment on the feasibility and practice associated with the use of automated opacity monitoring with ASTM D7520–13, using DCOT at fixed points to interpret visible emissions from roof vents associated with the processes at each facility, and how this technology could potentially be included as part of the requirements in the NESHAP for ferroalloys production sources.

2. How did the opacity monitoring requirements change for the Ferroalloys Production source category?

Based on the information we received during the comment period for the supplemental proposal and after further evaluation of the technology, we believe that the use of DCOT can provide opacity readings comparable to Method 9 and reduce the burden of requiring a person to conduct opacity readings over the furnace cycle. Furthermore, the DCOT provides objective and well-substantiated readings of opacity. The DCOT camera provides an image that the facility could access immediately, with QA/QC done within 45 minutes to validate the image and initial readings. In comparison, it would take a field observer roughly 30 minutes to return from the field and average their manually assembled data such that they can report the average that they recorded over the previous 90 minutes of observations. We view the initial visible recording as sufficient evidence to provide the facility enough reason to initiate, investigate, and correct concerns that may create elevated visual emissions observations, and the 45-minute turnaround time on actual opacity values to be quick enough to provide a facility the confirmation they would need to be assured that they have taken appropriate action.

3. What key comments did we receive on the opacity monitoring requirement, and what are our responses?

Comment: In their supplemental proposal comments, one commenter objects to the significantly increased frequency of opacity observations from once every 5 years to weekly. They note that the Agency states that the frequency is ''appropriate'' to demonstrate compliance with the process fugitive standard with the enhanced frequency presumably substituting for the continuous negative pressure monitoring obligations from the 2011 proposal.

The commenter believes that this explanation overlooks the stringent continuous monitoring that the proposed rule already requires to ensure that the process fugitives control system meets the 95-percent capture requirement. First, the facility must develop a plan to demonstrate 95-percent capture, and that plan must be approved by the permitting authority. Next, the facility must perform an initial compliance demonstration. The facility must then identify specific parameters, either through the engineering assessment or the initial compliance demonstration, that are indicative of compliance with the opacity standard. Finally, on an ongoing basis, the facility must routinely monitor those parameters.

The commenter notes that an initial compliance demonstration and ongoing monitoring is a standard regulatory approach required in any number of MACT standards. However, none of these other standards require weekly testing to confirm that the parameters and limits are still being met and many other standards require re-testing only every 5 years, or at most annually. They believe that nothing in the current proposal demonstrates why it is necessary or appropriate to deviate from this standard approach here.

Two commenters believe that the proposed weekly opacity testing will impose significant ongoing costs on the facilities for no additional environmental benefit. They believe that the ongoing parametric monitoring is sufficient to ensure compliance on an ongoing basis.

These commenters believe that the weekly opacity reading requirement is overly burdensome, especially for Eramet because they have three shop buildings. They estimate 3–5 hours per building opacity reading for a total of 9–15 hours a week for reading opacity.

Response: We re-evaluated the opacity monitoring requirements in the supplemental proposal and determined that the DCOT and ASTM D7520–13 provided a development that ensures compliance with the fugitive emissions standards, as well as reduces the labor burden on the facilities. After initial setup, the DCOT can measure the opacity during the furnace process cycle without any labor needed. In addition, facilities would not have the cost of annual certification as is the case with Method 9. We estimate that the overall costs of DCOT and ASTM D7520–13 will be approximately the same as what the overall costs would be if facilities used method 9. In addition, due to the baseline unacceptable risk finding being based largely on process fugitive manganese emissions, we believe the frequent opacity readings using the objective and substantiated results of DCOT are warranted to ensure fugitive emissions are effectively captured and controlled. However, after considering comments, we decided to allow facilities an opportunity to reduce the

frequency of opacity readings to once per month per furnace building (instead of weekly) if the facility achieves 26 consecutive compliant weekly readings for that furnace building. This reduction in frequency will reduce the cost burden for the facilities. However, if any of the subsequent monthly readings exceed the opacity limit for that furnace building, the facility must return to weekly readings until they achieve another 26 compliant weekly readings, at which time the facility can return to monthly readings.

Comment: One commenter supported the EPA's determination that opacity observations should be measured over a furnace process cycle. However, because all furnaces at the Felman facility are located in the same building, the commenter suggests treating the building as a single opacity source, and that opacity observations be conducted over a time period that captures a full furnace process cycle from each furnace within that building.

Response: We agree with the commenter and have revised the opacity requirements to include opacity determinations from buildings with multiple furnaces. The requirement will treat the building with multiple furnaces as a single opacity source and the opacity readings will be conducted over a time period that will include tapping from each of the furnaces in operation.

Comment: In comments on the supplemental proposal, two commenters state that the EPA should require the use of the best available testing method, digital opacity monitoring. The commenters describe the benefits of the DCOT compared to Method 9 and provide supporting documentation. In particular, one commenter supports the DCOT because it is EPA certified as a valid test method for opacity and approved for its use, the use of a camera creates a good electronic record of the observations, conditions, location, etc., and a number of regulated entities are using this method to assess opacity. The commenter adds that using cameras can save resources, citing a Department of Defense project to reduce Method 9 certification costs. The commenter adds that the EPA should also require opacity determinations to be documented on an electronic form and provided on the Internet in real time for public review.

One commenter adds that the EPA should not allow Method 9 to be used, unless there is a power outage requiring the facility to use Method 9 to assure opacity standard compliance. They also add that instead of Method 9, the EPA should require a source to use either continuous opacity monitor or DCOT.

Response: We evaluated the use of DCOT and the ASTM D7520–13 method and determined that this technology provides the same compliance assurance as Method 9 measurements with approximately the same overall burden on the facilities and the DCOT provides reliable, unbiased opacity readings. Therefore, we are requiring opacity determinations to be made using DCOT and ASTM D7520–13. With regard to the comment suggesting that the DCOT results be documented in an electronic format and provided on the internet in real time, the DCOT results will be recorded in an electronic format. Furthermore, use of the DCOT will improve transparency of opacity monitoring results. However, we do not have a system established to provide these results on the internet in real time. Furthermore, the ERT is not yet configured to be able to accept the DCOT compliance images. Nevertheless, the rule requires the affected sources to maintain electronic records of the DCOT results and submit periodic compliance monitoring reports to the Administrator or permit authority. We believe that the public will be able to obtain copies of the compliance results within a reasonable amount of time by contacting the EPA and/or the permit authority through the appropriate channels.

Comment: One commenter requests a clarification to the proposed regulatory language: That EPA add the phrase ''over a furnace process cycle'' at the end of 40 CFR 63.1623(b)(3). As written in the supplemental proposal, the language requires that opacity emissions not exceed 8 percent, but no averaging time is specified. The proposed subsections, § 63.1623(b)(3)(i) though (iii) stated that the compliance demonstration for this obligation must be determined over the course of an entire furnace process cycle, but they do not clearly state that the limit itself is 8 percent over the entire furnace process cycle, and not, for example, an instantaneous limit, or 8 percent over a 6-minute period. To avoid misunderstanding, this averaging period should be stated clearly as part of the standard itself.

Response: We agree with the commenter and have included language that clarifies the opacity requirement in the final rule.

4. What is the rationale for our final decision for the opacity monitoring requirement?

We are finalizing requirements to measure opacity from the furnace buildings using ASTM D7520–13 and digital camera technology because we conclude this is the best method to ensure reliable and unbiased readings for opacity. We are also finalizing the requirement that facilities need to meet an average opacity standard of no more than 8-percent opacity for each furnace cycle. Furthermore, we are finalizing the requirement that at no time during operation may any two consecutive 6-minute block opacity readings (12-minute period) be greater than 20-percent opacity.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

Eramet Marietta Incorporated, in Marietta, Ohio and Felman Production LLC, in Letart West Virginia, are the 2 manganese ferroalloys production facilities currently operating in the United States that will be affected by these amendments. We do not know of any new facilities that are expected to be constructed in the foreseeable future. However, there is one other facility that has a permit to produce FeMn or SiMn in an electric arc furnace, but it is not doing so at present. It is possible, however, that this facility could resume production or another non-manganese ferroalloy producer could decide to commence production of FeMn or SiMn. Given this uncertainty, our impact analysis is focused on the two existing sources that are currently operating.

B. What are the air quality impacts?

As noted in the 2011 proposal, emissions of metal HAP from ferroalloys production sources have declined in recent years, primarily as the result of state actions and also due to the industry's own initiative. The final amendments in this rule would cut HAP emissions (primarily particulate metal HAP such as manganese, arsenic, and nickel) by about 60 percent from their current levels. Under the final emissions standards for process fugitives emissions from the furnace building, we estimate that the HAP emissions reductions would be 77 tpy, including significant reductions of manganese.

C. What are the cost impacts?

Under the revised final amendments, each ferroalloys production facility is expected to incur costs for the design, installation and operation of an enhanced local capture system. Each facility also is expected to incur costs associated with the installation of additional control devices to manage the air flows generated by the enhanced

capture systems. There would also be capital costs associated with installing new or improved continuous monitoring systems, including installation of BLDS on the furnace baghouses that are not currently equipped with these systems and installation and operation of DCOT systems to monitor opacity.

The revised capital costs for each facility were estimated based on the projected number and types of upgrades required. The specific enhancements for each facility were selected for cost estimation based on estimates directly provided by the facilities based on their engineering analyses and discussions with the EPA. The *Cost Impacts of Control Options to Address Fugitive HAP Emissions for the Ferroalloys Production NESHAP Supplemental Proposal* document includes a complete description of the revised cost estimate methods used for this analysis and is available in the docket.

Cost elements vary by plant and furnace and include the following elements:

- Curtains or doors surrounding furnace tops to contain fugitive emissions;
- Improvements to hoods collecting tapping emissions;
- Upgraded fans to improve the airflow of fabric filters controlling fugitive emissions;
- Addition of ''secondary capture'' or additional hoods to capture emissions from tapping platforms or crucibles;
- Addition of fugitives capture for casting operations;
- Improvement of existing control devices or addition of fabric filters; and
- Addition of rooftop ventilation, in which fugitive emissions escaping local control are collected in the roof canopy over process areas through addition of partitions and hoods, then directed through roof vents and ducts to control devices.

For purposes of the analysis for the final rule, we assumed that enhanced capture systems and roofline ventilation will be installed for all operational furnaces at both facilities and for MOR operations at Eramet Marietta. The specific elements of the capture and control systems selected for each facility are based on information supplied by the facilities incorporating their best estimates of the improvements to fugitive emission capture and control they would implement to achieve the standards included in the final rule. We estimate the total capital costs of installing the required ductwork, fans, control devices, and monitoring to comply with the enhanced capture system requirements to be $40.3 million and the total annualized cost to be $7.7 million (2012 dollars) for the two plants. We estimate that enhanced capture and control systems required by this rule will reduce metal HAP emissions by 75 tons, resulting in a cost per ton of metal HAP removed to be $106,000 per ton ($53 per pound). The total HAP reduction for the enhanced capture and control systems is estimated to be 77 tpy at a cost per ton of $103,000 per ton ($52 per pound). We also estimate that these systems will achieve PM emission reductions of 229 tpy, resulting in cost per ton of PM removed of $34,600 per ton and achieve $PM_{2.5}$ emission reductions of 48 tpy, resulting in a cost per ton of $PM_{2.5}$ removal of $165,000 per ton.

D. What are the economic impacts?

As a result of the requirements in this final rule, we estimate that the total capital cost for the Eramet facility will be about $25.4 million and the total annualized costs will be about $5.6 million (in 2012 dollars). For impacts to Felman Production LLC, this facility is estimated to incur a total capital cost of $14.9 million and a total annualized costs of just under $2.1 million (in 2012 dollars). In total, these costs could lead to an increase in annualized cost of about 1.9 percent of sales, which serves as an estimate for the increase in product prices, and a decrease in output of as much as 10.1 percent. For more information regarding economic impacts, please refer to the *Economic Impact Analysis* report and the summary of public comments and EPA's responses document which are included in the public docket for this final rule.

E. What are the benefits?

The estimated reductions in HAP emissions (*i.e.*, about 77 tpy) that will be achieved by this action will provide significant benefits to public health. For example, there will be a significant reduction in emissions of HAP metals (especially manganese, arsenic, nickel, chromium, cadmium, and lead). The rule will also achieve some reductions of Hg and PAHs. In addition to the HAP reductions, we also estimate that this final rule will reduce 48 tons in $PM_{2.5}$ emissions as a co-benefit of the HAP reductions annually.

This rulemaking is not an ''economically significant regulatory action'' under Executive Order 12866 because it is not likely to have an annual effect on the economy of $100 million or more. Therefore, we have not conducted a Regulatory Impact Analysis (RIA) for this rulemaking or a benefits analysis. While we expect that these avoided emissions will result in improvements in air quality and reduce health effects associated with exposure to HAP associated with these emissions, we have not quantified or monetized the benefits of reducing these emissions for this rulemaking. This does not imply that there are no benefits associated with these emission reductions. In fact, our demographic analysis indicates that thousands of people live within 50 kilometers of these two facilities and these people will experience benefits because of the reduced exposure to air toxics due to this rulemaking.

When determining if the benefits of an action exceed its costs, Executive Orders 12866 and 13563 direct the Agency to consider qualitative benefits that are difficult to quantify but essential to consider. Controls installed to reduce HAP would also reduce ambient concentrations of $PM_{2.5}$ as a co-benefit. Reducing exposure to $PM_{2.5}$ is associated with significant human health benefits, including avoided premature mortality and morbidity from cardiovascular and respiratory illnesses. Researchers have associated $PM_{2.5}$ exposure with adverse health effects in numerous toxicological, clinical and epidemiological studies (U.S. EPA, 2009).[4] When adequate data and resources are available and an RIA is required, the EPA generally quantifies several health effects associated with exposure to $PM_{2.5}$ (U.S. EPA, 2012).[5] These health effects include premature mortality for adults and infants, cardiovascular morbidities such as heart attacks, hospital admissions and respiratory morbidities such as asthma attacks, acute bronchitis, hospital and emergency department visits, work loss days, restricted activity days, and respiratory symptoms. The scientific literature also suggests that exposure to $PM_{2.5}$ is also associated with adverse effects on birth weight, pre-term births, pulmonary function and other cardiovascular and respiratory effects (U.S. EPA, 2009), but the EPA has not quantified certain outcomes of these impacts in its benefits analyses. $PM_{2.5}$ also increases light extinction, which is

[4] U.S. Environmental Protection Agency (U.S. EPA). 2009. *Integrated Science Assessment for Particulate Matter (Final Report).* EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. Available on the Internet at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=216546.*

[5] U.S. Environmental Protection Agency (U.S. EPA). 2012. *Regulatory Impact Analysis for the Proposed Revisions to the National Ambient Air Quality Standards for Particulate Matter.* Office of Air and Radiation, Research Triangle Park, NC. Available on the Internet at *http://www.epa.gov/ttnecas1/regdata/RIAs/PMRIACombinedFile_Bookmarked.pdf.*

an important aspect of reduced visibility.

The rulemaking is also anticipated to reduce emissions of other HAP, including metal HAP (arsenic, cadmium, chromium (both total and hexavalent), lead compounds, manganese, and nickel) and PAHs. Some of these HAP are carcinogenic (e.g., arsenic, PAHs) and some are toxic and have effects other than cancer (e.g., kidney disease from cadmium, respiratory, and immunological effects from nickel). While we cannot quantitatively estimate the benefits achieved by reducing emissions of these HAP, qualitative benefits are expected as a result of reducing exposures to these HAP. More information about the health effects of these HAP can be found on the IRIS,[6] ATSDR,[7] and California EPA [8] Web pages.

F. What analysis of environmental justice did we conduct?

As explained in section IV.A of this preamble, we assessed the impacts to various demographic groups. The methodology and the results of the analyses are described in the *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Ferroalloys Facilities*, which is available in the docket.

Based on that assessment, we conclude that this final rule will reduce the number of people exposed to elevated risks, from approximately 41,000, to about 26,000 people exposed to a potential cancer risk greater than or equal to 1-in-1 million and from 1,300 to zero people exposed to a potential chronic noncancer hazard level of 1. Based on this analysis, the EPA has determined that these final rule requirements will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations. See Section VI.J of this preamble for more information.

G. What analysis of children's environmental health did we conduct?

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because the Agency does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. The report, *Analysis of Socio-Economic Factors for Populations Living Near Ferroalloys Facilities*, which is available in the docket, shows that, prior to the implementation of the provisions included in this final rule, on a nationwide basis, there are approximately 41,000 people exposed to a cancer risk at or above 1-in-1 million and approximately 1,300 people exposed to a chronic noncancer TOSHI greater than 1 due to emissions from the source category. The percentages for all demographic groups (with the exception of those ages 65 and older, which is only slightly higher than the national average), including children 18 years and younger, are similar to or lower than their respective nationwide percentages. Further, implementation of the provisions included in this action is expected to significantly reduce the number of at-risk people due to HAP emissions from these sources (from approximately 41,000 to about 26,000 for cancer risks and from 1,300 to zero for chronic noncancer hazards), providing significant benefit to all demographic groups.

This rule is expected to reduce environmental impacts for everyone, including children. This action establishes emissions limits at the levels based on MACT, as required by the CAA. Based on our analysis, we believe that this rule does not present a disproportionate risk to children because it increases the level of environmental protection for all affected populations.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 2488.01. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The information requirements in this rulemaking are based on the notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These notifications, reports, and records are essential in determining compliance, and are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

Respondents/affected entities: New and existing ferroalloys production facilities that produce FeMn and SiMn and are either major sources of HAP emissions or are co-located at major sources of HAP.

Respondent's obligation to respond: Mandatory (42 U.S.C. 7414).

Estimated number of respondents: 2.

Frequency of response: Semiannual.

Total estimated burden: 707 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $0.85 million (per year), includes $0.78 million annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are businesses that can be classified as small firms using the Small Business Administration size standards for their respective industries. The agency has determined that neither of the companies affected by this rule is considered to be a small entity. Details of this analysis are presented in the memorandum, *Economic Impact Analysis for Risk and Technology Review: Ferroalloys Production Source*

[6] U.S. EPA, 2006. Integrated Risk Information System. *http://www.epa.gov/iris/index.html.*

[7] U.S. Agency for Toxic Substances and Disease Registry, 2006. *Minimum Risk Levels (MRLs) for Hazardous Substances. http://www.atsdr.cdc.gov/mrls/index.html.*

[8] CA Office of Environmental Health Hazard Assessment, 2005. *Chronic Reference Exposure Levels Adopted by OEHHA as of December 2008. http://www.oehha.ca.gov/air/chronic_rels.*

Category, which is available in the docket for this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments, or on the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. 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.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. There are no ferroalloys production facilities that are owned or operated by tribal governments. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the *Residual Risk Assessment for the Ferroalloys Production Source Category in Support of the 2015 Risk and Technology Review Final Rule document*, which is available in the docket for this action, and are discussed in section V.G of this preamble.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act and 1 CFR Part 51

This final rule involves technical standards. EPA decided to use ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' for its manual methods of measuring the oxygen or carbon dioxide content of the exhaust gas. These parts of ASME PTC 19.10–1981 are acceptable alternatives to EPA Method 3B. This standard is available from the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990.

The EPA has also decided to use ASTM D7520–13, Standard Test Method for Determining the Opacity in a Plume in an Outdoor Ambient Atmosphere, for measuring opacity from the shop buildings. This standard is an acceptable alternative to EPA Method 9 and is available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *http://www.astm.org/*.

In addition, the EPA has decided to use California Air Resources Board Method 429, Determination of Polycyclic Aromatic Hydrocarbon (PAH) Emissions from Stationary Sources for measuring PAH emissions from the furnace control device. This method is an acceptable alternative to EPA Method 0010 and is available from the California Air Resources Board (CARB), Engineering and Certification Branch, 1001 I Street, P.O. Box 2815, Sacramento, CA 95812–2815. See *http://www.arb.ca.gov/testmeth/vol3/M_429.pdf*.

The EPA has also decided to use EPA Methods 1, 2, 3A, 3B, 4, 5, 5D, 10, 26A, 29, 30B, 316 of 40 CFR part 60, appendix A. No applicable VCS were identified for EPA Methods 30B, 5D, 316.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in this final rule.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA has determined that the current health risks posed by emissions from this source category are unacceptable. There are up to 41,000 people living in close proximity to the two facilities that are currently subject to health risks which may not be considered negligible (*i.e.*, cancer risks greater than 1-in-1 million or chronic noncancer TOSHI greater than 1) due to emissions from this source category. The demographic makeup of this population is similar to the national distribution for all demographic groups, with the exception of those ages 65 and older, which is slightly higher than the national average. This final rule will reduce the number of people in this group, from approximately 41,000, to about 26,000 people exposed to a cancer risk greater than or equal to 1-in-1 million and from 1,300 to zero people for a chronic noncancer hazard index of 1. The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because it increases the level of environmental protection for all affected populations. The results of this evaluation are contained in section IV.A of this preamble. A copy of this methodology and the results of the demographic analysis are included in a technical report, *Risk and Technology Review—Analysis of Socio-Economic Factors for Populations Living Near Ferroalloys Facilities*, which is available in the docket for this action.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects for 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 28, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency is amending title 40, chapter I, part 63 of the Code of Federal Regulations (CFR) as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 63.14 is amended:

■ a. By revising paragraph (f)(1);

■ b. By redesignating paragraphs (g)(87) through (94) as paragraphs (g)(88) through (95), respectively;
■ c. By adding new paragraph (g)(87);
■ d. By revising paragraph (j) introductory text;
■ e. By redesignating paragraphs (j)(1) through (3) as paragraphs (j)(2) through (4), respectively; and
■ f. By adding new paragraph (j)(1).

The revisions and additions read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(f) * * *

(1) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR approved for §§ 63.309(k), 63.457(k), 63.772(e) and (h), 63.865(b), 63.1282(d) and (g), 63.1625(b), 63.3166(a), 63.3360(e), 63.3545(a), 63.3555(a), 63.4166(a), 63.4362(a), 63.4766(a), 63.4965(a), 63.5160(d), table 4 to subpart UUUU, 63.9307(c), 63.9323(a), 63.11148(e), 63.11155(e), 63.11162(f), 63.11163(g), 63.11410(j), 63.11551(a), 63.11646(a), and 63.11945, table 5 to subpart DDDDD, table 4 to subpart JJJJJ, tables 4 and 5 of subpart UUUUU, and table 1 to subpart ZZZZZ.

* * * * *

(g) * * *

(87) ASTM D7520–13, ''Standard Test Method for Determining the Opacity in a Plume in an Outdoor Ambient Atmosphere,'' Approved December 1, 2013, IBR approved for §§ 63.1625(b).

* * * * *

(j) California Air Resources Board (CARB), 1001 I Street, P.O. Box 2815, Sacramento, CA 95812–2815, Telephone (916) 327–0900, *http://www.arb.ca.gov/*.

(1) Method 429, Determination of Polycyclic Aromatic Hydrocarbon (PAH) Emissions from Stationary Sources, Adopted September 12, 1989, Amended July 28, 1997, IBR approved for § 63.1625(b).

* * * * *

Subpart XXX—National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese

■ 3. Sections 63.1620 through 63.1629 are added to read as follows:

Sec.

* * * * *

§ 63.1620 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a new or existing ferromanganese and/or silicomanganese production facility that is a major source or is co-located at a major source of hazardous air pollutant emissions.

(b) You are subject to this subpart if you own or operate any of the following equipment as part of a ferromanganese and/or silicomanganese production facility:

(1) Electric arc furnace;

(2) Casting operations;

(3) Metal oxygen refining (MOR) process;

(4) Crushing and screening operations;

(5) Outdoor fugitive dust sources.

(c) A new affected source is any of the equipment listed in paragraph (b) of this section for which construction or reconstruction commenced after June 30, 2015.

(d) Table 1 of this subpart specifies the provisions of subpart A of this part that apply to owners and operators of ferromanganese and silicomanganese production facilities subject to this subpart.

(e) If you are subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR part 70 or 71, as applicable.

(f) Emission standards in this subpart apply at all times.

§ 63.1621 What are my compliance dates?

(a) Existing affected sources must be in compliance with the provisions specified in §§ 63.1620 through 63.1629 no later than June 30, 2017.

(b) Affected sources in existence prior to June 30, 2015 must be in compliance with the provisions specified in §§ 63.1650 through 63.1661 by November 21, 2001 and until June 30, 2017. As of June 30, 2017, the provisions of §§ 63.1650 through 63.1661 cease to apply to affected sources in existence prior to June 30, 2015. The provisions of §§ 63.1650 through 63.1661 remain enforceable at a source for its activities prior to June 30, 2017.

(c) If you own or operate a new affected source that commences construction or reconstruction after November 23, 2011, you must comply with the requirements of this subpart by June 30, 2015, or upon startup of operations, whichever is later.

§ 63.1622 What definitions apply to this subpart?

Terms in this subpart are defined in the Clean Air Act (Act), in subpart A of this part, or in this section as follows:

Bag leak detection system means a system that is capable of continuously monitoring particulate matter (dust) loadings in the exhaust of a baghouse in order to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to continuously monitor relative particulate matter loadings.

Capture system means the collection of components used to capture the gases and fumes released from one or more emissions points and then convey the captured gas stream to a control device or to the atmosphere. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: Duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, fans and roofline ventilation systems.

Casting means the period of time from when molten ferroalloy is removed from the tapping station until the pouring into casting molds or beds is completed. This includes the following operations: Pouring alloy from one ladle to another, slag separation, slag removal and ladle transfer by crane, truck, or other conveyance.

Crushing and screening equipment means the crushers, grinders, mills, screens and conveying systems used to crush, size and prepare for packing manganese-containing materials, including raw materials, intermediate products and final products.

Electric arc furnace means any furnace where electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge. The furnace may be of an open, semi-sealed, or sealed design.

Furnace process cycle means the period in which the furnace is tapped to the time in which the furnace is tapped again and includes periods of charging, smelting, tapping, casting and ladle raking. For multiple furnaces operating within a single shop building, furnace process cycle means a period sufficient

to capture a full cycle of charging, smelting, tapping, casting and ladle raking for each furnace within the shop building.

Ladle treatment means a post-tapping process including metal and alloy additions where chemistry adjustments are made in the ladle after furnace smelting to achieve a specified product.

Local ventilation means hoods, ductwork, and fans designed to capture process fugitive emissions close to the area where the emissions are generated (*e.g.*, tap hoods).

Metal oxygen refining (MOR) process means the reduction of the carbon content of ferromanganese through the use of oxygen.

Outdoor fugitive dust source means a stationary source from which hazardous air pollutant-bearing particles are discharged to the atmosphere due to wind or mechanical inducement such as vehicle traffic. Fugitive dust sources include plant roadways, yard areas and outdoor material storage and transfer operation areas.

Plant roadway means any area at a ferromanganese and silicomanganese production facility that is subject to plant mobile equipment, such as forklifts, front end loaders, or trucks, carrying manganese-bearing materials. Excluded from this definition are employee and visitor parking areas, provided they are not subject to traffic by plant mobile equipment.

Process fugitive emissions source means a source of hazardous air pollutant emissions that is associated with a ferromanganese or silicomanganese production facility and is not a fugitive dust source or a stack emissions source. Process fugitive sources include emissions that escape capture from the electric arc furnace, tapping operations, casting operations, ladle treatment, MOR or crushing and screening equipment.

Roofline ventilation system means an exhaust system designed to evacuate process fugitive emissions that collect in the roofline area to a control device.

Shop building means the building which houses one or more electric arc furnaces or other processes that generate process fugitive emissions.

Shutdown means the cessation of operation of an affected source for any purpose.

Startup means the setting in operation of an affected source for any purpose.

Tapping emissions means the gases and emissions associated with removal of product from the electric arc furnace under normal operating conditions, such as removal of metal under normal pressure and movement by gravity down the spout into the ladle and filling the ladle.

Tapping period means the time from when a tap hole is opened until the time a tap hole is closed.

§ 63.1623 What are the emissions standards for new, reconstructed and existing facilities?

(a) *Electric arc furnaces.* You must install, operate and maintain an effective capture system that collects the emissions from each electric arc furnace operation and conveys the collected emissions to a control device for the removal of the pollutants specified in the emissions standards specified in paragraphs (a)(1) through (5) of this section.

(1) *Particulate matter emissions.* (i) You must not discharge exhaust gases from each electric arc furnace operation containing particulate matter in excess of 4.0 milligrams per dry standard cubic meter (mg/dscm) into the atmosphere from any new or reconstructed electric arc furnace.

(ii) You must not discharge exhaust gases from each electric arc furnace operation containing particulate matter in excess of 25 mg/dscm into the atmosphere from any existing electric arc furnace.

(2) *Mercury emissions.* (i) You must not discharge exhaust gases from each electric arc furnace operation containing mercury emissions in excess of 13 micrograms per dry standard cubic meter (μg/dscm) into the atmosphere from any new or reconstructed electric arc furnace when producing ferromanganese.

(ii) You must not discharge exhaust gases from each electric arc furnace operation containing mercury emissions in excess of 130 μg/dscm into the atmosphere from any existing electric arc furnace when producing ferromanganese.

(iii) You must not discharge exhaust gases from each electric arc furnace operation containing mercury emissions in excess of 4 μg/dscm into the atmosphere from any new or reconstructed electric arc furnace when producing silicomanganese.

(iv) You must not discharge exhaust gases from each electric arc furnace operation containing mercury emissions in excess of 12 μg/dscm into the atmosphere from any existing electric arc furnace when producing silicomanganese.

(3) *Polycyclic aromatic hydrocarbon emissions.* (i) You must not discharge exhaust gases from each electric arc furnace operation containing polycyclic aromatic hydrocarbon emissions in excess of 12,000 μg/dscm into the atmosphere from any new or reconstructed electric arc furnace when producing ferromanganese.

(ii) You must not discharge exhaust gases from each electric arc furnace operation containing polycyclic aromatic hydrocarbon emissions in excess of 12,000 μg/dscm into the atmosphere from any existing electric arc furnace when producing ferromanganese.

(iii) You must not discharge exhaust gases from each electric arc furnace operation containing polycyclic aromatic hydrocarbon emissions in excess of 72 μg/dscm into the atmosphere from any new or reconstructed electric arc furnace when producing silicomanganese.

(iv) You must not discharge exhaust gases from each electric arc furnace operation containing polycyclic aromatic hydrocarbon emissions in excess of 130 μg/dscm into the atmosphere from any existing electric arc furnace when producing silicomanganese.

(4) *Hydrochloric acid emissions.* (i) You must not discharge exhaust gases from each electric arc furnace operation containing hydrochloric acid emissions in excess of 180 μg/dscm into the atmosphere from any new or reconstructed electric arc furnace.

(ii) You must not discharge exhaust gases from each electric arc furnace operation containing hydrochloric acid emissions in excess of 1,100 μg/dscm into the atmosphere from any existing electric arc furnace.

(5) *Formaldehyde emissions.* You must not discharge exhaust gases from each electric arc furnace operation containing formaldehyde emissions in excess of 201 μg/dscm into the atmosphere from any new, reconstructed or existing electric arc furnace.

(b) *Process fugitive emissions.* (1) You must install, operate and maintain a capture system that is designed to collect 95 percent or more of the emissions from process fugitive emissions sources and convey the collected emissions to a control device that is demonstrated to meet the applicable emission limit specified in paragraph (a)(1) or (c) of this section.

(2) The determination of the overall capture must be demonstrated as required by § 63.1624(a).

(3) Unless you meet the criteria of paragragh (b)(3)(iii) of this section, you must not cause the emissions exiting from a shop building to exceed an average of 8 percent opacity over a furnace or MOR process cycle.

(i) This 8 percent opacity requirement is determined by averaging the

individual opacity readings observed during the furnace or MOR process cycle.

(ii) An individual opacity reading shall be determined as the average of 24 consecutive images recorded at 15-second intervals with the opacity values from each individual digital image rounded to the nearest 5 percent.

(iii) If the average opacity from the shop building is greater than 8 percent opacity during an observed furnace or MOR process cycle, the opacity of two more additional furnace or MOR process cycles must be observed within 7 days and the average of the individual opacity readings during the three observation periods must be less than 8 percent opacity.

(iv) At no time during operation may the average of any two consecutive individual opacity readings be greater than 20 percent opacity.

(c) *Local ventilation emissions.* If you operate local ventilation to capture tapping, casting, or ladle treatment emissions and direct them to a control device other than one associated with the electric arc furnace, you must not discharge into the atmosphere any captured emissions containing particulate matter in excess of 4.0 mg/dscm.

(d) *MOR process.* You must not discharge into the atmosphere from any new, reconstructed or existing MOR process exhaust gases containing particulate matter in excess of 3.9 mg/dscm.

(e) *Crushing and screening equipment.* You must not discharge into the atmosphere from any new, reconstructed, or existing piece of equipment associated with crushing and screening exhaust gases containing particulate matter in excess of 13 mg/dscm.

(f) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records and inspection of the source.

§ 63.1624 What are the operational and work practice standards for new, reconstructed, and existing facilities?

(a) *Process fugitive emissions sources.* (1) You must prepare, and at all times operate according to, a process fugitive emissions ventilation plan that documents the equipment and operations designed to effectively capture process fugitive emissions. The plan will be deemed to achieve effective capture if it consists of the following elements:

(i) Documentation of engineered hoods and secondary fugitive capture systems designed according to the most recent, at the time of construction, ventilation design principles recommended by the American Conference of Governmental Industrial Hygienists (ACGIH). The process fugitive emissions capture systems must be designed to achieve sufficient air changes to evacuate the collection area frequently enough to ensure process fugitive emissions are effectively collected by the ventilation system and ducted to the control device(s). The required ventilation systems should also use properly positioned hooding to take advantage of the inherent air flows of the source and capture systems that minimize air flows while also intercepting natural air flows or creating air flows to contain the fugitive emissions. Include a schematic for each building indicating duct sizes and locations, hood sizes and locations, control device types, size and locations and exhaust locations. The design plan must identify the key operating parameters and measurement locations to ensure proper operation of the system and establish monitoring parameter values that reflect effective capture.

(ii) List of critical maintenance actions and the schedule to conduct them.

(2) You must submit a copy of the process fugitive emissions ventilation plan to the designated permitting authority on or before the applicable compliance date for the affected source as specified in § 63.1621 in electronic format and whenever an update is made to the plan. The requirement for you to operate the facility according to the written process fugitives ventilation plan and specifications must be incorporated in the operating permit for the facility that is issued by the designated permitting authority under part 70 or 71 of this chapter, as applicable.

(3) You must update the information required in paragraphs (a)(1) and (2) of this section every 5 years or whenever there is a significant change in variables that affect process fugitives ventilation design such as the addition of a new process.

(b) *Outdoor fugitive dust sources.* (1) You must prepare, and at all times operate according to, an outdoor fugitive dust control plan that describes in detail the measures that will be put in place to control outdoor fugitive dust emissions from the individual fugitive dust sources at the facility.

(2) You must submit a copy of the outdoor fugitive dust control plan to the designated permitting authority on or before the applicable compliance date for the affected source as specified in § 63.1621. The requirement for you to operate the facility according to a written outdoor fugitive dust control plan must be incorporated in the operating permit for the facility that is issued by the designated permitting authority under part 70 or 71 of this chapter, as applicable.

(3) You may use existing manuals that describe the measures in place to control outdoor fugitive dust sources required as part of a state implementation plan or other federally enforceable requirement for particulate matter to satisfy the requirements of paragraph (b)(1) of this section.

§ 63.1625 What are the performance test and compliance requirements for new, reconstructed, and existing facilities?

(a) *Performance testing.* (1) All performance tests must be conducted according to the requirements in § 63.7.

(2) Each performance test in paragraphs (c)(1) and (2) of this section must consist of three separate and complete runs using the applicable test methods.

(3) Each run must be conducted under conditions that are representative of normal process operations.

(4) Performance tests conducted on air pollution control devices serving electric arc furnaces must be conducted such that at least one tapping period, or at least 20 minutes of a tapping period, whichever is less, is included in at least two of the three runs. The sampling time for each run must be at least three times the average tapping period of the tested furnace, but no less than 60 minutes.

(5) You must conduct the performance tests specified in paragraph (c) of this section under such conditions as the Administrator specifies based on representative performance of the affected source for the period being tested. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(b) *Test methods.* The following test methods in appendices of part 60 or 63 of this chapter or as specified elsewhere must be used to determine compliance with the emission standards.

(1) Method 1 of appendix A–1 of 40 CFR part 60 to select the sampling port location and the number of traverse points.

(2) Method 2 of appendix A–1 of 40 CFR part 60 to determine the volumetric flow rate of the stack gas.

(3)(i) Method 3A or 3B of appendix A–2 of 40 CFR part 60 (with integrated bag sampling) to determine the outlet stack and inlet oxygen and CO_2 content.

(ii) You must measure CO_2 concentrations at both the inlet and outlet of the positive pressure fabric filter in conjunction with the pollutant sampling in order to determine isokinetic sampling rates.

(iii) As an alternative to EPA Reference Method 3B, ASME PTC–19–10–1981–Part 10 may be used (incorporated by reference, see § 63.14).

(4) Method 4 of appendix A–3 of 40 CFR part 60 to determine the moisture content of the stack gas.

(5)(i) Method 5 of appendix A–3 of 40 CFR part 60 to determine the particulate matter concentration of the stack gas for negative pressure baghouses and positive pressure baghouses with stacks.

(ii) Method 5D of appendix A–3 of 40 CFR part 60 to determine particulate matter concentration and volumetric flow rate of the stack gas for positive pressure baghouses without stacks.

(iii) The sample volume for each run must be a minimum of 4.0 cubic meters (141.2 cubic feet). For Method 5 testing only, you may choose to collect less than 4.0 cubic meters per run provided that the filterable mass collected (*i.e.*, net filter mass plus mass of nozzle, probe and filter holder rinses) is equal to or greater than 10 mg. If the total mass collected for two of three of the runs is less than 10 mg, you must conduct at least one additional test run that produces at least 10 mg of filterable mass collected (*i.e.*, at a greater sample volume). Report the results of all test runs.

(6) Method 30B of appendix A–8 of 40 CFR part 60 to measure mercury. Apply the minimum sample volume determination procedures as per the method.

(7)(i) Method 26A of appendix A–8 of 40 CFR part 60 to determine outlet stack or inlet hydrochloric acid concentration.

(ii) Collect a minimum volume of 2 cubic meters.

(8)(i) Method 316 of appendix A of this part to determine outlet stack or inlet formaldehyde.

(ii) Collect a minimum volume of 1.0 cubic meter.

(9) ASTM D7520–13 to determine opacity (incorporated by reference, see § 63.14) with the following conditions:

(i) During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520–13, you or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) You must have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–13.

(iii) You must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets and all raw unaltered JPEGs used for opacity and certification determination.

(iv) You or the DCOT vendor must have a minimum of four (4) independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 20 percent opacity for any one reading and the average error must not exceed 7.5 percent opacity.

(v) Use of this method does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software and operator in accordance with ASTM D7520–13 and these requirements is on the facility, DCOT operator and DCOT vendor.

(10) California Air Resources Board (CARB) Method 429 (incorporated by reference, see § 63.14).

(11) The owner or operator may use alternative measurement methods approved by the Administrator following the procedures described in § 63.7(f).

(c) *Compliance demonstration with the emission standards*—(1) *Initial performance test.* You must conduct an initial performance test for air pollution control devices or vent stacks subject to § 63.1623(a), (b)(1), and (c) through (e) to demonstrate compliance with the applicable emission standards.

(2) *Periodic performance test.* (i) You must conduct annual particulate matter tests for wet scrubber air pollution control devices subject to § 63.1623(a)(1) to demonstrate compliance with the applicable emission standards.

(ii) You must conduct particulate matter tests every 5 years for fabric filter air pollution control devices subject to § 63.1623(a)(1) to demonstrate compliance with the applicable emission standards.

(iii) You must conduct annual mercury performance tests for wet scrubber and fabric filter air pollution control devices or vent stacks subject to § 63.1623(a)(2) to demonstrate compliance with the applicable emission standards.

(iv) You must conduct PAH performance tests for wet scrubber and fabric filter air pollution control devices or vent stacks subject to § 63.1623(a)(3) to demonstrate compliance with the applicable emission standards.

(A) For furnaces producing silicomanganese, you must conduct a PAH performance test every 5 years for each furnace that produces silicomanganese subject to § 63.1623(a)(3).

(B) For furnaces producing ferromanganese, you must conduct a PAH performance test every 3 months or 2,190 cumulative hours of ferromanganese production for each furnace subject to § 63.1623(a)(3).

(C) If a furnace producing ferromanganese demonstrates compliance with four consecutive PAH tests, the owner/operator may petition the permitting authority to request reduced frequency of testing to demonstrate compliance with the PAH emission standards. However, this PAH compliance testing cannot be reduced to less than once per year.

(v) You must conduct ongoing performance tests every 5 years for air pollution control devices or vent stacks subject to § 63.1623(a)(4), (a)(5), (b)(1), and (c) through (e) to demonstrate compliance with the applicable emission standards.

(3) Compliance is demonstrated for all sources performing emissions tests if the average concentration for the three runs comprising the performance test does not exceed the standard.

(4) *Operating limits.* You must establish parameter operating limits according to paragraphs (c)(4)(i) through (iv) of this section. Unless otherwise specified, compliance with each established operating limit shall be demonstrated for each 24-hour operating day.

(i) For a wet particulate matter scrubber, you must establish the minimum liquid flow rate and pressure drop as your operating limits during the three-run performance test. If you use a wet particulate matter scrubber and you conduct separate performance tests for particulate matter, you must establish one set of minimum liquid flow rate and pressure drop operating limits. If you conduct multiple performance tests, you must set the minimum liquid flow rate and pressure drop operating limits at the highest minimum hourly average

values established during the performance tests.

(ii) For a wet acid gas scrubber, you must establish the minimum liquid flow rate and pH, as your operating limits during the three-run performance test. If you use a wet acid gas scrubber and you conduct separate performance tests for hydrochloric acid, you must establish one set of minimum liquid flow rate and pH operating limits. If you conduct multiple performance tests, you must set the minimum liquid flow rate and pH operating limits at the highest minimum hourly average values established during the performance tests.

(iii) For emission sources with fabric filters that choose to demonstrate continuous compliance through bag leak detection systems you must install a bag leak detection system according to the requirements in § 63.1626(d) and you must set your operating limit such that the sum duration of bag leak detection system alarms does not exceed 5 percent of the process operating time during a 6-month period.

(iv) If you choose to demonstrate continuous compliance through a particulate matter CEMS, you must determine an operating limit (particulate matter concentration in mg/dscm) during performance testing for initial particulate matter compliance. The operating limit will be the average of the PM filterable results of the three Method 5 or Method 5D of appendix A–3 of 40 CFR part 60 performance test runs. To determine continuous compliance, the hourly average PM concentrations will be averaged on a rolling 30 operating day basis. Each 30 operating day average will have to meet the PM operating limit.

(d) *Compliance demonstration with shop building opacity standards.* (1)(i) If you are subject to § 63.1623(b), you must conduct opacity observations of the shop building to demonstrate compliance with the applicable opacity standards according to § 63.6(h)(5), which addresses conducting opacity or visible emission observations.

(ii) You must conduct the opacity observations according to ASTM D7520–13 (incorporated by reference, see § 63.14), for a period that includes at least one complete furnace process cycle for each furnace.

(iii) For a shop building that contains more than one furnace, you must conduct the opacity observations according to ASTM D7520–13, for a period that includes one tapping period from each furnace located in the shop building.

(iv) You must conduct the opacity observations according to ASTM D7520–13, for a one hour period that includes at least one pouring for each MOR located in the shop building.

(v) You must conduct the opacity observations at least once per week for each shop building containing one or more furnaces or MOR.

(vi) You may reduce the frequency of observations to once per month for each shop building that demonstrates compliance with the weekly 8-percent opacity limit for 26 consecutive complete observations that span a period of at least 26 weeks. Any monthly observation in excess of 8-percent opacity will return that shop building opacity observation to a weekly compliance schedule. You may reduce the frequency of observations again to once per month for each shop building that demonstrates compliance with the weekly 8-percent opacity limit after another 26 consecutive complete observations that span a period of at least 26 weeks.

(2) You must determine shop building opacity operating parameters based on either monitoring data collected during the compliance demonstration or established in an engineering assessment.

(i) If you choose to establish parameters based on the initial compliance demonstration, you must simultaneously monitor parameter values for one of the following: The capture system fan motor amperes and all capture system damper positions, the total volumetric flow rate to the air pollution control device and all capture system damper positions, or volumetric flow rate through each separately ducted hood that comprises the capture system. Subsequently you must monitor these parameters according to § 63.1626(g) and ensure they remain within 10 percent of the value recorded during the compliant opacity readings.

(ii) If you choose to establish parameters based on an engineering assessment, then a design analysis shall include, for example, specifications, drawings, schematics and ventilation system diagrams prepared by the owner or operator or capture or control system manufacturer or vendor that describes the shop building opacity system ventilation design based on acceptable engineering texts. The design analysis shall address vent stream characteristics and ventilation system design operating parameters such as fan amps, damper position, flow rate and/or other specified parameters.

(iii) You may petition the Administrator to reestablish these parameter ranges whenever you can demonstrate to the Administrator's satisfaction that the electric arc furnace or MOR operating conditions upon which the parameter ranges were previously established are no longer applicable. The values of these parameter ranges determined during the most recent demonstration of compliance must be maintained at the appropriate level for each applicable period.

(3) You will demonstrate continuing compliance with the opacity standards by following the monitoring requirements specified in § 63.1626(g) and the reporting and recordkeeping requirements specified in § 63.1628(b)(5).

(e) *Compliance demonstration with the operational and work practice standards*—(1) Process fugitive emissions sources. You will demonstrate compliance by developing and maintaining a process fugitives ventilation plan, by reporting any deviations from the plan and by taking necessary corrective actions to correct deviations or deficiencies.

(2) *Outdoor fugitive dust sources.* You will demonstrate compliance by developing and maintaining an outdoor fugitive dust control plan, by reporting any deviations from the plan and by taking necessary corrective actions to correct deviations or deficiencies.

(3) *Baghouses equipped with bag leak detection systems.* You will demonstrate compliance with the bag leak detection system requirements by developing an analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems in § 60.57c(h) of this chapter.

§ 63.1626 What monitoring requirements must I meet?

(a) *Baghouse monitoring.* You must prepare, and at all times operate according to, a standard operating procedures manual that describes in detail procedures for inspection, maintenance and bag leak detection and corrective action plans for all baghouses (fabric filters or cartridge filters) that are used to control process vents, process fugitive, or outdoor fugitive dust emissions from any source subject to the emissions standards in § 63.1623.

(b) You must submit the standard operating procedures manual for baghouses required by paragraph (a) of this section to the Administrator or delegated authority for review and approval.

(c) Unless the baghouse is equipped with a bag leak detection system or CEMS, the procedures that you specify in the standard operating procedures manual for inspections and routine maintenance must, at a minimum,

include the requirements of paragraphs (c)(1) and (2) of this section.

(1) You must observe the baghouse outlet on a daily basis for the presence of any visible emissions.

(2) In addition to the daily visible emissions observation, you must conduct the following activities:

(i) Weekly confirmation that dust is being removed from hoppers through visual inspection, or equivalent means of ensuring the proper functioning of removal mechanisms.

(ii) Daily check of compressed air supply for pulse-jet baghouses.

(iii) An appropriate methodology for monitoring cleaning cycles to ensure proper operation.

(iv) Monthly check of bag cleaning mechanisms for proper functioning through visual inspection or equivalent means.

(v) Quarterly visual check of bag tension on reverse air and shaker-type baghouses to ensure that the bags are not kinked (kneed or bent) or lying on their sides. Such checks are not required for shaker-type baghouses using self-tensioning (spring loaded) devices.

(vi) Quarterly confirmation of the physical integrity of the baghouse structure through visual inspection of the baghouse interior for air leaks.

(vii) Semiannual inspection of fans for wear, material buildup and corrosion through visual inspection, vibration detectors, or equivalent means.

(d) *Bag leak detection system.* (1) For each baghouse used to control emissions from an electric arc furnace, you must install, operate and maintain a bag leak detection system according to paragraphs (d)(2) through (4) of this section, unless a system meeting the requirements of paragraph (o) of this section, for a CEMS and continuous emissions rate monitoring system, is installed for monitoring the concentration of particulate matter. You may choose to install, operate and maintain a bag leak detection system for any other baghouse in operation at the facility according to paragraphs (d)(2) through (4) of this section.

(2) The procedures you specified in the standard operating procedures manual for baghouse maintenance must include, at a minimum, a preventative maintenance schedule that is consistent with the baghouse manufacturer's instructions for routine and long-term maintenance.

(3) Each bag leak detection system must meet the specifications and requirements in paragraphs (d)(3)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1.0 milligram per dry standard cubic meter (0.00044 grains per actual cubic foot) or less.

(ii) The bag leak detection system sensor must provide output of relative PM loadings.

(iii) The bag leak detection system must be equipped with an alarm system that will alarm when an increase in relative particulate loadings is detected over a preset level.

(iv) You must install and operate the bag leak detection system in a manner consistent with the guidance provided in ''Office of Air Quality Planning and Standards (OAQPS) Fabric Filter Bag Leak Detection Guidance'' EPA–454/R–98–015, September 1997 (incorporated by reference, see § 63.14) and the manufacturer's written specifications and recommendations for installation, operation and adjustment of the system.

(v) The initial adjustment of the system must, at a minimum, consist of establishing the baseline output by adjusting the sensitivity (range) and the averaging period of the device and establishing the alarm set points and the alarm delay time.

(vi) Following initial adjustment, you must not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in the approved standard operating procedures manual required under paragraph (a) of this section. You cannot increase the sensitivity by more than 100 percent or decrease the sensitivity by more than 50 percent over a 365-day period unless such adjustment follows a complete baghouse inspection that demonstrates that the baghouse is in good operating condition.

(vii) You must install the bag leak detector downstream of the baghouse.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(4) You must include in the standard operating procedures manual required by paragraph (a) of this section a corrective action plan that specifies the procedures to be followed in the case of a bag leak detection system alarm. The corrective action plan must include, at a minimum, the procedures that you will use to determine and record the time and cause of the alarm as well as the corrective actions taken to minimize emissions as specified in paragraphs (d)(4)(i) and (ii) of this section.

(i) The procedures used to determine the cause of the alarm must be initiated within 30 minutes of the alarm.

(ii) The cause of the alarm must be alleviated by taking the necessary corrective action(s) that may include, but not be limited to, those listed in paragraphs (d)(4)(ii)(A) through (F) of this section.

(A) Inspecting the baghouse for air leaks, torn or broken filter elements, or any other malfunction that may cause an increase in emissions.

(B) Sealing off defective bags or filter media.

(C) Replacing defective bags or filter media, or otherwise repairing the control device.

(D) Sealing off a defective baghouse compartment.

(E) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system.

(F) Shutting down the process producing the particulate emissions.

(e) If you use a wet particulate matter scrubber, you must collect the pressure drop and liquid flow rate monitoring system data according to § 63.1628, reduce the data to 24-hour block averages and maintain the 24-hour average pressure drop and liquid flow-rate at or above the operating limits established during the performance test according to § 63.1625(c)(4)(i).

(f) If you use curtains or partitions to prevent process fugitive emissions from escaping the area around the process fugitive emission source or other parts of the building, you must perform quarterly inspections of the physical condition of these curtains or partitions to determine if there are any tears or openings.

(g) *Shop building opacity.* In order to demonstrate continuous compliance with the opacity standards in § 63.1623, you must comply with the requirements § 63.1625(d)(1) and one of the monitoring options in paragraphs (g)(1) or (2) of this section. The selected option must be consistent with that selected during the initial performance test described in § 63.1625(d)(2). Alternatively, you may use the provisions of § 63.8(f) to request approval to use an alternative monitoring method.

(1) If you choose to establish operating parameters during the compliance test as specified in § 63.1625(d)(2)(i), you must meet one of the following requirements.

(i) Check and record the control system fan motor amperes and capture system damper positions once per shift.

(ii) Install, calibrate and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted hood.

(iii) Install, calibrate and maintain a monitoring device that continuously records the volumetric flow rate at the inlet of the air pollution control device and check and record the capture system damper positions once per shift.

(2) If you choose to establish operating parameters during the compliance test as specified in § 63.1625(d)(2)(ii), you must monitor the selected parameter(s) on a frequency specified in the assessment and according to a method specified in the engineering assessment

(3) All flow rate monitoring devices must meet the following requirements:

(i) Be installed in an appropriate location in the exhaust duct such that reproducible flow rate monitoring will result.

(ii) Have an accuracy ±10 percent over its normal operating range and be calibrated according to the manufacturer's instructions.

(4) The Administrator may require you to demonstrate the accuracy of the monitoring device(s) relative to Methods 1 and 2 of appendix A–1 of part 60 of this chapter.

(5) Failure to maintain the appropriate capture system parameters (e.g., fan motor amperes, flow rate and/or damper positions) establishes the need to initiate corrective action as soon as practicable after the monitoring excursion in order to minimize excess emissions.

(h) *Furnace capture system.* You must perform quarterly (once every three months) inspections of the furnace fugitive capture system equipment to ensure that the hood locations have not been changed or obstructed because of contact with cranes or ladles, quarterly inspections of the physical condition of hoods and ductwork to the control device to determine if there are any openings or leaks in the ductwork, quarterly inspections of the hoods and ductwork to determine if there are any flow constrictions in ductwork due to dents or accumulated dust and quarterly examinations of the operational status of flow rate controllers (pressure sensors, dampers, damper switches, etc.) to ensure they are operating correctly. Any deficiencies must be recorded and proper maintenance and repairs performed.

(i) *Requirements for sources using CMS.* If you demonstrate compliance with any applicable emissions limit through use of a continuous monitoring system (CMS), where a CMS includes a continuous parameter monitoring system (CPMS) as well as a continuous emissions monitoring system (CEMS), you must develop a site-specific monitoring plan and submit this site-specific monitoring plan, if requested, at least 60 days before your initial performance evaluation (where applicable) of your CMS. Your site-specific monitoring plan must address the monitoring system design, data collection and the quality assurance and quality control elements outlined in this paragraph and in § 63.8(d). You must install, operate and maintain each CMS according to the procedures in your approved site-specific monitoring plan. Using the process described in § 63.8(f)(4), you may request approval of monitoring system quality assurance and quality control procedures alternative to those specified in paragraphs (i)(1) through (6) of this section in your site-specific monitoring plan.

(1) The performance criteria and design specifications for the monitoring system equipment, including the sample interface, detector signal analyzer and data acquisition and calculations;

(2) Sampling interface location such that the monitoring system will provide representative measurements;

(3) Equipment performance checks, system accuracy audits, or other audit procedures;

(4) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1) and (3);

(5) Conditions that define a continuous monitoring system that is out of control consistent with § 63.8(c)(7)(i) and for responding to out of control periods consistent with § 63.8(c)(7)(ii) and (c)(8) or Table 1 to this subpart, as applicable; and

(6) Ongoing recordkeeping and reporting procedures in accordance with provisions in § 63.10(c), (e)(1) and (e)(2)(i), and Table 1 to this subpart, as applicable.

(j) If you have an operating limit that requires the use of a CPMS, you must install, operate and maintain each continuous parameter monitoring system according to the procedures in paragraphs (j)(1) through (7) of this section.

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four successive cycles of operation to have a valid hour of data.

(2) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions and required monitoring system quality assurance or quality control activities (including, as applicable, system accuracy audits and required zero and span adjustments), you must operate the CMS at all times the affected source is operating. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You are required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

(3) You may not use data recorded during monitoring system malfunctions, repairs associated with monitoring system malfunctions, or required monitoring system quality assurance or control activities in calculations used to report emissions or operating levels. You must use all the data collected during all other required data collection periods in assessing the operation of the control device and associated control system.

(4) Except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions and required quality monitoring system quality assurance or quality control activities (including, as applicable, system accuracy audits and required zero and span adjustments), failure to collect required data is a deviation of the monitoring requirements.

(5) You must conduct other CPMS equipment performance checks, system accuracy audits, or other audit procedures specified in your site-specific monitoring plan at least once every 12 months.

(6) You must conduct a performance evaluation of each CPMS in accordance with your site-specific monitoring plan.

(7) You must record the results of each inspection, calibration and validation check.

(k) *CPMS for measuring gaseous flow.* (1) Use a flow sensor with a measurement sensitivity of 5 percent of the flow rate or 10 cubic feet per minute, whichever is greater;

(2) Check all mechanical connections for leakage at least every month; and

(3) Perform a visual inspection at least every 3 months of all components of the flow CPMS for physical and operational integrity and all electrical connections for oxidation and galvanic corrosion if your flow CPMS is not equipped with a redundant flow sensor.

(l) *CPMS for measuring liquid flow.* (1) Use a flow sensor with a measurement sensitivity of 2 percent of the liquid flow rate; and

(2) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(m) *CPMS for measuring pressure.* (1) Minimize or eliminate pulsating pressure, vibration and internal and external corrosion; and

(2) Use a gauge with a minimum tolerance of 1.27 centimeters of water or

a transducer with a minimum tolerance of 1 percent of the pressure range.

(3) Perform checks at least once each process operating day to ensure pressure measurements are not obstructed (*e.g.*, check for pressure tap pluggage daily).

(n) *CPMS for measuring pH.* (1) Ensure the sample is properly mixed and representative of the fluid to be measured.

(2) Check the pH meter's calibration on at least two points every eight hours of process operation.

(o) *Particulate Matter CEMS.* If you are using a CEMS to measure particulate matter emissions to meet requirements of this subpart, you must install, certify, operate and maintain the particulate matter CEMS as specified in paragraphs (o)(1) through (4) of this section.

(1) You must conduct a performance evaluation of the PM CEMS according to the applicable requirements of § 60.13 of this chapter and Performance Specification 11 at 40 CFR part 60, appendix B.

(2) During each PM correlation testing run of the CEMS required by Performance Specification 11 at 40 CFR part 60, appendix B, PM and oxygen (or carbon dioxide) collect data concurrently (or within a 30- to 60-minute period) by both the CEMS and by conducting performance tests using Method 5 or 5D at 40 CFR part 60, appendix A–3 or Method 17 at 40 CFR part 60, appendix A–6.

(3) Perform quarterly accuracy determinations and daily calibration drift tests in accordance with Procedure 2 at 40 CFR part 60, appendix F. Relative Response Audits must be performed annually and Response Correlation Audits must be performed every 3 years.

(4) Within 60 days after the date of completing each CEMS relative accuracy test audit or performance test conducted to demonstrate compliance with this subpart, you must submit the relative accuracy test audit data and the results of the performance test as specified in § 63.1628(e).

§ 63.1627 What notification requirements must I meet?

(a) You must comply with all of the notification requirements of § 63.9. Electronic notifications are encouraged when possible.

(b)(1) You must submit the process fugitive ventilation plan required under § 63.1624(a), the outdoor fugitive dust control plan required under § 63.1624(b), the site-specific monitoring plan for CMS required under § 63.1626(i) and the standard operating procedures manual for baghouses required under § 63.1626(a) to the Administrator or delegated authority. You must submit this notification no later than June 30, 2016. For sources that commenced construction or reconstruction after June 30, 2015, you must submit this notification no later than 180 days before startup of the constructed or reconstructed ferromanganese or silicomanganese production facility. For an affected source that has received a construction permit from the Administrator or delegated authority on or before June 30, 2015, you must submit this notification no later than June 30, 2016.

(2) The plans and procedures documents submitted as required under paragraph (b)(1) of this section must be submitted to the Administrator in electronic format and whenever an update is made to the procedure.

§ 63.1628 What recordkeeping and reporting requirements must I meet?

(a) You must comply with all of the recordkeeping and reporting requirements specified in § 63.10 of the General Provisions that are referenced in Table 1 to this subpart.

(1) Records must be maintained in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). However, electronic recordkeeping and reporting is encouraged and required for some records and reports.

(2) Records must be kept on site for at least 2 years after the date of occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1).

(b) You must maintain, for a period of 5 years, records of the information listed in paragraphs (b)(1) through (11) of this section.

(1) Electronic records of the bag leak detection system output.

(2) An identification of the date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the corrective actions taken and the date and time the cause of the alarm was corrected.

(3) All records of inspections and maintenance activities required under § 63.1626(c) as part of the practices described in the standard operating procedures manual for baghouses required under § 63.1626(a).

(4) Electronic records of the pressure drop and water flow rate values for wet scrubbers used to control particulate matter emissions as required in § 63.1626(e), identification of periods when the 1-hour average pressure drop and water flow rate values are below the established minimum operating limits and an explanation of the corrective actions taken.

(5) Electronic records of the shop building capture system monitoring required under § 63.1626(g)(1) and (2), as applicable, or identification of periods when the capture system parameters were not maintained and an explanation of the corrective actions taken.

(6) Records of the results of quarterly inspections of the furnace capture system required under § 63.1626(h).

(7) Electronic records of the continuous flow monitors or pressure monitors required under § 63.1626(i) and (j) and an identification of periods when the flow rate or pressure was not maintained as required in § 63.1626(e).

(8) Electronic records of the output of any CEMS installed to monitor particulate matter emissions meeting the requirements of § 63.1626(i).

(9) Records of the occurrence and duration of each startup and/or shutdown.

(10) Records of the occurrence and duration of each malfunction of operation (*i.e.*, process equipment) or the air pollution control equipment and monitoring equipment.

(11) Records that explain the periods when the procedures outlined in the process fugitives ventilation plan required under § 63.1624(a), the fugitives dust control plan required under § 63.1624(b), the site-specific monitoring plan for CMS required under § 63.1626(i) and the standard operating procedures manual for baghouses required under § 63.1626(a).

(c) You must comply with all of the reporting requirements specified in § 63.10 of the General Provisions that are referenced in Table 1 to this subpart.

(1) You must submit reports no less frequently than specified under § 63.10(e)(3) of the General Provisions.

(2) Once a source reports a violation of the standard or excess emissions, you must follow the reporting format required under § 63.10(e)(3) until a request to reduce reporting frequency is approved by the Administrator.

(d) In addition to the information required under the applicable sections of § 63.10, you must include in the reports required under paragraph (c) of this section the information specified in paragraphs (d)(1) through (7) of this section.

(1) Reports that identify and explain the periods when the procedures outlined in the process fugitives ventilation plan required under § 63.1624(a), the fugitives dust control plan required under § 63.1624(b), the site-specific monitoring plan for CMS required under § 63.1626(i) and the

standard operating procedures manual for baghouses required under § 63.1626(a) were not followed.

(2) Reports that identify the periods when the average hourly pressure drop or flow rate of wet scrubbers used to control particulate emissions dropped below the levels established in § 63.1626(e) and an explanation of the corrective actions taken.

(3) *Bag leak detection system.* Reports including the following information:

(i) Records of all alarms.

(ii) Description of the actions taken following each bag leak detection system alarm.

(4) Reports of the shop building capture system monitoring required under § 63.1626(g)(1) and (2), as applicable, identification of periods when the capture system parameters were not maintained and an explanation of the corrective actions taken.

(5) Reports of the results of quarterly inspections of the furnace capture system required under § 63.1626(h).

(6) Reports of the CPMS required under § 63.1626, an identification of periods when the monitored parameters were not maintained as required in § 63.1626 and corrective actions taken.

(7) If a malfunction occurred during the reporting period, the report must include the number, duration and a brief description for each type of malfunction that occurred during the reporting period and caused or may have caused any applicable emissions limitation to be exceeded. The report must also include a description of actions taken by the owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.1623(f), including actions taken to correct a malfunction.

(e) Within 60 days after the date of completing each CEMS relative accuracy test audit or performance test conducted to demonstrate compliance with this subpart, you must submit the relative accuracy test audit data and the results of the performance test in the method specified by paragraphs (e)(1) and (2) of this section. The results of the performance test must contain the information listed in paragraph (e)(2) of this section.

(1)(i) Within 60 days after the date of completing each performance test (as defined in § 63.2) required by this subpart, you must submit the results of the performance tests, including any associated fuel analyses, following the procedure specified in either paragraph (e)(1)(i)(A) or (B) of this section.

(A) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*), you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*http://cdx.epa.gov/epa_home.asp*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit performance test data in an electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site once the XML schema is available. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disk, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (e)(1)(i)(A).

(B) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13.

(ii) Within 60 days after the date of completing each CEMS performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedure specified in either paragraph (b)(1) or (2) of this section.

(A) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance evaluation to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX.) Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit performance evaluation data in an electronic file format consistent with the XML schema listed on the EPA's ERT Web site, once the XML schema is available. If you claim that some of the performance evaluation information being transmitted is CBI, you must submit a complete file generated through the use of the EPA's ERT or an alternative electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disk, flash drive or other commonly used electronic storage media to the EPA. The electronic storage media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT file or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph (e)(1)(ii)(A).

(B) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site, you must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 63.13.

(2) The results of a performance test shall include the purpose of the test; a brief process description; a complete unit description, including a description of feed streams and control devices; sampling site description; pollutants measured; description of sampling and analysis procedures and any modifications to standard procedures; quality assurance procedures; record of operating conditions, including operating parameters for which limits are being set, during the test; record of preparation of standards; record of calibrations; raw data sheets for field sampling; raw data sheets for field and laboratory analyses; chain-of-custody documentation; explanation of laboratory data qualifiers; example calculations of all applicable stack gas parameters, emission rates, percent reduction rates and analytical results, as applicable; and any other information required by the test method, a relevant standard, or the Administrator.

§ 63.1629 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as the applicable state, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a state, local, or tribal agency, then that agency, in addition to the U.S. EPA, has the authority to implement and enforce this subpart. Contact the applicable U.S. EPA Regional Office to find out if this

subpart is delegated to a state, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a state, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of U.S. EPA and cannot be transferred to the state, local, or tribal agency.

(c) The authorities that cannot be delegated to state, local, or tribal agencies are as specified in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to requirements in §§ 63.1620 and 63.1621 and 63.1623 and 63.1624.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f), as defined in § 63.90 and as required in this subpart.

(3) Approval of major alternatives to monitoring under § 63.8(f), as defined in § 63.90 and as required in this subpart.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f), as defined in § 63.90 and as required in this subpart.

■ 4. Section 63.1650 is amended by:
■ a. Revising paragraph (d);
■ b. Removing and reserving paragraph (e)(1); and
■ c. Revising paragraph (e)(2).

The revisions read as follows:

§ 63.1650 Applicability and compliance dates.

* * * * *

(d) Table 1 to this subpart specifies the provisions of subpart A of this part that apply to owners and operators of ferroalloy production facilities subject to this subpart.

(e) * * *

(2) Each owner or operator of a new or reconstructed affected source that commences construction or reconstruction after August 4, 1998 and before November 23, 2011, must comply with the requirements of this subpart by May 20, 1999 or upon startup of operations, whichever is later.

■ 5. Section 63.1652 is amended by adding paragraph (f) to read as follows:

§ 63.1652 Emission standards.

* * * * *

(f) At all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records and inspection of the source.

■ 6. Section 63.1656 is amended by:
■ a. Adding paragraph (a)(6);
■ b. Revising paragraphs (b)(7) and (e)(1); and
■ c. Removing and reserving paragraph (e)(2)(ii).

The addition and revisions read as follows:

§ 63.1656 Performance testing, test methods, and compliance demonstrations.

(a) * * *

(6) You must conduct the performance tests specified in paragraph (c) of this section under such conditions as the Administrator specifies based on representative performance of the affected source for the period being tested. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(b) * * *

(7) Method 9 of appendix A–4 of 40 CFR part 60 to determine opacity. ASTM D7520–13, ''Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere'' may be used (incorporated by reference, see § 63.14) with the following conditions:

(i) During the digital camera opacity technique (DCOT) certification procedure outlined in Section 9.2 of ASTM D7520–13, the owner or operator or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) The owner or operator must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–13.

(iii) The owner or operator must follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets and all raw unaltered JPEGs used for opacity and certification determination.

(iv) The owner or operator or the DCOT vendor must have a minimum of four (4) independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any one reading and the average error must not exceed 7.5 percent opacity.

(v) Use of this approved alternative does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software and operator in accordance with ASTM D7520–13 and these requirements is on the facility, DCOT operator and DCOT vendor.

* * * * *

(e) * * *

(1) *Fugitive dust sources.* Failure to have a fugitive dust control plan or failure to report deviations from the plan and take necessary corrective action would be a violation of the general duty to ensure that fugitive dust sources are operated and maintained in a manner consistent with good air pollution control practices for minimizing emissions per § 63.1652(f).

* * * * *

■ 7. Section 63.1657 is amended by revising paragraphs (a)(6), (b)(3), and (c)(7) to read as follows:

§ 63.1657 Monitoring requirements.

(a) * * *

(6) Failure to monitor or failure to take corrective action under the requirements of paragraph (a) of this section would be a violation of the general duty to operate in a manner consistent with good air pollution control practices that minimizes emissions per § 63.1652(f).

(b) * * *

(3) Failure to monitor or failure to take corrective action under the requirements of paragraph (b) of this section would be a violation of the general duty to operate in a manner consistent with good air pollution control practices that minimizes emissions per § 63.1652(f).

(c) * * *

(7) Failure to monitor or failure to take corrective action under the requirements of paragraph (c) of this section would be a violation of the general duty to operate in a manner consistent with good air pollution control practices that minimizes emissions per § 63.1652(f).

■ 8. Section 63.1659 is amended by revising paragraph (a)(4) to read as follows:

§ 63.1659 Reporting requirements.

(a) * * *

(4) *Reporting malfunctions.* If a malfunction occurred during the reporting period, the report must include the number, duration and a brief description for each type of

malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with § 63.1652(f), including actions taken to correct a malfunction.

* * * * *

■ 9. Section 63.1660 is amended by:

■ a. Revising paragraphs (a)(2)(i) and (ii); and

■ b. Removing and reserving paragraphs (a)(2)(iv) and (v).

The revisions read as follows:

§ 63.1660 Recordkeeping requirements.

(a) * * *

(2) * * *

(i) Records of the occurrence and duration of each malfunction of operation (*i.e.*, process equipment) or the air pollution control equipment and monitoring equipment;

(ii) Records of actions taken during periods of malfunction to minimize emissions in accordance with § 63.1652(f), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation;

* * * * *

■ 10. Add Table 1 to the end of subpart XXX to read as follows:

TABLE 1—TO SUBPART XXX OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART XXX

Reference	Applies to subpart XXX	Comment
§ 63.1	Yes	
§ 63.2	Yes	
§ 63.3	Yes	
§ 63.4	Yes	
§ 63.5	Yes	
§ 63.6(a), (b), (c)	Yes	
§ 63.6(d)	No	Section reserved.
§ 63.6(e)(1)(i)	No	See §§ 63.1623(g) and 63.1652(f) for general duty requirement.
§ 63.6(e)(1)(ii)	No	
§ 63.6(e)(1)(iii)	Yes	
§ 63.6(e)(2)	No	Section reserved.
§ 63.6(e)(3)	No	
§ 63.6(f)(1)	No	
§ 63.6(f)(2)–(3)	Yes	
§ 63.6(g)	Yes	
§ 63.6(h)(1)	No	
§ 63.6(h)(2)–(9)	Yes	
§ 63.6(i)	Yes	
§ 63.6(j)	Yes	
§ 63.7(a)–(d)	Yes	
§ 63.7(e)(1)	No	See §§ 63.1625(a)(5) and 63.1656(a)(6).
§ 63.7(e)(2)–(4)	Yes	
§ 63.7(f), (g), (h)	Yes	
§ 63.8(a)–(b)	Yes	
§ 63.8(c)(1)(i)	No	See §§ 63.1623(g) and 63.1652(f) for general duty requirement.
§ 63.8(c)(1)(ii)	Yes	
§ 63.8(c)(1)(iii)	No	
§ 63.8(c)(2)–(d)(2)	Yes	
§ 63.8(d)(3)	Yes, except for last sentence.	SSM plans are not required.
§ 63.8(e)–(g)	Yes	
§ 63.9(a),(b),(c),(e),(g),(h)(1) through (3), (h)(5) and (6), (i) and (j).	Yes	
§ 63.9(f)	Yes	
§ 63.9(h)(4)	No	Section reserved.
§ 63.10(a)	Yes	
§ 63.10(b)(1)	Yes	
§ 63.10(b)(2)(i)	No	
§ 63.10(b)(2)(ii)	No	See §§ 63.1628 and 63.1660 for recordkeeping of (1) occurrence and duration and (2) actions taken during malfunction.
§ 63.10(b)(2)(iii)	Yes	
§ 63.10(b)(2)(iv)–(v)	No	
§ 63.10(b)(2)(vi)–(xiv)	Yes	
§ 63.10)(b)(3)	Yes	
§ 63.10(c)(1)–(9)	Yes	
§ 63.10(c)(10)–(11)	No	See §§ 63.1628 and 63.1660 for malfunction recordkeeping requirements.
§ 63.10(c)(12)–(14)	Yes	
§ 63.10(c)(15)	No	
§ 63.10(d)(1)–(4)	Yes	
§ 63.10(d)(5)	No	See §§ 63.1628(d)(8) and 63.1659(a)(4) for malfunction reporting requirements.
§ 63.10(e)–(f)	Yes	

TABLE 1—TO SUBPART XXX OF PART 63—GENERAL PROVISIONS APPLICABILITY TO SUBPART XXX—Continued

Reference	Applies to subpart XXX	Comment
§ 63.11	No	Flares will not be used to comply with the emission limits.
§§ 63.12–63.15	Yes	

[FR Doc. 2015–15038 Filed 6–29–15; 8:45 am]
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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Mount Charleston Blue Butterfly (*Icaricia (Plebejus) shasta charlestonensis*); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0105; 4500030114]

RIN 1018–AZ91

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Mount Charleston Blue Butterfly (*Icaricia (Plebejus) shasta charlestonensis*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the Mount Charleston blue butterfly (*Icaricia (Plebejus) shasta charlestonensis*) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 5,214 acres (2,110 hectares) in the Spring Mountains of Clark County, Nevada, fall within the boundaries of the critical habitat designation. The effect of this rule is to extend the Act's protections to the butterfly's critical habitat.

DATES: This rule is effective July 30, 2015.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and *http://www.fws.gov/Nevada.* Comments and materials we received, as well as some supporting documentation we used in preparing this final rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Southern Nevada Fish and Wildlife Office, 4701 North Torrey Pines Drive, Las Vegas, NV 89130–7147; telephone 702–515–5230; facsimile 702–515–5231.

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0105 and at the Southern Nevada Fish and Wildlife Office at *http://www.fws.gov/Nevada* (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we developed for this critical habitat designation will also be available at the Fish and Wildlife Service Web site and Field Office set out above, and may also be included in the preamble and at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Michael J. Senn, Field Supervisor, U.S. Fish and Wildlife Service, Southern Nevada Fish and Wildlife Office, 4701 North Torrey Pines Drive, Las Vegas, NV 89130–7147; telephone 702–515–5230; facsimile 702–515–5231. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. This is a final rule to designate critical habitat for the endangered Mount Charleston blue butterfly (*Icaricia (Plebejus) shasta charlestonensis*). Under the Endangered Species Act, any species that is determined to be an endangered or threatened species requires critical habitat to be designated, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can only be completed by issuing a rule.

We listed the Mount Charleston blue butterfly as an endangered species on September 19, 2013 (78 FR 57750). On July 15, 2014, we published in the **Federal Register** a proposed critical habitat designation for the Mount Charleston blue butterfly (79 FR 41225). Section 4(b)(2) of the Endangered Species Act states that the Secretary of the Interior shall designate critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat.

The critical habitat areas we are designating in this rule constitute our current best assessment of the areas that meet the definition of critical habitat for the Mount Charleston blue butterfly. In this rule, we are designating approximately 5,214 acres (2,110 hectares) in the Spring Mountains of Clark County, Nevada, as critical habitat for the Mount Charleston blue butterfly.

This rule consists of a final rule designating critical habitat for the Mount Charleston blue butterfly. The Mount Charleston blue butterfly is listed as an endangered species under the Endangered Species Act.

We have prepared an economic analysis of the designation of critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis, which together with our narrative and interpretation of effects we consider our draft economic analysis (DEA) of the proposed critical habitat designation and related factors (IEc 2014). The analysis, dated May 20, 2014, was made available for public review from July 15, 2014, through September 15, 2014 (79 FR 41225). The DEA addressed probable economic impacts of critical habitat designation for the Mount Charleston blue butterfly. Following the close of the comment period, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. We summarize and respond to the comments in this final determination.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data and analyses. We obtained opinions from four knowledgeable individuals with scientific expertise to review our technical assumptions and analysis, and to help us determine whether or not we had used the best available information. These peer reviewers provided additional information, clarifications, and suggestions to improve this final rule. Information we received from peer review is incorporated into this final designation. We also considered all comments and information we received from the public during the comment period.

Previous Federal Actions

All previous Federal actions are described in the final rule listing the Mount Charleston blue butterfly as an endangered species (78 FR 57750; September 19, 2013).

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for the Mount Charleston blue butterfly during one comment period. The comment period associated with the publication of the proposed critical habitat rule (79 FR 41225) opened on July 15, 2014, and closed on September 15, 2014. We also requested comments on the associated draft economic analysis during the same comment period. We did not receive any requests for a public hearing. We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and draft economic analysis during the comment period.

During the comment period, we received comment letters directly

addressing the proposed critical habitat designation. Overall, we received 706 comment letters addressing the proposed critical habitat designation or the draft economic analysis. All substantive information provided during the comment period has either been incorporated directly into this final determination or is addressed below. Comments we received were grouped into general issues specifically relating to the proposed critical habitat designation for the Mount Charleston blue butterfly and are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from four knowledgeable individuals with scientific expertise that included familiarity with butterfly biology and ecology, conservation biology, and natural resource management. We received responses from all four of the peer reviewers.

We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding critical habitat for the Mount Charleston blue butterfly. Two peer reviewers agreed with our analyses in the proposed rule. A third peer reviewer, while not disagreeing with the designation of critical habitat itself, disagreed with some analyses or application of information. The fourth peer reviewer did not state a position. We received no peer review responses on the DEA. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Reviewer Comments

(1) *Comment:* One peer reviewer commented that our references in the proposed rule to *Astragalus lentiginosus* var. *kernensis* from Andrew *et al.* (2013) were a misidentification of the plant *Oxytropis oreophila* var. *oreophila*.

Our Response: We agree. We erroneously sent peer reviewers a draft copy of the proposed critical habitat designation that referenced *Astragalus lentiginosus* var. *kernensis* from Andrew *et al.* (2013). However, based on a correction to this plant identification (Andrew *et al.* 2013, Errata Sheet; Thompson *et al.* 2014), the proposed critical habitat designation that published in the **Federal Register** (79 FR 41225; July 15, 2014) contained the correct plant identification of *Oxytropis oreophila* var. *oreophila*. This correction is also reflected in this final critical habitat designation.

(2) *Comment:* One peer reviewer did not agree with our depicting *Astragalus platytropis* and *Oxytropis oreophila* var. *oreophila* to *Astragalus calycosus* var. *calycosus* as functionally equivalent larval host plants for the Mount Charleston blue butterfly. The reviewer commented that numerous observations have been made of oviposition by the Mount Charleston blue butterfly in association with *A. c.* var. *calycosus,* and *A. c.* var. *calycosus* is present at all locations where Mount Charleston blue butterflies have been detected, suggesting this plant species is a required feature of habitat. The reviewer also commented that little reliable evidence exists that *A. platytropis* and *O. o.* var. *oreophila* function as commonly used host plants, and that the Service's assumption appeared to be based on an observation of one oviposition event by one female of one egg on each of *A. platytropis* and *O. o.* var. *oreophila*. Lastly, the peer reviewer commented on the difficulty of identifying butterfly eggs to species and questioned whether the observers had the expertise to do so.

Our Response: We agree that the plant species *Astragalus calycosus* var. *calycosus* functions as an important biological feature and is the most common host plant present throughout the range of the Mount Charleston blue butterfly; thus, we have included it as a primary constituent element. *A. c.* var. *calycosus* is more abundant through a broader elevation range and occurs in more plant communities than *Astragalus platytropis* and *Oxytropis oreophila* var. *oreophila,* in the Spring Mountains as well as within the range of the Mount Charleston blue butterfly (Nachlinger and Reese 1996, Table 6; Niles and Leary 2007, pp. 36 and 38; Andrew *et al.* 2013, p. 5). *A. c.* var. *calycosus* is the only host plant documented in lower elevation Lee Canyon locations (NewFields 2008, pp. 1–198 plus Appendices; Andrew *et al.* 2013, p. 5), where greater survey efforts to observe the butterfly have occurred, because of ease of access which has resulted in more frequent and consistent observations of the butterfly (Boyd 2006, p. 1; DataSmiths 2007, pp. 1–9; Boyd and Murphy 2008, p. 2–3). Therefore, prior to 2012, the emphasis and life-history knowledge of Mount Charleston blue butterfly host plants in the Spring Mountains of Nevada has focused on *A. c.* var. *calycosus*. Subsequent observations reported by Andrew *et al.* (2013, pp. 1–93) and Thompson *et al.* (2014, pp. 97–158) have demonstrated that additional host plants for the Mount Charleston blue butterfly exist, which is consistent with documented use of multiple host plants by other Shasta blue butterfly subspecies (Emmel and Shields 1980, Table I). However, numerous observations and a longer history of knowledge of *A. c.* var. *calycosus* as a host plant do not negate the biological importance and functional equivalence of *A. platytropis* and *O. o.* var. *oreophila* as host plants important to the conservation of the Mount Charleston blue butterfly.

The evidence that was used to infer that *Astragalus platytropis* and *Oxytropis oreophila* var. *oreophila* are host plants for the Mount Charleston blue butterfly is consistent with much of the Lepidoptera science, which may include observations of adult associations (for example, female concentration areas, pre-oviposition behavior by females on plants (Shields *et al.* 1969, pp. 28–29; Scott 1992, p. 2; Austin and Leary 2008, p. 1)); oviposition by females; and larval feeding and subsequent survival (Shields *et al.* 1969, pp. 28–29; Scott 1992, p. 2; Austin and Leary 2008, p. 1). We recognize that observation of a female butterfly ovipositing on a plant is not equivalent to actual observations of feeding on a particular plant species and survival of butterfly larvae. There are instances in Lepidoptera literature where adult female butterflies were documented ovipositing on plants, and hatched larvae fed on the plants but did not subsequently survive (Shields *et al.* 1969, p. 29; Chew and Robbins 1984, p. 68; Austin and Leary 2008, p. 1). Some genera, and even large proportions of some subfamilies, are known to oviposit haphazardly; however, the Shasta blue butterfly and its higher taxonomic classification groups have not been identified as species that oviposit haphazardly (Scott 1992, p. 2). The Mount Charleston blue butterfly is a member of the family Lycaenidae, subfamily Polyommatinae, for which host plants are more easily determined than for other lycaenid species, based on obvious behavior by females and frequent, unequivocal association of females with host plants (Austin and Leary 2008, p. 58).

The evidence to support the conclusion that *Astragalus calycosus* var. *calycosus, Astragalus platytropis,* or *Oxytropis oreophila* var. *oreophila* function as host plants is based on observations and reports of: (1) Oviposition by Mount Charleston blue butterflies on *A. c.* var. *calycosus, A. platytropis,* and *O. o.* var. *oreophila* (Austin and Leary 2008, p. 86; Thompson *et al.* 2014, pp. 122–125); (2) pre-oviposition behavior by Mount Charleston blue butterflies associated

with all host plant species (Austin and Leary 2008, p. 86; Thompson *et al.* 2014, pp. 122–125); (3) observations of Mount Charleston blue butterfly eggs on all three host plant species (Thompson *et al.* 2014, pp. 122–125); (4) other Shasta blue butterfly apparently having close associations and ovipositing on *A. c.* var. *calycosus* and *A. platytropis* outside of the Spring Mountains (Emmel and Shields 1980, Table I) or other *Oxytropis* spp. (Austin and Leary 2008, p. 85); and (5) close association or oviposition on more than one host plant species by other subspecies of Shasta blue butterflies (Emmel and Shields 1980, Table I; Scott 1992, p. 100; Austin and Leary 2008, pp. 85–86) (note that some observations reported in Austin and Leary 2008 and Scott 1992 are the same as those originally reported by Emmel and Shields 1980). The Service does not have information or reported observations of feeding and subsequent survival or death of any Shasta blue butterfly subspecies on *A. c.* var. *calycosus, A. platytropis,* or *O. o.* var. *oreophila*. Such observations would provide additional evidence to confirm or refute these plant species as larval hosts for the Shasta blue butterfly.

In regard to evidence of egg observations of Mount Charleston blue butterflies, we agree with the peer reviewer and Scott (1986, p. 121) that identifying butterfly eggs is difficult, and reported observations should be critically evaluated. However, it is possible to identify eggs of various butterfly species to subfamily, genus, or even species (Scott 1986, p. 121). In addition, the context of how the egg is deposited on the plant and the context of where it is found should be considered. We believe observations of Mount Charleston blue butterfly eggs as reported by Thompson *et al.* (2014, pp. 122–131, Appendix F) are credible because: (1) Eggs deposited by Mount Charleston blue butterflies were directly observed, recorded, and photographed, which allowed for further comparison between and review by field observers; (2) eggs depicted (Thompson et al. 2014, pp. 129–130 and Appendix F) are deposited in a manner consistent with reports for other Shasta blue butterflies (Emmel and Shields 1980, pp. 132–138); (3) the South Loop locations of egg observations occurred in areas where and at times when the Mount Charleston blue butterfly was the predominant Lycaenid butterfly present (at least 95 percent of all Lycaenid butterflies observed) (Andrew *et al.* 2014, Table 2); (4) the other butterfly species reported at the South Loop location or in close proximity to where eggs were observed have different reported host plants (for example, Southwestern azure butterfly (*Celastrina echo cinerea*) in Austin and Leary 2008, pp. 63–64), or deposit their eggs primarily on locations of the plant (for example, Reakirt's blue butterfly (*Echinargus isola*) on or near parts of flowers (Scott 1992, pp. 102–103; Austin and Leary 2008, pp. 90–91)) substantially different than those reported for the Mount Charleston blue butterfly (for example, leaves, petioles, and stems (Emmel and Shields 1980, pp. 132–138; Thompson *et al.* 2014, pp. 129–130 and Appendix F)); and (5) reviews by field experts and subject matter experts did not provide specific information to disprove the observations. Thus, the eggs that were observed were most likely Mount Charleston blue butterfly eggs, and not eggs of other butterfly species.

Based on the preceding discussion, the Service determines that *Astragalus calycosus* var. *calycosus, Astragalus platytropis,* and *Oxytropis oreophila* var. *oreophila* are functionally equivalent host plants for the Mount Charleston blue butterfly, and, thus, are retained as primary biological features.

(3) *Comment:* One peer reviewer did not agree that the Mount Charleston blue butterfly has been documented using for nectar *Antennaria rosea* (rosy pussy toes), *Cryptantha* spp., *Ericameria nauseosa* (rubber rabbitbrush), *Erigeron flagellaris* (trailing daisy), *Gutierrezia sarothrae* (broom snake weed), *Monardella odoratissima* (horsemint), *Petradoria pumila* var. *pumila* (rock-goldenrod), and *Potentilla concinna* var. *concinna* (Alpine cinquefoil).

Our Response: We reexamined the references we cited for observations of nectaring Mount Charleston blue butterflies on various plant species, and we have determined the references suggest the Mount Charleston blue butterfly has been observed to nectar on all of the above species. Thompson *et al.* 2014 (pp. 117) report observations of Mount Charleston blue butterflies nectaring on *Gutierrezia sarothrae*. Boyd and Murphy (2008, p. 9) clearly state the Mount Charleston blue butterfly has been observed to nectar on *Hymenoxys* spp. and *Erigeron* spp., and they go on to state that 10 plant species (p. 13 and Figure 2a on p. 16) ''were considered as likely 'higher quality' [potential] resources—reflecting observations of use by the Mount Charleston blue in previous years.'' We recognize Boyd and Murphy (2008) do not provide documentation of these 10 species being used by nectaring Mount Charleston blue butterflies; rather, we infer it is likely, based on Boyd and Murphy's (2008, p. 13) observations of Mount Charleston blue butterflies using the plant species, and the flowers of these plant species having the appropriate morphological characteristics for nectar use. Therefore, we are not including plant species as potential nectar sources for the Mount Charleston blue butterfly without reported observations of use.

(4) *Comment:* One peer reviewer commented that the primary constituent elements were not determined based on scientifically sound data and analyses, and are not defensible, because the reports the Service relied on to develop the primary constituent elements were either qualitative or did not provide range values with means and variances for several of the elements.

Our Response: We used the best scientific and commercial data available to determine the primary constituent elements essential to the conservation of the Mount Charleston blue butterfly. We focused on available data from areas occupied by the Mount Charleston blue butterfly at the time of listing, and any new information available or provided by peer reviewers and commenters since the proposed critical habitat designation was published (79 FR 41225; July 15, 2014). We used minimum quantity values or quality descriptions for several primary constituent elements from areas occupied by Mount Charleston blue butterflies, because they represent our current understanding of the minimum habitat or features necessary to support the life-history processes of the subspecies. We believe using this approach identifies the physical and biological features that are essential to the conservation and recovery of the Mount Charleston blue butterfly.

(5) *Comment:* One peer reviewer suggested horses in the Spring Mountains are feral, rather than wild, and should be referred to as such.

Our Response: We agree, because horses are not native to the Spring Mountains, let alone North America, and escaped from domestication (Matthew 1926, p. 149); we have replaced ''wild'' with ''feral'' in this final rule.

(6) *Comment:* One peer reviewer commented that citations were minimal within the *Primary Constituent Elements for Mount Charleston Blue Butterfly* section.

Our Response: We provide citations for information used to identify the primary constituent elements (PCEs) in the section immediately preceding *Primary Constituent Elements for Mount Charleston Blue Butterfly,* in the discussion of *Physical or Biological Features*. The PCEs are a concise list of the elements, and the pertinent

information and sources that led us to identify them are explained in detail and cited in the discussion of physical or biological features.

(7) *Comment:* One peer reviewer commented that the Pinyon (2011) work that we referenced was ''qualitative work and could not be repeated, and was therefore not highly defensible.''

Our Response: We respectfully disagree and maintain that consideration of the information in Pinyon (2011) is consistent with our policy to use the best scientific and commercial data available to determine critical habitat. Our use of the information is described in *Criteria Used To Identify Critical Habitat.* We agree that some work performed and described by Pinyon 2011 is qualitative. For example, Pinyon (2011, p. 11) assigned areas of Mount Charleston blue butterfly habitat to either good, moderate, poor, or none based on the ''presence of larval host plants, nectar plants, ground cover, and canopy density (visual estimate),'' which may not be repeatable, to the extent that boundaries would coincide precisely, as with other investigators. While the precise boundaries could vary, the general areas where Pinyon (2011, Figure 8 and 9) identified and delineated moderate and high-quality habitat are in close proximity, or correlate closely, to concentrations of Mount Charleston blue butterfly locations and other investigator habitat delineations (Weiss *et al.* 1997, Map 3.1; SWCA 2008, Figure 1; Andrew *et al.* 2013, Figure 17, 20, and 22; Thompson *et al.* 2014, pp. 97–158). Thus, information from Pinyon (2011) is repeatable to some extent and defensible in the manner we applied it to determine critical habitat. (Also see our response to Comment 9, below.)

(8) *Comment:* One peer reviewer commented that unobserved nectar sources cannot be assumed to be present at locations the Mount Charleston blue butterfly has been observed, particularly given the uncertainty of the distances that the Mount Charleston blue butterfly can move.

Our Response: We respectfully disagree, because the Mount Charleston blue butterfly is typically observed moving short distances in the same area where its nectar (food for adults) and larval hosts occur; thus, unobserved (that is, unreported) nectar plants can be assumed to be present with a high degree of certainty at locations where the butterfly has been observed. (See also our response to Comment 3.)

(9) *Comment:* We received suggested changes from two peer reviewers on the general description of Mount Charleston butterfly occurrence, which we stated is ''on relatively flat ridgetops [and] gently sloping hills.'' One peer reviewer referenced additional explanations provided by Boyd and Murphy (2008, p. 19). The other peer reviewer provided terrain slope data for plot points within areas where Mount Charleston blue butterfly adults have been observed.

Our Response: We incorporated the reference provided by the peer reviewer in the *Physical or Biological Features* section of this final rule. The terrain slope data from the second peer reviewer do not affect the general description of areas where Mount Charleston blue butterflies occur; thus, we did not include them in this final rule. However, we anticipate using the information during the recovery planning process for the subspecies.

(10) *Comment:* We received one peer review comment suggesting our analysis of potential climate change impacts would be helped by considering mechanisms by which the Mount Charleston blue butterfly or its resources may be affected directly or indirectly by changes in temperature and extreme precipitation.

Our Response: Because site- and species-specific information regarding impacts to the Mount Charleston blue butterfly and its resources from climate change is unavailable, we updated our discussion to include a description of general mechanisms that may be impacted by increasing temperatures and patterns of extreme drought and precipitation (see the ''Habitats That are Protected from Disturbance or are Representative of the Historical, Geographical, and Ecological Distributions of the Subspecies'' section, below). Also see our response to Comment 14.

Comments From Peer Reviewers and the Public

(11) *Comment:* We received peer review and public comments stating that the Service did not use, or misapplied, the best scientific and commercial data available. Commenters suggested that information from Andrew *et al.* (2013) and Thompson *et al.* (2014) was inaccurate or unreliable because of the inexperience of the researchers and the errors that were made by them.

Our Response: We respectfully disagree with these comments. In accordance with section 4 of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), we are required to designate critical habitat on the basis of the best scientific and commercial data available. We used information from many different sources, including articles in peer-reviewed journals, scientific status surveys and studies completed by qualified individuals, experts' opinions or personal knowledge, and other sources, to designate critical habitat for the Mount Charleston blue butterfly. In accordance with our peer review policy, published on July 1, 1994 (59 FR 34270), we solicited peer review from knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. Additionally, we requested comments or information from other concerned governmental agencies, the scientific community, industry, and any other interested parties concerning the proposed rule. All comments and information we received on the proposed rule and the draft economic analysis, along with the best scientific data available, were evaluated and taken into consideration to inform the critical habitat designation in this final rule.

(12) *Comment:* We received two peer review comments and public comments on locations of potential removal of critical habitat within Lee Canyon Unit 2. One peer reviewer stated that areas within Unit 2, ''should not be considered for removal until the current distribution, abundance, and condition of larval hosts, nectar sources, and other environmental characteristics consistent with occupancy have been assessed.'' In addition, the peer reviewer stated that areas diminished by recreation or other treatments may be able to recover with ''special management considerations and protection.'' Similarly, one public comment stated that the areas should not be removed from critical habitat, and should be restored and managed for occupancy by the Mount Charleston blue butterfly. One peer reviewer commented that additional habitat outside the Mount Charleston blue butterfly's current range in lower elevations should be designated.

Our Response: As described in the proposed rule, we considered campgrounds and day-use areas that have high levels of public visitation and associated recreational disturbance for removal from critical habitat, because these activities have resulted in degraded habitat, or the level of recreational activity limits or precludes the presence of the Mount Charleston blue butterfly and its primary constituent elements. In this rule, we refer to these as ''removal areas.'' The Act and our regulations require us to base our decisions on the best available information. In our proposed rule, we stated that we may remove from designation locations referred to as

Dolomite Campground, Foxtail Girl Scout Camp, Foxtail Group Picnic Area, Foxtail Snow Play Area, Lee Canyon Guard Station, Lee Meadows (extirpated Mount Charleston blue butterfly location), McWilliams Campground, and Old Mill Picnic Area and Youth Camp, because they have extremely high levels of public visitation and associated recreational disturbance. We did not receive specific information from peer reviewers or commenters that changed our understanding of the current habitat conditions and recreational use that occurs at Lee Meadows. Furthermore, Lee Meadows is not considered to be occupied habitat, because of habitat loss or degradation from past and ongoing recreation disturbance, and observations of the Mount Charleston blue butterfly have not been documented there since 1965 (see 78 FR 57750, September 19, 2013; Boyd and Murphy 2008, p. 6; and Andrew *et al.* 2013, pp. 51–52 for more details). While the Service would support efforts to restore and protect portions of the Lee Meadows area for the Mount Charleston blue butterfly, this management decision is outside the scope of the Service's authority. Based on the above, we have determined the criteria we established for removal areas apply to Lee Meadows, and we have removed Lee Meadows from this critical habitat designation.

(13) *Comment:* We received one peer review and one public comment that suggested fuel treatment, recreation development, and infrastructure projects were not included or identified as threats. In addition, the peer reviewer stated that butterfly habitat was being adversely affected by ongoing or planned projects, including the Old Mill Wildland Urban Interface Hazardous Fuels Reduction Project; McWilliams, Old Mill, Dolomite Recreation Sites Reconstruction Project; and Foxtail Group Picnic Area Reconstruction Project. The public commented that their recommendations for the Old Mill Wildland Urban Interface Hazardous Fuels Reduction Project were not being implemented.

Our Response: We identified threats from the implementation of recreational development projects and fuels reduction projects described by the commenter in the proposed rule for designation of critical habitat (79 FR 41234, 41237, and 41238; July 15, 2014). Additional information on threats to the species was considered in the final rule determining the status of the subspecies as endangered (78 FR 57750; September 19, 2013). Since the listing of the Mount Charleston blue butterfly, the U.S. Forest Service (Forest Service) has consulted with the Service on actions they intend to implement, authorize, or fund that might affect the Mount Charleston blue butterfly, including the Old Mill Wildland Urban Interface Hazardous Fuels Reduction (Old Mill WUI) Project. When this final designation of critical habitat becomes effective (see **DATES,** above), the Forest Service has been notified that further consultation may be needed if ongoing or future projects affect designated critical habitat. Section 7 requires Federal agencies to ensure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of listed species, or adversely modify or destroy their critical habitat, which may be accomplished by avoiding, minimizing, or mitigating take and adverse effects to critical habitat. Nondiscretionary measures associated with such formal consultations can be developed accordingly during future consultations; however, a Federal action agency (for example, Forest Service) has the discretion and authority to implement conservation recommendations received from the public on any given project.

(14) *Comment:* We received one peer review and one public comment on climate change. The peer reviewer provided additional references, and recommended we describe the functional effects of climate change on the Mount Charleston blue butterfly. The public comment provided additional general references and requested that additional areas be included in the critical habitat designation to provide for adaptations to climate change.

Our Response: We agree that climate change will likely affect the Mount Charleston blue butterfly and its critical habitat. However, site-specific information on climate change and its effects on the Mount Charleston blue butterfly and its habitat are not available at this time. We received additional information on climate change; however, this information did not provide enough specificity on areas that likely will be impacted by climate change. Thus, we are not identifying additional areas to include in the critical habitat designation based on this information.

Comments From States

Section 4(i) of the Act states, ''the Secretary shall submit to the State agency a written justification for [her] failure to adopt regulations consistent with the agency's comments or petition.'' We did not receive official comments or positions on the proposed designation of critical habitat for the Mount Charleston blue butterfly from State of Nevada agencies. One peer reviewer worked for the State of Nevada, Department of Agriculture, and concurred that the proposed critical habitat designation was supported by the data and conclusions.

Public Comments

(15) *Comment:* One public comment suggested that critical habitat is not determinable because of uncertainties of Mount Charleston blue butterfly habitat, location, and life history. Similarly, other commenters thought that critical habitat should not be designated until additional survey work is performed, because more information is needed on the distribution of butterfly and its host and nectar resources, and because once critical habitat is designated, it is difficult to change. One commenter stated that a thorough assessment of the designated wilderness area was needed to map the extent of habitat.

Our Response: We believe sufficient information exists (1) to perform the required analyses of the impacts of the critical habitat designation; and (2) to identify critical habitat based on the biological needs of the Mount Charleston blue butterfly. Based on our review, we have determined there is sufficient information available to identify critical habitat in accordance with sections 3(5)(A) and 4(b)(2) of the Act. Extensive, but not comprehensive, surveys for butterflies, and specifically the Mount Charleston blue butterfly and its habitat, have occurred across the subspecies' range and throughout the Mount Charleston Wilderness. As is generally the case with natural history, existing studies of the Mount Charleston butterfly have not been able to evaluate or address all possible variables associated with the subspecies. We recognize that future research will likely enhance our current understanding of the subspecies' biology, and additional survey work could provide a better understanding of the distribution of the Mount Charleston blue butterfly and its habitat. Nonetheless, the Act requires us to base our decisions on the best available scientific and commercial information at the time of designation, which is often not complete, and the scientific information about a species generally continues to grow and improve with time. Based on this, we utilized the best available information to determine areas of critical habitat for the Mount Charleston blue butterfly. We will review and consider new information as it becomes available.

(16) *Comment:* We received one comment that the Service selects peer reviewers that agree with our decision,

but we do not select peer reviewers that will disagree.

Our Response: Requests for peer reviewers were based on their availability and capacity as independent specialists with subject matter expertise. In selecting peer reviewers, we followed our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), the guidelines for Federal agencies as described in the Office of Management and Budget (OMB) ''Final Information Quality Bulletin for Peer Review,'' released December 16, 2004, and the Service's ''Information Quality Guidelines and Peer Review,'' revised June 2012. The peer review plan and peer review comments have been posted on our Web site at *http://www.fws.gov/cno/science/peerreview.html.*

(17) *Comment:* Multiple commenters expressed concern that the proposed critical habitat designation would prohibit or limit the expansion and development of additional recreational opportunities within areas proposed as critical habitat. In particular, commenters identified existing plans for development that would add hiking, mountain biking, and ski trails, some of which occur within the authorized special use permit area (SUPA) held by the Las Vegas Ski and Snowboard Resort (LVSSR).

Our Response: The act of designating critical habitat does not summarily preclude any activities on the lands that have been designated. Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. Furthermore, designation of critical habitat does not (1) affect land ownership; (2) establish any closures or restrictions on use of or access to areas designated as critical habitat; or (3) establish specific land management standards or prescriptions. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat.

The Service is committed to working with the Forest Service and LVSSR to implement conservation efforts that protect the Mount Charleston blue butterfly, while also allowing for reasonable expansion and development of the LVSSR compatible with the Mount Charleston blue butterfly, including skiing and snowboarding in the winter and mountain biking and hiking in the summer. The Mount Charleston blue butterfly can coexist with managed recreation when such recreational activities are properly sited, and operation and maintenance of the infrastructure needed to support these activities is appropriately managed. For example, the Mount Charleston blue butterfly historically occurred and currently exists on active ski runs within the LVSSR. In addition, only part of the proposed LVSSR expansion area occurs within the critical habitat designation; future development and expansion of the LVSSR outside of these areas would likely be unaffected by this final rule.

(18) *Comment:* One commenter asserts that the screening analysis does not adequately address the potential economic effects of critical habitat designation and any resulting prohibitions or limitations to the future LVSSR expansion or development of recreational activities.

Our Response: In compliance with section 7 of the Act, the Forest Service has consulted with the Service on projects affecting the Mount Charleston blue butterfly since the subspecies was listed (78 FR 57750; September 19, 2013). During section 7 consultation, the Forest Service has proposed minimization measures designed to avoid or minimize impacts to the Mount Charleston blue butterfly and its habitat, such as pre-development site planning, effective oversight during implementation and development, and proper management of operations and maintenance activities. We anticipate that activities occurring within designated critical habitat also would have the potential to affect the subspecies and would require consultation regardless of the presence of designated critical habitat. That is, the designation of critical habitat is not anticipated to generate additional minimization or conservation measures for the Mount Charleston blue butterfly beyond those already generated by the listing. As such, the screening analysis limits the future incremental costs of designating critical habitat associated with the LVSSR to the administrative costs of analyzing and avoiding adverse modification of critical habitat during section 7 consultations. (Also see our response to Comment 17, above, for further discussion.)

(19) *Comment:* Some commenters state that areas of recreational development or expansion in the LVSSR Master Development Plan should be excluded from the designation because of the associated economic benefits, and because commenters believe the development plan will benefit the butterfly and its habitat.

Our Response: In accordance with section 4(b)(2) of the Act, the Secretary may exclude any area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of inclusion. The Service did not consider areas for exclusion under section 4(b)(2) where future recreational development is planned, because to our knowledge, the recreational development plans in place now do not identify benefits provided to the Mount Charleston blue butterfly. While it is possible that some benefits (see our response to Comment 17, above) for the Mount Charleston blue butterfly and its habitat may occur as a result of future development, specificity on future development plans or expected conservation benefits has not been provided. Therefore, areas of recreational development or expansion in the LVSSR Master Development Plan are not excluded from critical habitat designation.

(20) *Comment:* We received many comments from the public that the designation of critical habitat for Mount Charleston blue butterfly should not include the LVSSR Special Use Permit Area (SUPA), because other greater threats are affecting the butterfly than would occur from expansion of the ski area and associated recreational opportunities.

Our Response: We do not consider threats to a species or subspecies when determining areas to designate as critical habitat. Threats to the Mount Charleston blue butterfly were considered and analyzed during the determination of its status as endangered (78 FR 57750; September 19, 2013). We determined critical habitat for the Mount Charleston blue butterfly based on the definition in the Act as follows: The specific areas within the geographical area occupied by the [subspecies] at the time it [was] listed . . . on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protections (16 U.S.C. 1532(5)(A)).

We recognize concerns exist regarding future development plans for the LVSSR SUPA. Areas of the LVSSR SUPA have provided habitat for the Mount Charleston blue butterfly for decades, as described in the final listing of the subspecies (78 FR 57750; September 19, 2013). The Service is committed to working with the Forest Service and LVSSR to allow for reasonable expansion and development of recreational opportunities, including skiing and snowboarding in the winter and mountain biking and hiking in the

summer, within the SUPA that are compatible with the Mount Charleston blue butterfly and its habitat.

(21) *Comment:* One commenter asserts the screening analysis is flawed because it contradicts existing case law by using ''the functional equivalence approach when considering the economic impact of [critical habitat] designation on the LVSSR property [= SUPA] by concluding that any economic impact occurred as a result of the listing of the species.''

Our Response: Section 4(b)(2) of the Act requires the consideration of potential economic impacts associated with the designation of critical habitat. However, as we have explained elsewhere (see our response to Comment 17, above), the regulatory effect of critical habitat under the Act directly impacts only Federal agencies, as a result of the requirement that those agencies avoid ''adverse modification'' of critical habitat. Specifically, section 7(a)(2) of the Act states that, ''Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary . . . to be critical . . .'' This then, is the regulatory impact of a critical habitat designation, and serves as the foundation of our economic analysis. We define it as an ''incremental impact,'' because it is an economic impact that is incurred above and beyond the baseline impacts that stem from the listing of the species (for example, costs associated with avoiding take under section 9 of the Act, mentioned by the commenter); thus it ''incrementally'' adds to those baseline costs. However, in most cases, and especially where the habitat in question is already occupied by the listed species, as is the case for the Mount Charleston blue butterfly, if there is a Federal nexus, the action agency already consults with the Service to ensure its actions will not jeopardize the continued existence of the species. Therefore, the additional costs of consultation to further ensure the action will not destroy or adversely modify critical habitat are usually relatively minimal. Because the Act provides for the consideration of economic impacts associated only with the designation of critical habitat, and because the regulatory effect of critical habitat is the requirement that Federal agencies avoid destruction or adverse modification of critical habitat, the economic impacts of a critical habitat designation in occupied areas are generally limited to the costs of consultations on actions with a Federal nexus, and are primarily borne by the Federal action agencies. As described in our final economic analysis, in some cases private individuals may incur some costs as third-party applicants in an action with a Federal nexus. Beyond this, while small business entities may possibly experience some economic impacts as a result of a listing of a species as endangered or threatened under the Act, small businesses do not generally experience substantial economic impacts as a direct result of the designation of critical habitat.

(22) *Comment:* We received several comments that the Las Vegas Ski and Snowboard Resort Area should be excluded from critical habitat in accordance with the Ski Area Recreational Opportunity Enhancement Act of 2011 (Pub. L. 112–46), or the designation of critical habitat should give credence to the Act ''. . . which aims to bolster summer tourism and stir year-round economic activity in mountain towns.''

Our Response: The Ski Area Recreational Opportunity Enhancement Act of 2011 (SAROEA), which amends the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), does not supersede the requirements of the Endangered Species Act. Section 3 of SAROEA provides the Secretary of Agriculture authority to authorize a ski area permittee to provide other recreational opportunities determined to be appropriate. The SAROEA requires that authorizations by the Secretary of Agriculture be in accordance with ''applicable land and resource management plan[s]'' and ''applicable laws (including regulations).'' Furthermore, section 4 of SAROEA states, ''Nothing in the amendments made by this Act establishes a legal preference for the holder of a ski area permit to provide activities and associated facilities authorized by section 3(c) of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b(c)) (as amended by section 3).'' There is no legal direction or requirement that stems from the SAROEA for the Service to modify critical habitat. As described in our response to Comment 17, above, we expect that properly planned, designed, managed, and implemented recreation may occur in close proximity to Mount Charleston blue butterfly habitat.

(23) *Comment:* We received many public comments that the critical habitat area was too large, and the use of the quarter-quarter sections to encompass areas of primary constituent elements was arbitrary and capricious, or illogical. Public comments suggested that of the 702 acres (ac) (284 hectares (ha)) authorized in the LVSSR SUPA that occur within proposed critical habitat, only 3.6 ac (1.5 ha) are known to be occupied by the Mount Charleston blue butterfly, and essentially are surrounded by a barrier of forest. One public comment stated the Mount Charleston blue butterfly has never been observed far from its habitat by leading experts, and suggested that designating areas between patches of habitat was overly broad and resulted in proposed designation of areas of unoccupied habitat not essential to the conservation of the Mount Charleston blue butterfly, and that such areas should not be designated as critical habitat.

Our Response: We used quarter-quarter sections (generally 40 ac (16 ha)) to delineate the boundaries of critical habitat units because, as stated in the proposed designation, they provide a readily available systematic method to identify areas that encompass the physical and biological features essential to the conservation of the Mount Charleston blue butterfly, and they provide boundaries that are easy to describe and interpret for the general public and land management agencies. The selection of any given quarter-quarter section was systematically selected based on our understanding of the best scientific and commercial data available on the occurrence of the physical and biological features essential to the conservation of the Mount Charleston blue butterfly. We recognize that there are areas within the critical habitat unit boundaries that do not possess the primary constituent elements, such as buildings, pavement, and other structures, and these areas are excluded by text in the final critical habitat rule (see section *Criteria Used To Identify Critical Habitat*). In the quarter-quarter sections that are included, suitable habitat is distributed across the area.

Reported acres of habitat in previous **Federal Register** documents do not reflect the best available science currently available. In the 90-day and 12-month findings (72 FR 29935–29936, May 30, 2007; 76 FR 12670, March 8, 2011), we reported some of the first patches of habitat for the Mount Charleston blue butterfly to be 3.7 ac (1.5 ha), and two areas of 2.4 ac (0.97 ha) and 1.3 ac (0.53 ha) at the LVSSR. As a result of additional survey work in 2012, we identified the area of known occupied habitat at LVSSR as 25.7 ac (10.4 ha) in the final rule listing the

Mount Charleston blue butterfly as endangered (78 FR 57754; September 19, 2013). Additional habitat has been mapped (Forest Service 2013, Figure 2) within the LVSSR SUPA, and more may be present in areas that have not been adequately surveyed. There are small areas with primary constituent elements distributed across the entire area of the LVSSR SUPA within Unit 2, which overlaps with approximately 60 percent of the LVSSR SUPA. The ability of the Mount Charleston blue butterfly to move among or between close patches of habitat within each critical habitat unit is necessary and essential for the conservation and recovery of the subspecies. Movements between patches of habitat to restore a functioning metapopulation (hypothesized to have failed because of reduced landscape permeability, as described in Boyd and Murphy 2008, p. 25) are necessary for recovery of the Mount Charleston blue butterfly.

We recognize that habitat is dynamic, the extent of habitat may shift, surveys have not occurred in every area, and butterflies move between patches of habitat. Therefore, we adjusted some of the methodology we used to identify critical habitat in this final rule. We used a 1,000-meter (3,300-foot) distance to approximate potential Mount Charleston blue butterfly movements within critical habitat units. We believe the use of quarter-quarter sections provides an effective boundary and scale that encompasses likely butterfly movements within and between habitat patches, and is easily recognizable by land management agencies and the general public. Therefore, this methodology resulted in the three separate occupied critical habitat units essential to the conservation and recovery of the Mount Charleston blue butterfly that are identified in this final rule.

(24) *Comment:* We received comments that feral horses were affecting the Mount Charleston blue butterfly and its habitat, and they should be removed.

Our Response: Threats to the Mount Charleston blue butterfly were evaluated in the final rule for listing the subspecies as endangered (78 FR 57750; September 19, 2013). Management of feral horses is outside the scope of the Service's authority, and comments on this matter should be directed to the appropriate land manager. The Service will continue to advocate for appropriate management levels of feral horses to avoid or minimize potential conflicts with the Mount Charleston blue butterfly.

(25) *Comment:* We received many public comments that the Service should assemble a recovery team and have a collaborative and inclusive recovery planning process.

Our Response: We agree that we should have a collaborative and inclusive recovery planning process, and will work to fulfill our statutory mandate under section 4 of the Act, which requires us to develop and implement a recovery plan for the Mount Charleston blue butterfly now that the species is listed and critical habitat is designated.

(26) *Comment:* We received several public comments suggesting that LVSSR SUPA should be excluded from critical habitat because more Mount Charleston blue butterflies were observed in Unit 1 than Unit 2, better habitat was present in Unit 1 than in Unit 2, and the Carpenter 1 Fire will likely improve habitat in Unit 1.

Our Response: Exclusions to critical habitat are considered in accordance with section 4(b)(2) of the Act (see our response to Comment 19), which does not allow consideration or comparison of population numbers between critical habitat units. We agree that Unit 1 likely has better habitat, has higher densities of Mount Charleston blue butterflies, and is more likely to improve in some areas as a result of the Carpenter 1 Fire. The critical habitat for the Mount Charleston blue butterfly in Unit 2 at LVSSR is essential to the conservation and recovery of the subspecies, because of the subspecies' restricted range, overall low numbers, and occupancy of few locations, which we described in the final listing rule (78 FR 57750; September 19, 2013). Additionally, the population of Mount Charleston blue butterflies in Unit 2 and at LVSSR is one of three known occupied locations. While other presumed occupied locations exist outside of designated critical habitat, the location within LVSSR is important because it is known occupied habitat with primary constituent elements essential to the conservation and recovery of the subspecies. Also see our responses to Comments 18 and 21, above.

(27) Comment: We received many public comments that critical habitat should include historical, but unoccupied, areas.

Our Response: We reviewed all areas where the Mount Charleston blue butterfly has been documented, as described in the final listing rule (78 FR 57750; September 19, 2013). For species listed under the Act, we may designate critical habitat in unoccupied areas when these areas are essential for the conservation of a species. However, with the exception of the removal areas (see our response to Comment 12), we have determined that the three occupied critical habitat units identified in this rule contain the physical and biological features essential to the conservation of the Mount Charleston blue butterfly, and no unoccupied areas are necessary for designation.

(28) *Comment:* We received public comments that there was no evidence the Mount Charleston blue butterfly was unique, and, therefore, it should not be listed as endangered. In addition, we received comments that requested us to list the Mount Charleston blue butterfly under the Act.

Our Response: We evaluated and described the taxonomy of the Mount Charleston blue butterfly during the listing process of the subspecies, and it was determined to be a valid taxonomic entity for considering listing under the Act. The listing process required us to publish a proposed rule in the **Federal Register** (77 FR 59518; September 27, 2012) and solicit public comments on the rule (see *Previous Federal Actions* section for more details). Information we received during the 60-day comment period for the proposed rule informed the final rule determining endangered species status for the subspecies (78 FR 57750; September 19, 2013). Listing of the Mount Charleston blue butterfly as endangered was effective October 21, 2013.

(29) *Comment:* One commenter stated that the proposed rule to designate critical habitat relies too much on the use of linguistically uncertain or vague wording (for example, ''presumed to,'' ''suspected of,'' ''likely to be,'' and ''anticipated to'') to support its conclusions.

Our Response: The language in the proposed and final rules reflects the uncertainty that exists in natural history studies, and we have attempted to be transparent and explicitly characterize that uncertainty where applicable. Under the Act, we base our decision on the best available scientific and commercial information, even if that information includes some level of uncertainty.

(30) *Comment:* We received one public comment proposing an additional removal area from Unit 2 within the LVSSR SUPA because of intensive levels of recreational activities.

Our Response: We reviewed and evaluated information on the additional proposed removal area within the LVSSR SUPA. Some of the proposed removal area contains concentrations of buildings, roads, ski lift structures, and recreation facilities (developed

infrastructure) that receive high levels of public recreation and facilities management. These areas lack physical or biological features necessary for the Mount Charleston blue butterfly, and because of the high concentrations of disturbance from public use and management, are not likely to be suitable in the future. Therefore, we do not include in this critical habitat designation a portion of the area mentioned by this commenter because its omission from the designation is consistent with the rationale for the removal areas we named in the July 15, 2014, proposed rule (see our response to Comment 12).

Comments From Federal Agencies

(31) *Comment:* The Forest Service commented that the benefits of designating critical habitat were negligible because they must consult with the Service as a result of the listed status of the Mount Charleston blue butterfly in areas that contain habitat for the butterfly, whether it is occupied or not. The Forest Service stated they assume that areas with suitable habitat are occupied by the Mount Charleston blue butterfly and have developed protocols and designed criteria, in coordination with the Service, which will ''provide all the benefits listed in the Service's proposal to designate critical habitat.''

Our Response: Under section 4(a)(3)(A) of the Act, the Service is required to designate critical habitat for species or subspecies listed as endangered or threatened, if prudent and determinable. The Service is not relieved of this statutory obligation when a Federal agency is already complying with section 7 obligations to consult if an action may affect a listed species or subspecies. While we appreciate the Forest Service's previous and ongoing efforts to develop effective conservation and management strategies to protect the Mount Charleston blue butterfly and its habitat, section 4 of the Act requires the Service to identify areas that provide the physical or biological features essential to the conservation of the subspecies and designate these areas as critical habitat. We will continue to work with the Forest Service to implement conservation efforts that protect the Mount Charleston blue butterfly and its habitat while also consulting on projects that may affect the Mount Charleston blue butterfly.

(32) *Comment:* The Forest Service commented that they were concerned with the methods the Service used to define occupancy, particularly the inclusion of Unit 3 (North Loop, Mummy Springs location), where the Mount Charleston blue butterfly has not been observed since 1995. The Forest Service indicated that because they presume occupancy in suitable habitat, they initiate section 7 consultations and the benefits of designating critical habitat are negligible.

Our Response: The Mount Charleston blue butterfly was last observed in the North Loop Unit 3 in 1995 by Weiss *et al.* (1997), who determined its presence and occupancy within this unit. Surveys have been insufficient to determine that the Mount Charleston blue butterfly has been extirpated from Unit 3. The last surveys for the Mount Charleston blue butterfly in Unit 3 occurred in 2006 (3 visits) and 2012 (2 visits) (Boyd 2006, p. 1; Kingsley 2007, p. 6; Andrew et al. 2013, p. 28), and some of these surveys occurred early in the season (mid-June and early July) making the likelihood of detecting adults to be low. Furthermore, Thompson *et al.* (2014, p. 156) indicate that, based on their experience performing extensive surveys for the Mount Charleston blue butterfly, it may persist at a location (for example, LVSSR and Bonanza), but be nearly undetectable with typical survey effort. For example, Boyd and Murphy (2008, p. 3) hypothesized that the failure to observe the Mount Charleston blue butterfly for 3 consecutive years and after intensive surveys in 2008, was ''strong evidence'' of its extirpation in Lee Canyon. However Thompson *et al.* observed an adult female at the same location surveyed at LVSSR on July 23, 2010. Thus, the Mount Charleston blue butterfly could be present at a location and remain undetected in areas with suitable habitat even with intensive surveys as exemplified by the preceding surveys during a 5-year time period. Therefore, it is appropriate to consider critical habitat in Unit 3 occupied.

We appreciate the work that the Forest Service has done to conserve the Mount Charleston blue butterfly, and we will continue to work with them to implement conservation efforts that protect the Mount Charleston blue butterfly while also consulting on projects that may affect the Mount Charleston blue butterfly in the future.

(33) *Comment:* The Forest Service suggested that the 2,440-meter (m) (8,000-foot (ft)) buffer proposed by the Service as needed for movement corridors was greater than the ''known limits'' of the Mount Charleston blue butterfly; therefore, the Forest Service recommended a 200-m (660-ft) buffer. The Forest Service suggested that movements by Mission blue butterflies (which are Boisduval's blue butterflies) were not appropriate to use as a ''surrogate'' for movement by the Mount Charleston blue butterfly, because it was larger, ranked among the most vagile species of Lycaenidae, and had a hill-topping mating behavior that suggests higher flight heights than the Mount Charleston blue butterfly.

Our Response: We have reviewed information on Lepidoptera movements emphasizing information on sedentary lycaenid butterflies, and revised the criteria for connectivity to provide an approximation based on a range of documented distances (300–1500 m) (see *Criteria Used To Identify Critical Habitat* section).

In general, we reexamined the criteria used to identify critical habitat as they relate to dispersal for butterflies and the 2,440-m (8,000-ft) buffer distance applied for connectivity and corridors. We originally used dispersal distances reported for the Mission blue butterfly (*Plebejus icarioides missionensis*), because of its close taxonomic relation to the Mount Charleston blue butterfly and the availability of measured dispersal distances for the Mission blue butterfly. The commenter is correct that the Boisduval's blue butterfly is reported as ''the largest blue'' butterfly in North America. Scott (1986, p. 409) and Arnold *et al.* (1983, pp. 47–48) describe the Mission blue butterfly (*P. i. missionensis*) to ''. . . rank among the most vagile species of Lycaeninae'' because of long movements outside the study site (Scott 1975; Shreeve 1981). However, we are unaware of information to support the comment that the Boisduval's blue or Mission blue butterfly is a hill-topping species or subspecies (Scott 1968, Table 2; Arnold *et al.* 1983, p. 32) or of information relating hill-topping or flight height to dispersal distance.

Based on reports and descriptions of its movements, we agree that the vagility of the Mount Charleston blue butterfly is likely similar to other related Lycaenidae, and its mobility can be characterized as sedentary or low (10–100 m (33–330 ft)) (Cushman and Murphy 1993, p. 40; Weiss et al. 1997, Table 2; Fleishman *et al.* 1997, Table 2; Boyd and Murphy 2008, pp. 3, 9; Thompson *et al.* 2013, pp. 118–121). However, studies of a butterfly's mobility and short-distant movements observed in mark-release-recapture do not accurately detect the longest movements of individuals, and thus are likely not reliable estimates of a species' dispersal distances (Wilson and Thomas 2002, pp. 259 and 264; Stevens *et al.* 2010, p. 625). In addition, the maximum distances obtained from mark-release-recapture studies underestimate how far butterflies may disperse. These studies also underestimate the number of

individuals which will move long distances, because individuals that leave a habitat patch or study area and do not reach another patch often go undetected (Cushman and Murphy 1993, p. 40; Wilson and Thomas 2002, p. 261).

Limited estimates of Mount Charleston blue butterfly movements are available. Distances between patches of habitat for Mount Charleston blue butterfly locations delineated by Andrew *et al.* 2013 and Thompson *et al.* 2014 in Unit 2 (measured in Geographic Information System (GIS)) range between 300 m and 700 m (990 ft and 2300 ft), suggesting the butterfly is capable of movements greater than the commenter's recommended 200 m (660 ft). Aside from characterizations of the Mount Charleston blue butterfly's within-patch movements, we are unaware of data describing its maximum dispersal distance. Therefore, any approximation of dispersal for the Mount Charleston blue butterfly must be inferred from other sources or species for which we do have available movement data. We recognize that there are numerous interacting factors, both intrinsic (for example, genetics, size, health, life history) and extrinsic (for example, habitat quality and configuration, weather, population density), that may affect dispersal estimates of butterfly species. As such, we have revised the criteria for connectivity to reflect the range of documented distances, as described above.

(34) *Comment:* The Forest Service requested that areas be removed from critical habitat designation that are within a 25-m (83-ft) buffer surrounding existing waterlines and administrative roads associated with previously removed recreation facilities, in Unit 2. The Forest Service stated the areas receive periodic maintenance, lack primary constituent elements, and are ''within the bounds of justification used for excluding [sic] the initial recreation areas.'' In addition, the Forest Service requested that an area be removed from the proposed critical habitat designation in Unit 1, where radio repeaters with required annual maintenance occur. The Forest Service states that the area was surveyed for habitat and only the host plant *Astragalus platytropis* was present, and they stated that the nearest documented citing of a Mount Charleston blue butterfly was 200 m (660 ft) away.

Our Response: When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas, such as lands covered by buildings, pavement, and other structures, because such lands lack the physical or biological features for Mount Charleston blue butterfly. However, the Mount Charleston blue butterfly and its habitat have been documented in close proximity to trails and administrative roads (Weiss *et al.* 1997, p. 10 and Map 3.1; Boyd and Murphy 2008, pp. 4–7; Thompson 2014b) near some of the areas that the Forest Service requested we remove from critical habitat designation in Unit 2. In addition, the Mount Charleston blue butterfly and its habitat have been documented within the area near radio repeaters in Unit 1 (Andrew *et al.* 2013, Figure 17). Therefore, the areas the Forest Service requested for removal are designated as critical habitat in this rule.

Summary of Changes From Proposed Rule

Based on information we received during the comment period, we made the following changes to the proposed rule:

(1) We have updated the genus from *Plebejus* to *Icaricia* for the Mount Charleston blue butterfly to reflect more current scientific studies and use. The Service will now use *Icaricia shasta charlestonensis* for the Mount Charleston blue butterfly. This includes amending the scientific name we set forth in the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h).

(2) In response to the comments we received from peer and public reviewers, we have updated the following sections to incorporate literature and information provided or to clarify language based on suggestions made: *Species Information, Physical or Biological Features,* and *Primary Constituent Elements for the Mount Charleston Blue Butterfly* (see updated sections in this final rule).

(3) We have modified critical habitat boundaries to account for the areas initially proposed for removal, public comments on these proposed removals, and our subsequent review of the data on the proposed removals. In addition to the initial proposed removal areas, we have removed an area within the LVSSR SUPA to be consistent with the criteria, in that the areas are highly disturbed and receive high concentrations of public recreation or recreation management. We have modified the description of the areas removed from critical habitat. We have made changes to maps, units, and the text of this final rule. We have removed 267 ac (108 ha) from proposed Unit 2 and 80 ac (32 ha) from proposed Unit 1. In total, the final critical habitat designation has decreased from the proposed designation by 347 ac (140 ha). The final area of critical habitat designated for the Mount Charleston blue butterfly is approximately 2,228 ac (902 ha) in Unit 1, 2,573 ac (1,041 ha) in Unit 2, and 413 ac (167 ha) in Unit 3, which amounts to a total of 5,214 ac (2,110 ha).

Changes From the Background Section of the Proposed Rule

Species Information

Taxonomy and Species Description

The Mount Charleston blue butterfly is a subspecies of the wider ranging Shasta blue butterfly (*Icaricia shasta*), which is a member of the family Lycaenidae. Pelham (2014) recognized six subspecies of Shasta blue butterflies. Discussion of previous taxonomic treatments and subspecies description may be found in the final rule to list the Mount Charleston blue butterfly and proposed rule to designate critical habitat (78 FR 57751 and 79 FR 41227).

We listed the Mount Charleston blue butterfly as *Plebejus shasta charlestonensis* as endangered effective on October 21, 2013 (see 78 FR 57750; September 19, 2013). We cited Pelham (2008, p. 265) as justification for using the name *Plebejus shasta charlestonensis.* Opler and Warren (2003, p. 30) used the name *Plebejus shasta* in their list of scientific names of butterflies, but did not list subspecies.

Based on more recent published scientific data and in keeping with regulations at 50 CFR 17.11(b) to use the most recently accepted scientific name, we will use the name *Icaricia shasta charlestonensis* for the Mount Charleston blue butterfly throughout this document. We are recognizing and accepting here the change in the scientific name for the Mount Charleston blue butterfly. *Icaricia* has previously been treated as a genus closely related to *Plebejus* (Nabokov 1945, pp. 1–61) or as a subgenus of *Plebejus* (Tilden 1973, p. 13).

Data-driven studies undertaken just prior to and just after our listing of the butterfly (Vila *et al.* 2011 and Talavera *et al.* 2013, pp. 166–192 (first published online September 2012)) support and confirm recognition of *Icaricia* as a genus distinct from *Plebejus* for a group of species that includes the Mount Charleston blue butterfly. The studies are based on analyses of mitochondrial and nuclear DNA of a broad array of New World species. This recognition and delineation of *Icaricia* is accepted and followed by Grishin (2012, pp. 117–120), who provides descriptions of morphological features to distinguish the Mount Charleston blue butterfly

from 4 of the other 13 blue butterflies that occur in the Spring Mountains of Nevada. Pelham's online *Catalogue of butterflies of the United States and Canada,* revised June 22, 2014, lists the Mount Charleston blue butterfly as a subspecies of *Icaricia shasta.* The format of Pelham's *Catalogue* does not include reference to supportive data (*e.g.,* Vila *et al.* 2011 or Talavera *et al.* 2013). The Integrated Taxonomic Information System (ITIS) database (ITIS 2015) follows Pelham's *Catalogue,* but as yet has not been updated to the 2014 revised version and likewise does not cite supportive data.

We are recognizing the change in the scientific name of the Mount Charleston blue butterfly to *Icaricia shasta charlestonensis,* based on data presented by Vila *et al.* (2011) and Talavera *et al.* (2013) and accepted by Grishin (2012) and Pelham (2014). Updating the nomenclature, which is reflective of its current taxonomic status, does not impact the animal's description, distribution, or listing status.

Habitat and Biology

Weiss *et al.* (1997, pp. 10–11) describe the natural habitat for the Mount Charleston blue butterfly as relatively flat ridgelines above 2,500 m (8,200 ft), but isolated individuals have been observed as low as 2,000 m (6,600 ft). Boyd and Murphy (2008, p. 19) indicate that areas occupied by the subspecies feature exposed soil and rock substrates, with limited or no canopy cover or shading.

Other than observations by surveyors, little information is available regarding most aspects of the subspecies' biology and the key determinants for the interactions among the Mount Charleston blue butterfly's life history and environmental conditions. Observations indicate that above- or below-average precipitation, coupled with above- or below-average temperatures, influence the phenology of this subspecies (Weiss *et al.* 1997, pp. 2–3 and 32; Boyd and Austin 1999, p. 8), and are likely responsible directly or indirectly for the fluctuation in population numbers from year to year, because they affect host and nectar plants (Weiss *et al.* 1997, pp. 2–3 and 31–32). More research is needed to understand the functional relationship between the Mount Charleston blue butterfly and its habitat and weather.

Like most butterfly species, the Mount Charleston blue butterfly is dependent on available and accessible nectar plant species for the adult butterfly flight period, when breeding and egg-laying occurs, and for larval development (described under *Physical or Biological Features,* below (Weiss *et al.* 1994, p. 3; Weiss *et al.* 1997, p. 10; Boyd 2005, p. 1; DataSmiths 2007, p. 21; Boyd and Murphy 2008, p. 9; Andrew *et al.* 2013, pp. 4–12; Thompson *et al.* 2014, pp. 97–158)). The typical flight and breeding period for the butterfly is early July to mid-August, with a peak in late July, although the subspecies has been observed as early as mid-June and as late as mid-September (Austin 1980, p. 22; Boyd and Austin 1999, p. 17; Thompson *et al.* 2014, pp. 105–116).

Like all butterfly species, both the phenology (timing) and number of Mount Charleston blue butterfly individuals that emerge and fly to reproduce during a particular year appear to be reliant on the combination of many environmental factors that may constitute a successful (''favorable'') or unsuccessful (''poor'') year for the subspecies. Specific information regarding diapause of the Mount Charleston blue butterfly is lacking, and while geographic and subspecific variation in life histories can vary, we presume information on the diapause of other Shasta blue butterflies is similar to that of the Mount Charleston blue butterfly. The Shasta blue butterfly is generally thought to diapause at the base of its larval host plant or in the surrounding substrate (Emmel and Shields 1980, p. 132) as an egg the first winter and as a larva near maturity the second winter (Ferris and Brown 1981, pp. 203–204; Scott 1986, p. 411); however, Emmel and Shields (1980, p. 132) suggested that diapause was passed as partly grown larvae, because freshly hatched eggshells were found near newly laid eggs (indicating that the eggs do not overwinter). More recent observations of late summer hatched and overwintering unhatched eggs of the Mount Charleston blue butterfly eggs laid in the Spring Mountains may indicate that it has an environmentally cued and mixed diapause life cycle; however, further observations supporting egg viability are needed to confirm this (Thompson *et al.* 2014, p. 131).

Prolonged or multiple years of diapause has been documented for several butterfly families, including Lycaenidae (Pratt and Emmel 2010, p. 108). For example, the pupae of the variable checkerspot butterfly (*Euphydryas chalcedona,* which is in the Nymphalid family) are known to persist in diapause up to 5 to 7 years (Scott 1986, p. 28). The number of years the Mount Charleston blue butterfly can remain in diapause is unknown. Boyd and Murphy (2008, p. 21) suggest the Mount Charleston blue butterfly ''may be able to delay maturation during drought or the shortened growing seasons that follow winters with heavy snowfall and late snowmelt by remaining as eggs through one or more years, or returning to diapause as larvae, perhaps even more than once.'' Experts have hypothesized and demonstrated that, in some species of Lepidoptera, a prolonged diapause period may be possible in response to unfavorable environmental conditions (Scott 1986, pp. 26–30; Murphy 2006, p. 1; DataSmiths 2007, p. 6; Boyd and Murphy 2008, p. 22), and this has been hypothesized for the Mount Charleston blue butterfly as well (Thompson *et al.* 2014, p.157). Little has been confirmed regarding the length of time or life stage in which the Mount Charleston blue butterfly diapauses.

Most butterfly populations exist as regional metapopulations (Murphy *et al.* 1990, p. 44). Boyd and Murphy (2008, p. 23) suggest this is true of the Mount Charleston blue butterfly. Small habitat patches tend to support smaller butterfly populations that are frequently extirpated by events that are part of normal variation (Murphy *et al.* 1990, p. 44). According to Boyd and Austin (1999, p. 17), smaller colonies of the Mount Charleston blue butterfly may be ephemeral in the long term, with the larger colonies of the subspecies more likely than smaller populations to persist in ''poor'' years, when environmental conditions do not support the emergence, flight, and reproduction of individuals. The ability of the Mount Charleston blue butterfly to move between habitat patches has not been studied; however, field observations indicate the subspecies has low vagility (capacity or tendency of a species to move about or disperse in a given environment), on the order of 10 to 100 m (33 to 330 ft) (Weiss *et al.* 1995, p. 9), and nearly sedentary behavior (DataSmiths 2007, p. 21; Boyd and Murphy 2008, pp. 3 and 9). Furthermore, movement of lycaenid butterflies, in general, is limited and on the order of hundreds of meters (Cushman and Murphy 1993, p. 40); however, there are small portions of a population that can make substantially long movements (Arnold 1983, pp. 47–48).

Based on this information, the likelihood of dispersal more than hundreds of meters (yards) is low for the Mount Charleston blue butterfly, but it may occur. It is hypothesized that the Mount Charleston blue butterfly could diapause for multiple years (more than 2) as larvae and pupae until vegetation conditions are favorable to support emergence, flight, and reproduction

(Boyd and Murphy 2008, pp. 12, 21). This could account in part for periodic high numbers (as was documented by Weiss *et al.* in 1995) of butterflies observed at more sites in years with favorable conditions than in years with unfavorable conditions. Additional future research regarding diapause patterns of the Mount Charleston blue butterfly is needed to further our understanding of this subspecies.

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation. We designate critical habitat in areas outside the geographical area occupied by a species only when a designation limited to its range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to insure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available

information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical or Biological Features

In accordance with section 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features essential to the conservation of the species and which may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

We derive the specific physical or biological features essential for the Mount Charleston blue butterfly from studies of this subspecies' habitat, ecology, and life history as described below. Additional information can be found in the final listing rule published in the **Federal Register** on September 19, 2013 (78 FR 57750). We have determined that the Mount Charleston blue butterfly requires the following physical or biological features:

Space for Individual and Population Growth and for Normal Behavior

The Mount Charleston blue butterfly is known to occur only in the high elevations of the Spring Mountains, located approximately 40 kilometers (km) (25 miles (mi)) west of Las Vegas in Clark County, Nevada (Austin 1980, p. 20; Scott 1986, p. 410). Historically, the Mount Charleston blue butterfly was detected at elevations as low as 1,830 m (6,000 ft) in the Spring Mountains (Austin 1980, p. 22; Austin 1981, p. 66; Weiss *et al.* 1995, p. 5). Currently, the Mount Charleston blue butterfly is presumed or known to occupy habitat occurring between 2,500 m (8,200 ft) elevation and 3,500 m elevation (11,500 ft) (Austin 1980, p. 22; Weiss *et al.* 1997, p. 10; Boyd and Austin 1999, p. 17; Pinyon 2011, p. 17; Andrew *et al.* 2013, pp. 20–61; Thompson *et al.* 2014, pp. 97–158). Dominant plant communities between these elevation bounds are variable (Forest Service 1998, pp. 11–12), but locations that support the Mount Charleston blue butterfly are characterized by open areas bordered, near, or surrounded by forests composed of ponderosa pine (*Pinus ponderosa*), Great Basin bristlecone pine (*Pinus longaeva*), and white fir (*Abies concolor*) (Andrew *et al.* 2013, p. 5). These open forest conditions are often created by disturbances such as fire and avalanches (Weiss *et al.* 1995, p. 5; DataSmiths 2007, p. 21; Boyd and Murphy 2008, pp. 23–24; Thompson *et al.* 2014, pp. 97–158), but the open-forest or non-forest conditions also exist as a function of occurring in higher subalpine elevations (*i.e.,* above treeline) (for example, Nachlinger and Reese 1996, Appendix I–64–72).

The Mount Charleston blue butterfly is described to occur on relatively flat ridgetops, gently sloping hills, or meadows, where tree cover is absent to less than 50 percent (Austin 1980, p. 22; Weiss *et al.* 1995, pp. 5–6; Weiss *et al.* 1997, pp. 10, 32–34; Boyd and Austin 1999, p. 17; Boyd and Murphy 2008, p. 19; Andrews *et al.* 2013, p. 3; Thompson *et al.* 2014, p. 138). Boyd and Murphy (2008, p. 19) go on to suggest general descriptions of Mount Charleston blue butterfly habitat may have resulted because of the areas where ''collectors and observers disproportionately target . . . [to increase] opportunities to encounter'' the Mount Charleston blue butterfly. However, until observations are made in areas that would alter our understanding of where Mount Charleston blue butterflies generally occur, we assume these locations and characteristics are likely correlated with the ecological requirements of the Mount Charleston blue butterfly's larval host plants (Weiss *et al.* 1997, p. 22) and adult nectar plants (described below).

Therefore, based on the information above, we identify flat or gently sloping areas between 2,500 m (8,200 ft) and 3,500 m (11,500 ft) elevation in the Spring Mountains as a physical or biological feature essential to the Mount Charleston blue butterfly for space for individual and population growth and for normal behavior.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

The best scientific information available regarding food, water, air, light, minerals, and other nutritional or physiological requirements of the Mount Charleston blue butterfly's life stages (egg, larva, pupa, adult) result from observations by surveyors, and research to determine the requirements and environmental conditions essential to the Mount Charleston blue butterfly. In general, resources that are thought to fulfill these requirements occur in open areas with exposed soil and rock substrates with short, widely spaced forbs and grasses. These areas allow light to reach the ground in order for adult nectar and larval host plants to grow.

Adult Mount Charleston blue butterflies have been documented feeding on nectar from a number of different flowering plants, but most frequently the species reported are *Erigeron clokeyi* (Clokey's fleabane), *Eriogonum umbellatum* var. *versicolor* (sulphur-flower buckwheat), *Hymenoxys cooperi* (Cooper rubberweed), and *Hymenoxys lemmonii* (Lemmon bitterweed) (Weiss *et al.* 1997, p. 11; Boyd and Murphy 2008, pp. 13, 16; Pinyon 2011, p. 17; Andrew 2013, pp. 8; Thompson *et al.* 2014, pp. 117–118). Densities of nectar plants generally occur at more than 2 per square meter (m^2) (0.2 per square foot (ft^2)) for smaller plants such as *E. clokeyi* and more than 0.1 per m^2 (0.01 per ft^2) for larger and taller plants such as *Hymenoxys* sp. and *E. umbellatum* (Thompson *et al.* 2014, p. 138). Nectar plants typically occur within 10 m (33 ft) of larval host plants and, in combination, provide nectar during the adult flight period between mid-July and early August (Thompson *et al.* 2014, p. 138). Other species that adult Mount Charleston blue butterflies have been documented using as nectar plants include *Antennaria rosea* (rosy pussy toes), *Cryptantha* species (cryptantha; the species *C. angustifolia* originally reported is likely a misidentification because this species occurs in much lower elevation desert habitat (Niles and Leary 2007, p. 26)), *Ericameria nauseosa* (rubber rabbitbrush), *Erigeron flagellaris* (trailing daisy), *Gutierrezia sarothrae* (broom snake weed), *Monardella odoratissima* (horsemint), *Petradoria pumila* var. *pumila* (rock-goldenrod), and *Potentilla concinna* var. *concinna* (Alpine cinquefoil) (Boyd and Murphy 2008, pp. 13, 16; Thompson *et al.* 2014, pp. 117–118).

Based on surveyors' observations, several species appear to be important food plants for the larval life stage of the Mount Charleston blue butterfly. Therefore, we consider those plants on which surveyors have documented Mount Charleston blue butterfly eggs to be larval host or food plants (hereafter, referred to as larval host plants). Based on this, *Astragalus calycosus* var.

calycosus, Oxytropis oreophila var. *oreophila,* and *Astragalus platytropis* are all considered larval host plants for the Mount Charleston blue butterfly (Weiss *et al.* 1997, p. 10; Austin and Leary 2008, p. 86; Andrew *et al.* 2013, pp. 7–8; Thompson *et al.* pp. 121–131) (see ''Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring,'' below, for more details). Note that in the final listing rule for the Mount Charleston blue butterfly (78 FR 57750; September 19, 2013), we reported *Astragalus lentiginosus* var. *kernensis* (Kern plateau milkvetch) as a larval host plant (Andrew *et al.* 2013, p. 3); however, this host plant was subsequently determined to be *Oxytropis oreophila* var. *oreophila* (mountain oxytrope) (Thompson *et al. 2014,* pp. 97–158), and has been described as such in this final rule. Future surveys and research may document the importance of other plant species as food resources for Mount Charleston blue butterfly larvae. Densities of host plants are generally greater than two per m^2 (0.2 per ft^2) (Weiss 1997, p. 34; Andrew *et al.* 2013, p. 9; Thompson *et al.* 2014, p. 138).

In addition, the Mount Charleston blue butterfly requires open canopy cover (open forest). Specifically, the Mount Charleston blue butterfly requires areas where tree cover is absent or low. This may be due to ecological requirements of the larval host plants or adult nectar plants or due to the flight behavior of the Mount Charleston blue butterfly. As with most butterflies, the Mount Charleston blue butterfly typically flies during sunny conditions, which are particularly important for this subspecies given the cooler air temperatures at high elevations in the Spring Mountains of Nevada (Weiss *et al.* 1997, p. 31).

The areas where the Mount Charleston blue butterfly occurs often have shallow exposed soil and rock substrates with short, widely spaced forbs and grasses (Weiss *et al.* 1997, pp. 10, 27, and 31; Boyd 2005, p. 1; Service 2006a, p. 1; Kingsley 2007, pp. 9–10; Boyd and Murphy 2008, p. 19; Pinyon 2011, pp. 17, 21; Andrew *et al.* 2013, pp. 9–13; Thompson *et al.* 2014, pp. 137–143). These vegetative characteristics may be important because they would not impede the Mount Charleston blue butterfly's low flight behavior (Weiss *et al.* 1997, p. 31) (reported to be 15 centimeters (cm) (5.9 inches (in)) or less (Thompson *et al.* 2014, p. 118)). Some taller grass or forb plants may be present when their density is less than five per m^2 (Thompson *et al.* 2014, pp. 138–139).

Therefore, based on the information above, we identify open habitat that permits light to reach the ground, nectar plants for adults and host plants for larvae, and exposed soil and rock substrates with short, widely spaced forbs and grasses to be physical or biological features for this subspecies that provide food, water, air, light, minerals, or other nutritional or physiological requirements.

Cover or Shelter

The study and delineation of habitat for many butterflies has often been associated with larval host plants, breeding resources, and nectar sources for adults (Dennis 2004, p. 37). Similar to other butterfly species (Dennis 2004, p. 37), there is little to no information available about the structural elements required by the Mount Charleston blue butterfly for cover or shelter. However, we infer that, because of their low vagility, cover or shelter used by any life stage of the Mount Charleston blue butterfly will be in close association or proximity to larval or adult food resources in its habitat.

For larvae, diapause is generally thought to occur at the base of the larval host plant or in the surrounding substrate (Emmel and Shields 1980, p. 132). Mount Charleston blue butterfly larvae feed after diapause. Like other butterflies, after larvae become large enough, they pupate (Scott 1986, p. 24). Pupation most likely occurs in the ground litter near a main stem of the larval host plant (Emmel and Shields 1980, p. 132). After pupation, adults feed and mate in the same areas where larvae diapause and pupation occurs. In addition, no specific areas for overnight roosting by adult Mount Charleston blue butterflies have been reported. However, adults have been observed using areas in moderately dense forest stands immediately adjacent to low-cover areas with larval host and nectar plants (Thompson *et al.* 2014, p. 120).

Therefore, based on the information above, we identify areas with larval host plants and adult nectar plants, and areas immediately adjacent to these plants, to be a physical or biological feature for this subspecies that provides cover or shelter.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

The adult Mount Charleston blue butterfly has specific site requirements for its flight period when breeding and reproduction occur, and these requirements may be correlated to its limited vagility and short adult life stage. The typical flight and breeding period for the Mount Charleston blue butterfly is early July to mid-August with a peak in late July, although the subspecies has been observed as early as mid-June and as late as mid-September (Austin 1980, p. 22; Boyd and Austin 1999, p. 17; Thompson *et al.* 2014, pp. 104–116). Breeding opportunities for individual Mount Charleston blue butterflies are presumably short in duration during its adult life stage, which may range from 2 to 12 days, as has been reported for other closely related species (Arnold 1983, Plebejinae in Table 44). Therefore, the Mount Charleston blue butterfly may generally be constrained to areas where adult nectar resources are in close proximity to plants on which to breed and lay eggs. Researchers have documented Mount Charleston blue butterfly breeding behavior in close spatial association with larval host and adult nectar plants (Thompson *et al.* 2014, pp. 121–125).

The presence of Mount Charleston blue butterfly adult nectar plants, such as *Erigeron clokeyi,* appears to be strongly associated with its larval host plants (Andrew *et al.* 2013, p. 9). Female Mount Charleston blue butterflies have been observed ovipositing a single egg per host plant, which appears to weakly adhere to the host plant surface; this has been observed most typically within basal leaves (Thompson *et al.* 2014, p. 129). Ovipositing by butterflies on plants is not absolute evidence of larval feeding or survival (Austin and Leary 2008, p. 1), but may provide a stronger inference in combination with close adult associations and repeated observations. Presuming the Mount Charleston blue butterfly's diapause behavior is similar to other Shasta blue butterflies, the Mount Charleston blue butterfly diapauses as an egg or as a larva at the base of its egg and larval host plants or in the surrounding substrate (Emmel and Shields 1980, p. 132; Ferris and Brown 1981, pp. 203–204; Scott 1986, p. 411).

In 1987, researchers documented two occasions when Mount Charleston blue butterflies oviposited on *Astragalus calycosus* var. *calycosus* (= var. *mancus*) (Austin and Leary 2008, p. 86). Based on this reported documentation and subsequent observations of adult Mount Charleston blue butterflies associations with the plant, *Astragalus calycosus* var. *calycosus* was the only known larval host plant for the Mount Charleston blue butterfly (Austin and Leary 2008, p. 86). In 2011 and 2012, researchers from the University of Nevada Las Vegas observed female Mount Charleston blue butterflies landing on and ovipositing on *Oxytropis oreophila* var. *oreophila* (mountain oxytrope) and *Astragalus*

platytropis (broadkeeled milkvetch), which presumably also function as larval host plants (Andrew *et al.* 2013, pp. 4–12; Thompson *et al.* 2014, pp. 122–134). Andrew *et al.* (2013, p. 5) also documented Mount Charleston blue butterfly eggs on all three plant species. Other subspecies of Shasta blue butterflies have been reported to use more than one plant during larval development, including *Astragalus platytropis* (Austin and Leary 2008, pp. 85–86). Because the subspecies has been documented ovipositing on these three plant species and other subspecies of Shasta blue butterflies are known to use multiple larval host plants, we consider *Astragalus calycosus* var. *calycosus, Oxytropis oreophila* var. *oreophila,* and *Astragalus platytropis* to be the host plants used during Mount Charleston blue butterfly larval development.

Therefore, based on the information above, we identify areas with larval host plants, especially *Astragalus calycosus* var. *calycosus, Oxytropis oreophila* var. *oreophila,* or *Astragalus platytropis,* and adult nectar plants, especially *Erigeron clokeyi, Eriogonum umbellatum* var. *versicolor, Hymenoxys cooperi,* and *Hymenoxys lemmonii,* during the flight period of the Mount Charleston blue butterfly to be a physical or biological feature for this subspecies that provides sites for breeding, reproduction, or rearing (or development) of offspring.

Habitats That Are Protected From Disturbance or Are Representative of the Historical, Geographical, and Ecological Distributions of the Subspecies

Habitat for the Mount Charleston blue butterfly that is protected from disturbance or representative of the historical, geographical, and ecological distributions of the subspecies occurs in locations with limited canopy cover that comprise the appropriate species of larval host and adult nectar plants. Although some of these open locations occur due to wind and other environmental stresses that inhibit tree and shrub growth, fire is one of the most prevalent disturbances across the landscape of the Mount Charleston blue butterfly. To better understand the fire frequency and severity as it relates to historic and current conditions at Mount Charleston blue butterfly locations, we characterized locations using biophysical setting (BPS) with associated fire regime groups and fire regime condition developed by Provencher (2008, pp. 1–25 and Appendix II; Barrett *et al.* 2010, p. 15). Fire regime groups are classified by fire frequency, which is the average number of years between fires, and fire severity, which represents the percent replacement of dominant overstory vegetation (Barrett *et al.* 2010, p. 15). Fire regime condition is ''. . . landscape-level measure of ecological departure between the pre-settlement and current distributions of vegetation succession classes and fire regimes for a given area'' (Provencher 2008, p. 3 citing Hann and Bunnell 2001). Fire regimes groups can be broadly categorized for Mount Charleston blue butterfly locations based on elevation. Higher elevation locations, generally above 2,740 m (9,000 ft) elevation, occur in fire regime groups 4 and 5 (Provencher 2008, Appendix II; *e.g.,* BPS Rocky Mountain Alpine Fell-Field and Inter-Mountain Basins Subalpine Limber-Bristlecone Pine Woodland). Lower elevation locations, generally below 2,740 m (9,000 ft), occur in fire regime groups 2 and 3 (Provencher 2008, Appendix II; *e.g.,* BPS Inter-Mountain Basins Aspen-Mixed Conifer Forest and Woodland, and Rocky Mountain Mesic Montane Mixed Conifer Forest and Woodland).

In higher elevation locations where the Mount Charleston blue butterfly is known or presumed to occur (South Loop Trail, Mummy Springs (North Loop Trail), upper Bonanza Trail, and Griffith Peak), disturbance from fire is relatively infrequent, with variable severity (fire regime groups 4 and 5 in Provencher 2008, Appendix II; see example BPS above), occurring every 35 to 200 years at a high severity, or occurring more frequently than every 200 years with a variable but generally high severity (Barrett *et al.* 2010, p. 15). Other disturbances likely to occur at the high-elevation Mount Charleston blue butterfly locations are from wind and other weather phenomena (Provencher 2008, Appendix II). At these high-elevation habitats, fire regime conditions are relatively similar to historic conditions (Provencher 2008, Table 4, 5 and Appendix II), so vegetation succession should be within the normal range of variation. Vegetation succession at some high-elevation areas that currently lack trees may cause these areas to become more forested, but other areas that are scoured by wind or exposed to other severe environmental stresses may remain non-forested (for example, South Loop Trail; Andrew *et al.* 2013, pp. 20–27) (Provencher and Anderson 2011, pp. 1–116; NVWAP 2012, p. 177). Thus, we expect higher elevation locations will be able to continue to provide open areas with the appropriate vegetation necessary to support individuals and populations of Mount Charleston blue butterflies.

In contrast, at lower elevation locations where the Mount Charleston blue butterfly is known or presumed to occur (Las Vegas Ski and Snowboard Resort (LVSSR), Foxtail, Youth Camp, Gary Abbott, Lower LVSSR Parking, Lee Meadows, Bristlecone Trail, and lower Bonanza Trail), disturbance from fire is likely to occur less than every 35 years with more than 75 percent being high-severity fires, or is likely to occur more than every 35 years at mixed-severity and low-severity (fire regime group 2 and 3 in Provencher 2008, Appendix II; see example BPS above). At these lower elevation habitats, fire regime conditions have departed further from historic conditions (Provencher 2008, Table 4, 5 and Appendix II). Lack of fire due to fire exclusion or reduction in natural fire cycles, as has been demonstrated in the Spring Mountains (Entrix 2008, p. 113) and other proximate mountain ranges (Amell 2006, pp. 2–3), has likely resulted in long-term successional changes, including increased forest area and forest structure (higher canopy cover, more young trees, and more trees intolerant of fire) (Nachlinger and Reese 1996, p. 37; Amell 2006, pp. 6–9; Boyd and Murphy 2008, pp. 22–28; Denton *et al.* 2008, p. 21; Abella *et al.* 2012, pp. 128, 130) at these lower elevation locations. Without fire in some of these locations, herbs and small forbs may be nearly absent as the vegetation moves towards later successional classes with increasing tree overstory cover (Provencher 2008, Appendix II). Therefore, habitat at the lower elevation Mount Charleston blue butterfly locations is more dissimilar from what would be expected based on historic fire regimes (Provencher 2008, Table 4, 5 and Appendix II). Thus, in order for Mount Charleston blue butterfly individuals and populations to be maintained at lower elevation locations, active habitat management will likely be necessary.

The Carpenter 1 Fire in July 2013 burned into habitat of the Mount Charleston blue butterfly along the ridgelines between Griffith Peak and South Loop spanning a distance of approximately 3 miles (5 km). Within this area, low-, moderate-, or high-quality patches of Mount Charleston blue butterfly habitat intermixed with non-habitat have been documented (Pinyon 2011, Figure 8 and 9). The majority of Mount Charleston blue butterfly moderate- or high-quality habitat through this area was classified as having a very low or low soil-burn severity (Kallstrom 2013, p. 4). The characteristics of Mount Charleston blue

butterfly habitat in this area of widely spaced grass and forbs, exposed soil and rocks, and low tree canopy cover result in lower fuel loading and continuity, which likely contributed to its low burn severities.

The effects of the Carpenter 1 Fire on Mount Charleston blue butterfly habitat ranged from low or no apparent effects to nearly complete elimination of plant cover (Herrmann 2014, p. 18). Based on a description of monitoring in 2014, the negative effects of the fire on the Mount Charleston blue butterfly and its habitat appear to be inversely related to the quality of habitat, where patches of high-quality habitat with low tree canopy cover were likely less affected (Herrmann 2014, pp. 3–21). Overall, host and nectar plants were diminished in cover and abundance within the burn perimeter but are still present and recovering with new growth (Herrmann 2014, pp. 17–19). Habitat within the burn perimeter will likely improve based upon habitat conditions in a nearby historic burn area (Herrmann 2014, pp. 17–19). Surveys in 2014 have confirmed that the Mount Charleston blue butterfly survived and is present within and adjacent areas outside the fire perimeter (Herrmann 2014, p. 3).

Recreational activities, trail-associated erosion, and the introduction of weeds or invasive grasses are likely the greatest threats that could occur within areas of Mount Charleston blue butterfly habitat burned by the Carpenter 1 Fire. Other potential threats to the Mount Charleston blue butterfly habitat associated with the fire may include trampling or grazing of new larval host or nectar plants by feral horses (*Equus ferus*) and elk (*Cervus elaphus*). However, use of this Mount Charleston blue butterfly habitat in these watersheds by feral horses and elk is currently very low.

We are unaware of site- or species-specific analyses of climate change for the Spring Mountains in Nevada or impacts to the Mount Charleston blue butterfly; therefore, we rely on general predictions of climate change for alpine areas in the Southwest and predictions of climate change impacts to other invertebrate species to assess potential impacts of climate change to the Mount Charleston blue butterfly and its habitat. The Intergovernmental Panel on Climate Change (IPCC) has high confidence in predictions that extreme weather events, warmer temperatures, and regional drought are very likely to increase in the northern hemisphere as a result of climate change (IPCC 2007, pp. 15–16). Climate models show the southwestern United States has transitioned into a more arid climate of drought that is predicted to continue into the next century (Seager *et al.* 2007, p. 1181). Garfin *et al.* (2013, p. 3) indicate that average daily temperatures have been higher and drought has been more severe from 2001 to 2010, when compared to average decadal occurrences from 1901 to 2010; however, ''multiple drought events in the preceding 2,000 years . . . exceeded the most severe and sustained droughts from 1901 to 2010'' (Garfin *et al.* 2013, p. 3). In the past 60 years, the frequency of storms with extreme precipitation has increased in Nevada by 29 percent (Madsen and Figdor 2007, p. 37). These trends are anticipated to continue and include warmer summer and fall temperatures; more frequent and intense winter precipitation; decreased late-season snowpack; and hotter, more severe, and more frequent droughts (Garfin *et al.* p. 6).

Changes in local southern Nevada climatic patterns cannot be definitively tied to global climate change; however, they are consistent with IPCC-predicted patterns of extreme precipitation, warmer than average temperatures, and drought (Redmond 2007, p. 1), and Garfin *et al.* (2013, p. 448) concurred with the 2009 National Climate Assessment (Karl *et al.* 2009, p. 131) that ''increasing temperatures and shifting precipitation patterns will drive declines in high-elevation ecosystems [of the Southwest] such as alpine forests and tundra.'' In general, we expect these same trends to occur in the Spring Mountains, but effects on the Mount Charleston blue butterfly or its habitat from climate change will vary across the subspecies' range because of topographic heterogeneity (Luoto and Heikkinen 2008, p. 487).

Analyses of climate change impacts to other invertebrate species suggest different aspects of a species' biology may be affected, including physiological and morphological responses (Roy and Sparks 2000; Altermatt 2012); shifts in spatial patterns and availability of refugia (Beaumont and Hughes 2002; Peterson *et al.* 2004; Heikkinen *et al.* 2010; Mattila *et al.* 2011; Oliver *et al.* 2012); shifts in temporal patterns (for example, flight periods) (Aldridge *et al.* 2011; Altermatt 2012); and shifts in host and nectar plant phenology and availability. Because the magnitude and duration of different aspects of climate change are expected to be seasonally variable (Garfin *et al.* 2013, pp. 5–6), impacts to microhabitats and, therefore, different butterfly life stages also are expected to be variable (Kingsolver *et al.* 2011; Radchuk *et al.* 2013). Results from Kingsolver *et al.* 2011 and Radchuk *et al.* 2013 indicate species and life-stage responses to increasing temperatures in field and lab settings are variable, so specific predictions of how climate change will impact the various microhabitats needed for the Mount Charleston blue butterfly's life stages are unknown. However, based on predicted increases in temperatures and patterns of extreme precipitation and drought for alpine areas of the Southwest, we believe that climate change will impact some biological aspects of the Mount Charleston blue butterfly and its high-elevation habitat. A negative response to such climate change patterns may exacerbate threats already facing the subspecies as a result of its small population size and threats to its habitat.

Based on the information above, we identify habitat where natural disturbance, such as fire that creates and maintains openings in the canopy (fire regime groups 2, 3, 4, and 5), to be a physical or biological feature for this subspecies that provides habitats that are representative of the historical, geographical, and ecological distributions of the subspecies.

Primary Constituent Elements for the Mount Charleston Blue Butterfly

Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of the Mount Charleston blue butterfly in areas occupied at the time of listing, focusing on the features' primary constituent elements. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes, we determine that the primary constituent elements specific to the Mount Charleston blue butterfly are:

(i) Primary Constituent Element 1: Areas of dynamic habitat between 2,500 m (8,200 ft) and 3,500 m (11,500 ft) elevation with openings or where disturbance provides openings in the canopy that have no more than 50 percent tree cover (allowing sunlight to reach the ground); widely spaced, low (less than 15 cm (0.5 ft) in height) forbs and grasses; and exposed soil and rock substrates. When taller grass and forb plants greater than or equal to 15 cm (0.5 ft) in height are present, the density is less than five per m^2 (50 per ft^2).

(ii) Primary Constituent Element 2: The presence of one or more species of host plants required by larvae of the

Mount Charleston blue butterfly for feeding and growth. Known larval host plants are *Astragalus calycosus* var. *calycosus, Oxytropis oreophila* var. *oreophila,* and *Astragalus platytropis.* Densities of host plants must be greater than two per m^2 (0.2 per ft^2).

(iii) Primary Constituent Element 3: The presence of one or more species of nectar plants required by adult Mount Charleston blue butterflies for reproduction, feeding, and growth. Common nectar plants include *Erigeron clokeyi, Hymenoxys lemmonii, Hymenoxys cooperi,* and *Eriogonum umbellatum* var. *versicolor.* Densities of nectar plants must occur at more than two per m^2 (0.2 per ft^2) for smaller plants, such as *E. clokeyi,* and more than 0.1 per m^2 (0.01 per ft^2) for larger and taller plants, such as *Hymenoxys* sp. and *E. umbellatum.* Nectar plants typically occur within 10 m (33 ft) of larval host plants and, in combination, provide nectar during the adult flight period between mid-July and early August. Additional nectar sources that could be present in combination with the common nectar plants include *Antennaria rosea, Cryptantha* sp., *Ericameria nauseosa* ssp., *Erigeron flagellaris, Guitierrezia sarothrae, Monardella odoratissima, Petradoria pumila* var. *pumila,* and *Potentilla concinna* var. *concinna.*

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the subspecies at the time of listing contain features which are essential to the conservation of the subspecies and which may require special management considerations or protection. Special management considerations or protection may be necessary to eliminate or reduce the magnitude of threats that affect the subspecies. Threats to the Mount Charleston blue butterfly and its features identified in the final listing rule for the Mount Charleston blue butterfly (78 FR 57750; September 19, 2013) include: (1) Loss and degradation of habitat due to changes in natural fire regimes and succession; (2) implementation of recreational development projects and fuels reduction projects; (3) increases of nonnative plants; (4) collection; (5) small population size and few occurrences; and (6) exacerbation of other threats from the impacts of climate change, which is anticipated to increase drought and extreme precipitation events. In addition to these threats, feral horses present an additional threat by causing the loss and degradation of habitat resulting from trampling of host and nectar plants as well as the direct mortality of Mount Charleston blue butterfly where it is present (Boyd and Murphy 2008, pp. 7 and 27; Andrew *et al.* 2013, pp. 37–66; Thompson *et al.* 2014, pp. 150–152).

Threats to the Mount Charleston blue butterfly and its habitat and recommendations for ameliorating them have been described for each location and the subspecies in general (Boyd and Murphy 2008, pp. 1–41; Andrew *et al.* 2013 pp. 1–93; Thompson *et al.* 2014, pp. 97–158, 267–288). Management activities that could facilitate ameliorating these threats include (but are not limited to): (1) Reestablishment and maintenance of habitat and landscape connectivity within and between populations; (2) habitat restoration and control of invasive nonnative species; (3) monitoring of ongoing habitat loss and nonnative plant invasion; (4) management of recreational activities to protect and prevent disturbance of Mount Charleston blue butterflies to reduce loss or deterioration of habitat; (5) maintenance of the Forest Service closure order prohibiting collection of the Mount Charleston blue butterfly and other blue butterfly species without a permit, in order to minimize the detrimental effects of collecting rare species; (6) removal or exclusion of feral horses in Mount Charleston blue butterfly habitat; and (7) providing educational and outreach opportunities to inform the public regarding potential adverse impacts to the species or sensitive habitat from disturbance caused by recreational activities in the summer or winter. These management activities will protect the physical and biological features by avoiding or minimizing activities that negatively affect the Mount Charleston blue butterfly and its habitat while promoting activities that are beneficial to them. Additionally, management of critical habitat lands will help maintain or enhance the necessary environmental components, foster recovery, and sustain populations currently in decline.

All of the areas designated as critical habitat occur within the Spring Mountains National Recreation Area, and are covered by the 1998 Spring Mountains National Recreation Area (SMNRA) Conservation Agreement. To date, the Conservation Agreement has not always been effective in protecting existing habitat for the Mount Charleston blue butterfly or yielding significant conservation benefits for the species. The Forest Service is currently in the process of revising the SMNRA Conservation Agreement, and the Service is a cooperator in this process. However, as the Conservation Agreement is currently under revision, and completion has not occurred prior to publication of this final rule, it is unclear what level of protection or conservation benefit the final SNMRA Conservation Agreement will provide for the Mount Charleston blue butterfly.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. We review available information pertaining to the habitat requirements of the species. In accordance with the Act and its implementing regulation at 50 CFR 424.12(e), we consider whether designating additional areas—outside of the geographical area currently occupied—are necessary to ensure the conservation of the species. We are designating critical habitat in areas within the geographical area occupied by the subspecies at the time of listing in October 2013 because such areas contain the physical or biological features that are essential to the conservation of the subspecies. We are not designating areas outside the geographical area occupied by the subspecies at the time of listing because they would provide limited benefit and are not needed to conserve the species.

When determining the possible distribution of areas that meet the definition of critical habitat for the Mount Charleston blue butterfly, we considered all known suitable habitat patches remaining within the subspecies' historical range from Willow Creek, south to Griffith Peak within the SMNRA. For the Mount Charleston blue butterfly, we included locations of known populations and suitable habitat immediately adjacent to, or areas between, known populations that provide connectivity between these locations.

This section provides the details of the process we used to delineate the critical habitat for the Mount Charleston blue butterfly. The areas designated as critical habitat in this final rule are areas where the Mount Charleston blue butterfly occur and that contain the physical and biological features essential to the conservation of the species. These areas have been identified through incidental observations and systematic surveys or studies occurring over a period of several years. This information comes from multiple sources, such as reports, journal articles, and Forest Service project information. Based on this

information, we are designating critical habitat in specific areas within the geographical area currently occupied by the Mount Charleston blue butterfly that contain the physical and biological features essential to the conservation of the species.

We delineated the final critical habitat boundaries using the following steps:

(1) We compiled and mapped Mount Charleston blue butterfly observation locations (points) and polygons of habitat that included larval host and nectar plants, or only larval host plants delineated in previous studies or surveys from Austin (1980), Weiss *et al.* (1997), Service (2006b), DataSmiths (2007), Newfields (2008), SWCA (2008), Carsey *et al.* (2011), Holthuijzen *et al.* (2011), Pinyon (2011), Andrew *et al.* (2013), Herrmann (2014), and Thompson *et al.* (2014). The location information from the data sources used provided enough information to identify specific geographic areas by corroborating narratively described locations and mapped locations. These surveys are the best available data on the current distribution, habitat, and features that provide the basis for identifying areas of critical habitat for the Mount Charleston blue butterfly.

(2) Observed locations of Mount Charleston blue butterflies described above were used to create larger polygons of suitable habitat by buffering observed locations by 100 m (330 ft). These polygons assumed that suitable habitat was present up to 100 m (330 ft) around an observed location, because it is estimated that individual Mount Charleston blue butterflies can utilize areas between 10 to 100 m (33 to 330 ft; Weiss *et al.* 1995, Table 1) from observed locations.

(3) Polygons of suitable habitat were identified from previously delineated habitat (described above) and were considered suitable if the habitat polygon contained: (a) Observed locations of Mount Charleston blue butterflies; (b) larval host and nectar plants; (c) delineated habitat that was rated by the investigator (Pinyon 2011, pp. 1–39) as either ''moderate'' or ''good'' quality; or (d) larval host plants. It was assumed that nectar plants would also be present in areas where larval host plants were detected and butterflies were observed because both larval host and nectar plants must be in close proximity for Mount Charleston blue butterflies to be present (Boyd and Murphy 2008, pp. 1–31; Thompson *et al.* 2014, p. 138).

(4) We evaluated connectivity corridors of butterfly populations between or adjacent to areas of suitable habitat because these areas are likely important for butterfly dispersal. In contrast to distances moved within a single patch of habitat, which has been estimated to be between 10 to 100 m (33 to 330 ft), dispersal can be defined as movement between patches of habitat (Bowler and Benton 2005, p. 207). Studies suggest that closely related butterfly taxa have more similar mobility than distantly related butterfly taxa (Burke *et al.* 2011, p. 2284). We determined the approximate maximum dispersal distance of the Mount Charleston blue butterfly to be 1,000 m (3,281 ft) based on documented movement distances observed during mark-and-recapture studies of lycaenid butterflies described to be sedentary. Of the studies using mark-and-recapture studies that we examined, we found that the furthest distances ranged between 300 and 1,500 m (987 and 4,920 ft) (Bink 1992 as referenced in Sekar 2012, Table 2; Saarinen 1993 as cited in Komonen *et al.* 2008, p. 132; Peterson 1996, p. 1990; Lewis *et al.* 1997, pp. 283, 288–289; Peterson 1997, p. 175; Fischer *et al.* 1999, pp. 43 and 46; Baguette *et al.* 2000, p. 103; Bourn and Warren 2000, p. 9; Franzén and Ranius 2004, p. 130; Krauss *et al.* 2004, p. 358; Binzenhöfer *et al.* 2008, p. 267; Chuluunbaatar *et al.* 2009, p. 60; Barua *et al.* 2011, p. 44; Hovestadt *et al.* 2011, p. 1073; COSEWIC 2012, p. 30). Therefore, we approximated connectivity corridors by buffering polygons of suitable habitat by 500 m (2,461 ft), which allowed us to determine if polygons of suitable habitat were within the approximate 1,000 m (3,281 ft) dispersal distance of each other. Areas that did not contain surveyed habitat or were rated as ''poor'' quality or ''inadequate'' habitat by investigators were not considered. Quarter-quarter sections (see below for description of quarter-quarter section) that were bounded on all sides by other quarter-quarter sections meeting the above criteria were included to avoid creating ''doughnut holes'' within corridors.

(5) Observed locations, suitable habitat, and connectivity corridors, as described above, are all considered to be within the present geographic range of the subspecies.

(6) Critical habitat boundaries were delineated using a data layer of the Public Land Survey System (PLSS), which includes quarter-quarter sections (16 ha (40 ac)). Quarter-quarter sections are designated as critical habitat if they contain observed locations, suitable habitat, or connectivity corridors. Quarter-quarter sections were used to delineate critical habitat boundaries because they provide a readily available systematic method to identify areas that encompass the physical and biological features essential to the conservation of the Mount Charleston blue butterfly and they provide boundaries that are easy to describe and interpret for the general public and land management agencies. Critical habitat boundaries were derived from the outer boundary of the polygons selected from the PLSS quarter-quarter sections in the previous steps.

(7) We removed locations from the critical habitat designation based on information received through the notice-and-comment process on the proposed rule. Some of these locations overlap slightly with Mount Charleston blue butterfly habitat previously mapped by DataSmiths 2007. These locations are at the fringe of previously mapped habitat and most of these areas lack one or more of the physical or biological features or are heavily impacted by public recreation and facilities management. We removed a 25-m (82-ft) perimeter distance around established boundaries or developed infrastructure that is consistent with the conclusions of a study on the Karner blue butterfly (*Lycaeides melissa samuelis*), which indicated that habitat within short distances of recreational features may be insufficient to offset recreational impacts on butterfly behavior (Bennett *et al.* 2010, p. 27; Bennett *et al.* 2013, pp. 1794–1795). This distance also is consistent with observations that impacts associated with the campgrounds, day-use areas, and roads tend to be concentrated within a 25-m (82-ft) buffer (Cole 1993, p. 111; Cole 2004, p. 55; Monz *et al.*2010, p. 556; Swick 2013).

Specifically, we removed locations referred to as Dolomite Campground, Foxtail Girl Scout Camp, Foxtail Group Picnic Area, Foxtail Snow Play Area, Lee Canyon Guard Station, Lee Meadows (extirpated Mount Charleston blue butterfly location), McWilliams Campground, Old Mill Picnic Area, Youth Camp, and LVSSR base facilities and lift terminals. These locations are within the established boundaries or developed infrastructure (for example, buildings, roads, parking areas, fire pits, base ski lift terminals, etc.) for the above-listed campgrounds, day-use areas, and ski area facilities, which have extremely high levels of public visitation and associated recreational disturbance. High levels of recreational disturbance in these areas have either severely degraded available habitat, including host and nectar plants, or the intense level of recreational activity severely limits or precludes the use of these areas by the Mount Charleston blue butterfly. Additionally, small

''doughnut holes'' and slivers of land encircled by the buffered areas are not included the final designation, because these fragments do not meet the definition of critical habitat for this subspecies.

When determining critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for Mount Charleston blue butterfly. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification, unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We are designating as critical habitat lands that we have determined are occupied at the time of listing and contain the physical or biological features to support life-history processes that we have determined are essential to the conservation of Mount Charleston blue butterfly. Three units are designated, based on the physical or biological features being present to support the Mount Charleston blue butterfly's life-history processes. All units contain all of the identified physical or biological features and support multiple life-history processes.

The critical habitat designation is defined by the map, as modified by any accompanying regulatory text, presented at the end of this document in the Regulation Promulgation section. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. The coordinates or plot points or both on which the map is based are available to the public on *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0105, on our Internet site *http://www.fws.gov/nevada/nv_species/mcb_butterfly.html,* and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT** above).

Final Critical Habitat Designation

We are designating three units as critical habitat for the Mount Charleston blue butterfly. The critical habitat areas described below constitute our best assessment at this time of areas that meet the definition of critical habitat. Those three units are: (1) South Loop, (2) Lee Canyon, and (3) North Loop. All three units are occupied. The approximate area of each critical habitat unit and the land ownerships are listed in Table 1.

TABLE 1—CRITICAL HABITAT UNITS FOR THE MOUNT CHARLESTON BLUE BUTTERFLY

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit	Land ownership by type	Size of unit in acres (hectares)
1. South Loop	Federal	2,228.0 (901.6)
	State	0
	Local	0
	Private	0
2. Lee Canyon	Federal	2,569.3 (1,039.7)
	State	0
	Local	2.2 (0.9)
	Private	1.2 (0.5)
3. North Loop	Federal	412.9 (167.1)
	State	0
	Local	0
	Private	0
Total	Federal	5,210.2 (2,108.5)
	State	0
	Local	2.2 (0.9)
	Private	1.2 (0.5)

Note: Area sizes may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the Mount Charleston blue butterfly, below.

Unit 1: South Loop

Unit 1 consists of approximately 2,228 ac (902 ha) and is located in Clark County, Nevada. This unit extends south and southeast from near the summit of Charleston Peak along high-elevation ridges to Griffith Peak. The unit likely represents the largest population of Mount Charleston blue butterflies and is the southernmost area identified as critical habitat for the subspecies.

The unit is within the geographic area occupied by the Mount Charleston blue butterfly at the time of listing. It contains the physical or biological features essential to the conservation of the subspecies, including: Elevations between 2,500 m (8,200 ft) and 3,500 m (11,500 ft); no tree cover or no more than 50 percent tree cover; widely spaced, low (less than 15 cm (0.5 ft) in height) forbs and grasses, with exposed soil and rock substrates; the presence of one or more species of larval host plants; and the presence of one or more species of nectar plants.

Habitat in the unit is threatened by the impacts associated with climate change, such as increased drought and extreme precipitation events. Therefore, the physical or biological features essential to the conservation of the species in this unit may require special management considerations or protection to minimize impacts resulting from this threat (see *Special Management Considerations or Protection,* above).

A portion of this unit was burned in July 2013, as part of the Carpenter 1 Fire, which burned into habitat of the Mount Charleston blue butterfly along the ridgelines between Griffith Peak and South Loop, spanning a distance of approximately 3 mi (5 km). Within this

area, there are low-, moderate-, or high-quality patches of Mount Charleston blue butterfly habitat intermixed with non-habitat. The majority of Mount Charleston blue butterfly habitat of moderate or high quality in this area was classified as having a very low burn-severity or low soil burn-severity (Kallstrom 2013, p. 4). Areas with the highest observed concentrations of Mount Charleston blue butterflies within moderate- and high-quality habitat were outside the fire perimeter. Areas of lower quality habitat appear to have had higher tree canopy cover and generally experienced low to moderate soil burn-severity.

Although the burn in this unit may have had short-term impacts to larval host or nectar plants, it is likely that the burn may have long-term benefits to Mount Charleston blue butterfly habitat by reducing canopy cover, thereby providing additional areas for larval host and nectar plants to grow, and releasing nutrients (Brown and Smith 2000, p. 26) into the soil, improving overall plant health and vigor, depending upon successional conditions such as soil types and moisture, and seed sources (Kallstrom 2013, p. 4). Therefore, we are designating as critical habitat areas that contained the physical or biological features essential to the conservation of the Mount Charleston blue butterfly prior to the Carpenter 1 Fire, but may have been burned by the fire, because we expect that these areas continue to contain the physical or biological features essential to conservation of the subspecies.

This unit is completely within the boundaries of the U.S. Department of Agriculture, Humboldt–Toiyabe National Forest, Spring Mountains National Recreation Area. The entire unit is within the Mount Charleston Wilderness, and southwestern portions of the unit overlap with the Carpenter Canyon Research Natural Area. This unit is within the area addressed by the Spring Mountains National Recreation Area Conservation Agreement.

Unit 2: Lee Canyon

Unit 2 consists of approximately 2,569 ac (1,040 ha) of Federal land, 2.2 ac (0.9 ha) of local land, and 1.2 ac (0.5 ha) of private land, and is located in Clark County, Nevada. This unit extends south and southeast from McFarland Peak and along the Bonanza Trail through Lee Canyon to slopes below the north side of the North Loop Trail and the west side of Mummy Mountain. This unit represents the northernmost area identified as critical habitat for the subspecies.

The unit is within the geographic area occupied by the Mount Charleston blue butterfly at the time of listing. It contains the physical or biological features essential to the conservation of the subspecies including: Elevations between 2,500 m (8,200 ft) and 3,500 m (11,500 ft); no tree cover or no more than 50 percent tree cover; widely spaced, low (less than 15 cm (0.5 ft) in height) forbs and grasses, with exposed soil and rock substrates; the presence of one or more species of larval host plants; and the presence of one or more species of nectar plants.

Habitat in the unit is threatened by: Loss and degradation of habitat due to changes in natural fire regimes and succession; implementation of recreational development projects and fuels reduction projects; increases of nonnative plants; and the exacerbation of other threats from the impacts of climate change, which is anticipated to increase drought and extreme precipitation events. Therefore, the features essential to the conservation of the species in this unit require special management considerations or protection to minimize impacts resulting from these threats (see *Special Management Considerations or Protection,* above).

This unit is completely within the administrative boundaries of the U.S. Department of Agriculture, Humboldt–Toiyabe National Forest, Spring Mountains National Recreation Area, with less than 1 percent owned by private landowners or Clark County. Approximately 33 percent of the west side of the unit is within the Mount Charleston Wilderness. This unit is within the area addressed by the Spring Mountains National Recreation Area Conservation Agreement.

Unit 3: North Loop

Unit 3 consists of approximately 413 ac (167 ha) and is located in Clark County, Nevada. This unit extends northeast from an area between Mummy Spring and Fletcher Peak along high-elevation ridges down to an area above the State Highway 158. The unit represents the easternmost area identified as critical habitat for the subspecies.

The unit is within the geographic area occupied by the Mount Charleston blue butterfly at the time of listing. It contains the physical or biological features essential to the conservation of the subspecies including: Elevations between 2,500 m (8,200 ft) and 3,500 m (11,500 ft); no tree cover or no more than 50 percent tree cover; widely spaced, low (less than 15 cm (0.5 ft) in height) forbs and grasses with exposed soil and rock substrates; the presence of one or more species of larval host plants; and the presence of one or more species of nectar plants.

Habitat in the unit is threatened by the impacts associated with climate change, such as increased drought and extreme precipitation events. Therefore, the features essential to the conservation of the species in this unit require special management considerations or protection to minimize impacts resulting from this threat (see *Special Management Considerations or Protection,* above).

This unit is completely within the boundaries of the U.S. Department of Agriculture, Humboldt–Toiyabe National Forest, Spring Mountains National Recreation Area. Approximately 92 percent of the unit is within the Mount Charleston Wilderness. This unit is within the area addressed by the Spring Mountains National Recreation Area Conservation Agreement.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our regulatory definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.,* 245 F.3d 434, 434 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species.

If a Federal action may affect a listed species or its critical habitat, the

responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the physical or biological features to an extent that appreciably reduces the conservation value of critical habitat for the Mount Charleston blue butterfly. As discussed above, the role of critical habitat is to support life-history needs of the species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for the Mount Charleston blue butterfly. These activities include, but are not limited to, actions that would cause the quality, quantity, functionality, accessibility, or fragmentation of habitat or features to change unfavorably for Mount Charleston blue butterfly. Such activities could include, but are not limited to: Ground or soil disturbance, either mechanically or manually; clearing or grading; erosion control; silviculture; fuels management; fire suppression; development; snow management; recreation; feral horse or burro management; and herbicide or pesticide use. These activities could alter: Invasion rates of invasive or nonnative species, habitat necessary for the growth and reproduction of these butterflies and their host or nectar plants, and movement of adults between habitat patches. Such alterations may directly or cumulatively cause adverse effects to Mount Charleston blue butterflies and their life cycles.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: ''The Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan [INRMP] prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' There are no Department of Defense lands with a completed INRMP within the critical habitat designation.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor. We have not excluded any areas from critical habitat under section 4(b)(2) of the Act.

Consideration of Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis which together with our narrative and interpretation of effects we consider our draft economic analysis (DEA) of the proposed critical habitat designation and related factors

(IEc 2014). The analysis, dated May 20, 2014, was made available for public review from July 15, 2014, through September 15, 2014 (79 FR 41225; IEc 2014). The DEA addressed probable economic impacts of critical habitat designation for the Mount Charleston blue butterfly. Following the close of the comment period, we reviewed and evaluated all information submitted during the comment period that pertained to our consideration of the probable incremental economic impacts of this critical habitat designation. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the the Mount Charleston blue butterfly is summarized below and available in the screening analysis for the the Mount Charleston blue butterfly (IEc 2014), available at *http://www.regulations.gov*.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable. We assess to the extent practicable, the probable impacts, if sufficient data are available, to both directly and indirectly impacted entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from the designation of critical habitat for the Mount Charleston blue butterfly, first we identified, in the IEM dated February 10, 2014, probable incremental economic impacts associated with the following categories of activities: (1) Federal lands management (Forest Service); (2) fire management; (3) forest management; (4) recreation; (5) conservation/restoration; and (6) development. We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat affects only activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the Mount Charleston blue butterfly is present, Federal agencies already are required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. Consultations to avoid the destruction or adverse modification of critical habitat will be incorporated into the existing consultation process. Therefore, disproportionate impacts to any geographic area or sector are not likely as a result of this critical habitat designation.

In our IEM, we attempted to clarify the distinction between the effects that can result from the species being listed and those attributable to the critical habitat designation (*i.e.,* the difference between the jeopardy and adverse modification standards) for the Mount Charleston blue butterfly. Because the designation of critical habitat for Mount Charleston blue butterfly was proposed shortly after the listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those that can result solely from the designation of critical habitat. However, the following specific circumstances in this case helped to inform our evaluation: (1) The essential physical and biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to the Mount Charleston blue butterfly would also likely adversely affect the essential physical and biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this designation of critical habitat.

The critical habitat designation for the Mount Charleston blue butterfly totals approximately 5,214 acres (2,110 hectares) in three units, all of which were occupied at the time of listing and contain the physical and biological features essential to the conservation of the species. In these areas, any actions that may affect the species or its habitat would also affect designated critical habitat, and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of the Mount Charleston blue butterfly. Therefore, only administrative costs are expected in all of the critical habitat designation. While this additional analysis will require time and resources by both the Federal action agency and the Service, it is believed that, in most circumstances, these costs would predominantly be administrative in nature and would not be significant.

The Forest Service has administrative oversight of 99.9 percent of the critical habitat area and, as the primary Federal action agency in section 7 consultations, would incur incremental costs associated with the critical habitat designation. In some cases third parties may be involved in areas such as Unit 2 in Lee Canyon, particularly where the Las Vegas Ski and Snowboard Resort special-use-permit area overlaps. However, consultation is expected to occur even in the absence of critical habitat, and incremental costs would be limited to administrative costs resulting from the potential for adverse modification. It is unlikely that there will be any incremental costs associated with the 0.1 percent of non-Federal land, for which we do not foresee any Federal nexus and thus is outside of the context of section 7 of the Act.

The probable incremental economic impacts of the Mount Charleston blue butterfly critical habitat designation are expected to be limited to additional administrative effort, as well as minor costs of conservation efforts resulting from a small number of future section 7 consultations. This is due to two factors: (1) All the critical habitat units are considered to be occupied by the species, and incremental economic impacts of critical habitat designation, other than administrative costs, are unlikely; and (2) the majority of critical habitat is in designated Wilderness Areas where actions are currently limited and few actions are anticipated that will result in section 7 consultation or associated project modifications. Section 7 consultations for critical habitat are estimated to range between $410 and $9,100 per consultation. No more than 12 consultations are anticipated to occur in a year. Based upon these estimates, the maximum estimated incremental cost is estimated to be no greater than $109,200 in a given year. Thus, the annual administrative burden is unlikely to reach $100 million. Therefore, future probable incremental economic impacts are not likely to exceed $100 million in any single year, and disproportionate impacts to any geographic area or sector are not likely as a result of this critical habitat designation.

Exclusions Based on Economic Impacts

Our economic analysis did not identify any disproportionate costs that are likely to result from the designation. Consequently, the Secretary is not

exercising her discretion to exclude any areas from this designation of critical habitat for the Mount Charleston blue butterfly based on economic impacts.

A copy of the IEM and screening analysis with supporting documents may be obtained by contacting the Southern Nevada Fish and Wildlife Office (see **ADDRESSES**) or by downloading from the Internet at *http://www.regulations.gov.*

Exclusions Based on National Security Impacts or Homeland Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. In preparing this final rule, we have determined that no lands within the designation of critical habitat for Mount Charleston blue butterfly are owned or managed by the Department of Defense or Department of Homeland Security, and, therefore, we anticipate no impact on national security or homeland security. Consequently, the Secretary is not exercising her discretion to exclude any areas from this final designation based on impacts on national security or homeland security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we also consider any other relevant impacts resulting from the designation of critical habitat. We consider a number of factors, including whether the landowners have developed any HCPs or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any tribal issues and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this final rule, we have determined that the Clark County HCP is the only permitted HCP or other approved management plan for the Mount Charleston blue butterfly, and the final designation does not include any tribal lands or tribal trust resources. We did not receive comments on the designation of critical habitat for the Mount Charleston blue butterfly as it relates to the Clark County HCP. We anticipate no impact on tribal lands, partnerships, or HCPs from this critical habitat designation. Accordingly, the Secretary is not exercising his discretion to exclude any areas from this final designation based on other relevant impacts.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and therefore, not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7 only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. There is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that, if promulgated, the final critical habitat designation will not have a significant economic impact on a substantial number of small entities.

During the development of this final rule, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on

this information, we affirm our certification that this final critical habitat designation will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared to not taking the regulatory action under consideration. The economic analysis finds that none of these criteria is relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with Mount Charleston blue butterfly conservation activities within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because because minimal critical habitat is within the jurisdiction of small governments. Consequently, we do not believe that the critical habitat designation would significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for the Mount Charleston blue butterfly in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. Due to current public knowledge of the protections for the subspecies and the prohibition against take of the subspecies both within and outside of the critical habitat areas, we do not anticipate that property values will be affected by the critical habitat designation. Based on the best available information, the takings implications assessment concludes that this designation of critical habitat for the Mount Charleston blue butterfly does not pose significant takings implications.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies in Nevada. We did not receive official comments or positions on the proposed designation of critical habitat for the Mount Charleston blue butterfly from State of Nevada agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) will be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the applicable standards set forth in sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the rule identifies the elements of physical or biological features essential to the conservation of the Mount Charleston blue butterfly. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We determined that there are no tribal lands occupied by the Mount Charleston blue butterfly at the time of listing that contain the physical or biological features essential to conservation of the species, and no tribal lands unoccupied by the Mount Charleston blue butterfly that are essential for the conservation of the species. Therefore, we are not designating critical habitat for the Mount Charleston blue butterfly on tribal lands.

References Cited

A complete list of all references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Southern Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rulemaking are the staff members of the Pacific Southwest Regional Office and the Southern Nevada Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Butterfly, Mount Charleston blue'' under INSECTS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
INSECTS							
*	*	*	*	*	*	*	
Butterfly, Mount Charleston blue.	*Icaricia (Plebejus) shasta charlestonensis.*	U.S.A. (Clark County, NV; Spring Mountains).	Entire	E	820	17.95(i)	NA
*	*	*	*	*	*	*	

■ 3. In § 17.95, amend paragraph (i) by adding an entry for ''Mount Charleston Blue Butterfly (*Icaricia* (*Plebejus*) *shasta charlestonensis),''* in the same order that the species appears in the table at § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(i) *Insects.*

* * * * *

Mount Charleston Blue Butterfly (*Icaricia* (*Plebejus*) *shasta charlestonensis*)

(1) Critical habitat units are depicted for Clark County, Nevada, on the map below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of the Mount Charleston blue butterfly consist of three components:

(i) Areas of dynamic habitat between 2,500 meters (m) (8,200 feet (ft)) and 3,500 m (11,500 ft) elevation with openings or where disturbance provides openings in the canopy that have no more than 50 percent tree cover (allowing sunlight to reach the ground); widely spaced, low (less than 15 centimeters (cm) (0.5 ft) in height) forbs and grasses; and exposed soil and rock substrates. When taller grass and forb plants greater than or equal to 15 cm (0.5 ft) in height are present, the density is less than five per square meter (m^2) (50 per square foot (ft^2)).

(ii) The presence of one or more species of host plants required by larvae of the Mount Charleston blue butterfly for feeding and growth. Known larval host plants are *Astragalus calycosus* var. *calycosus, Oxytropis oreophila* var. *oreophila,* and *Astragalus platytropis.* Densities of host plants must be greater than two per m^2 (0.2 per ft^2).

(iii) The presence of one or more species of nectar plants required by adult Mount Charleston blue butterflies for reproduction, feeding, and growth. Common nectar plants include *Erigeron clokeyi, Hymenoxys lemmonii, Hymenoxys cooperi,* and *Eriogonum umbellatum* var. *versicolor.* Densities of nectar plants must occur at more than two per m^2 (0.2 per ft^2) for smaller plants, such as *E. clokeyi,* and more than 0.1 per m^2 (0.01 per ft^2) for larger and taller plants, such as *Hymenoxys* sp. and *E. umbellatum.* Nectar plants typically occur within 10 m (33 ft) of larval host plants and, in combination, provide nectar during the adult flight period between mid-July and early August. Additional nectar sources that could be present in combination with the common nectar plants include *Antennaria rosea, Cryptantha* sp., *Ericameria nauseosa* ssp., *Erigeron flagellaris, Guitierrezia sarothrae, Monardella odoratissima, Petradoria pumila* var. *pumila,* and *Potentilla concinna* var. *concinna.*

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 30, 2015.

(4) *Critical habitat map units.* Data layers defining map units were created on a base of Bureau of Land Management Public Land Survey System quarter-quarter sections. Critical habitat units were then mapped using Universal Transverse Mercator (UTM) Zone 11 North, North American Datum (NAD) 1983 coordinates. The map in this entry, as modified by any accompanying regulatory text, establishes the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at the Service's Internet site at *http://www.fws.gov/nevada/nv_species/mcb_butterfly.html,* at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0105, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Map of critical habitat units for the Mount Charleston blue butterfly follows:

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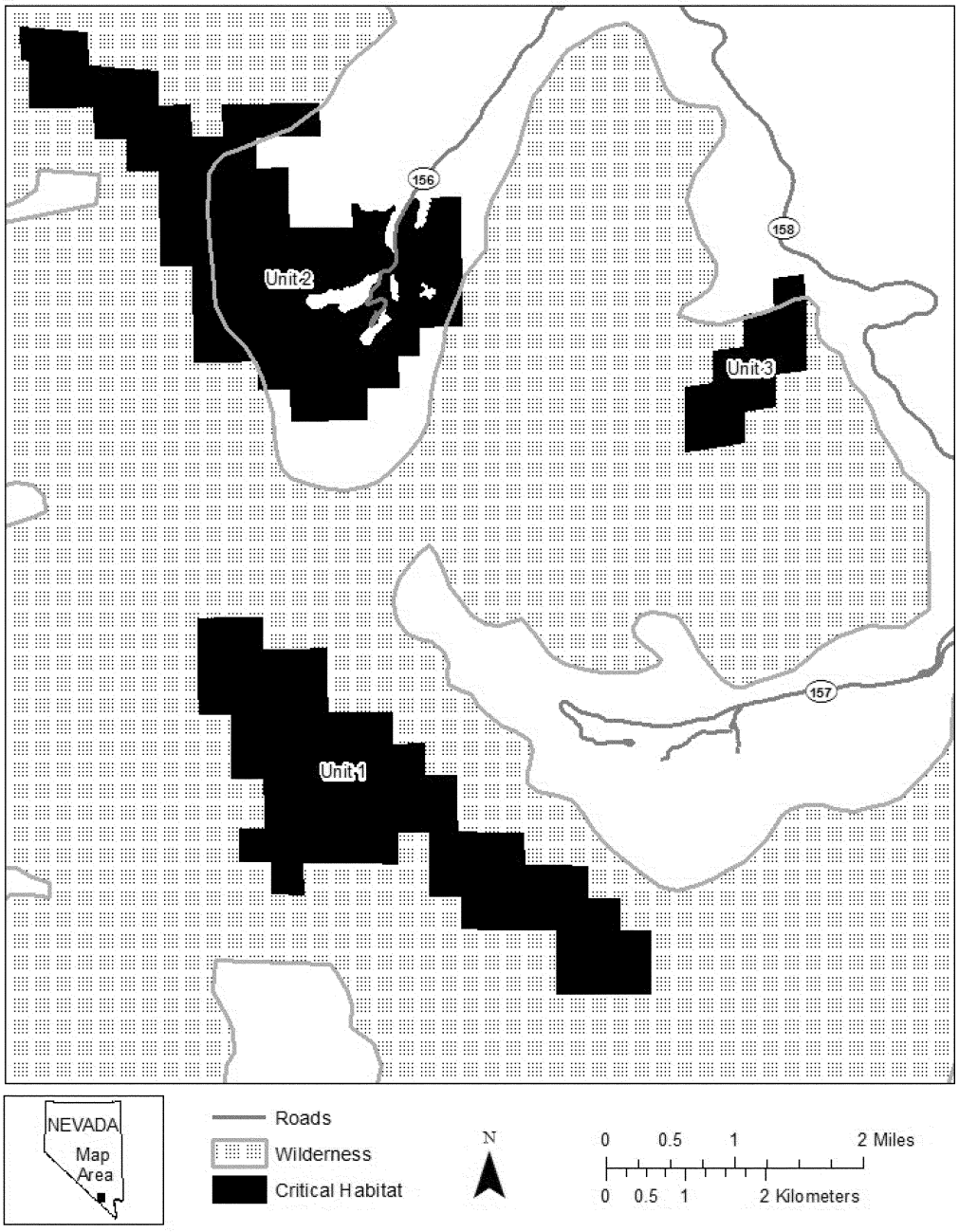
Critical Habitat for Mount Charleston Blue Butterfly
(*Icaricia (Plebejus) shasta charlestonensis*)
Units 1, 2, and 3. Clark County, Nevada



* * * * *

Dated: June 15, 2015.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015–15947 Filed 6–29–15; 8:45 am]

BILLING CODE 4310–55–C

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Part IV

Nuclear Regulatory Commission

10 CFR Parts 170 and 171
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC–2014–0200]

RIN 3150–AJ44

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, and annual fees charged to its applicants and licensees. These amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, which requires the NRC to recover through fees approximately 90 percent of its budget authority in Fiscal Year (FY) 2015, not including amounts appropriated for Waste Incidental to Reprocessing (WIR), the Nuclear Waste Fund (NWF), generic homeland security activities, and Inspector General (IG) services for the Defense Nuclear Facilities Safety Board (DNFSB). These fees represent the cost of the NRC's services provided to applicants and licensees.

DATES: This final rule is effective on August 31, 2015.

ADDRESSES: Please refer to Docket ID NRC–2014–0200 when contacting the NRC about the availability of information for this final rule. You may access publicly-available information related to this final rule by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0200. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

• *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 in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Arlette Howard, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1481, email: *Arlette.Howard@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Over the past 40 years the NRC (and earlier, as the Atomic Energy Commission, the NRC's predecessor agency) has assessed and continues to assess fees to applicants and licensees to recover the cost of its regulatory program. The NRC's cost recovery principles for fee regulation are governed by two major laws: (1) The Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 483 (a)); and (2) OBRA–90 (42 U.S.C. 2214), as amended. The NRC is required each year, under OBRA–90, as amended, to recover approximately 90 percent of its budget authority, not including amounts appropriated for WIR, generic homeland security activities, the NWF, and IG services for the DNFSB, through fees to NRC licensees and applicants.

In addition to the requirements of OBRA–90, as amended, the NRC is also required to comply with the requirements of the Small Business Regulatory Enforcement Fairness Act of 1996. This Act encourages small businesses to participate in the regulatory process, and requires agencies to develop more accessible sources of information on regulatory and reporting requirements for small businesses and create a small entity compliance guide. In this final rule, the NRC continues using a fee methodology for qualifying small entities that establishes a maximum annual fee and minimum annual fee at a reduced rate to ease the financial burden for these licensees.

In compliance with the OBRA–90, as amended, requirement that the NRC collect approximately 90 percent of its budget authority through fee collection by the end of the fiscal year, this rulemaking is based on the $1,015.3 million in appropriations received by the NRC as a result of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235), signed by President Obama on December 16, 2014.

II. Discussion

In compliance with OBRA–90, as amended, and the Atomic Energy Act of 1954 (AEA), the NRC amends its fee schedules for parts 170 and 171 of Title 10 of the *Code of Federal Regulations* (10 CFR) to recover approximately 90 percent of its FY 2015 budget authority, less the amounts appropriated for WIR, the NWF, generic homeland security activities, and IG services for the DNFSB. The 10 CFR part 170 user fees, under the authority of the IOAA, recover the NRC's costs of providing specific regulatory benefits to identifiable applicants and licensees. For example, the NRC assesses these fees to cover the costs of inspections, applications for new licenses and license renewals, and requests for license amendments. The 10 CFR part 171 annual fees, on the other hand, recover generic regulatory costs that are not otherwise recovered through 10 CFR part 170 fees.

FY 2015 Fee Collection

The NRC received total appropriations of $1,015.3 million for FY 2015 as a result of Public Law 113–235, a decrease of $40.6 million from FY 2014. Based on OBRA–90, as amended, the NRC is required to recover $895.5 million through 10 CFR part 170 (user charges) and 10 CFR part 171 (annual fees) for FY 2015. This amount excludes non-fee items for WIR activities totaling $1.4 million, IG services for the DNFSB totaling $0.9 million, and generic homeland security activities totaling $18.1 million. This required fee recovery amount is $35.2 million less than the FY 2014 required fee recovery amount of $930.7 million. After accounting for prior year billing adjustments, the fee recoverable budget is further reduced to $888.7 million to be billed as fees to licensees and applicants under 10 CFR parts 170 and 171. This amount represents a decrease

of $30.2 million from FY 2014 final rule and a decrease of $37.5 million from the FY 2015 proposed fee rule published on March 23, 2015 (80 FR 15746). This decrease is due to the fact that the FY 2015 proposed fee rule was based on the President's proposed budget, rather than the actual FY 2015 appropriation, which included a reduction for fee-based unobligated carryover.

Table I summarizes the final budget and fee recovery amounts for the FY 2015 final fee rule. The FY 2014 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE I—BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

	FY 2014 Final rule	FY 2015 Final rule
Total Budget Authority	$1,055.9	$1,015.3
Less Non-Fee Items	−21.8	−$20.3
Balance	$1,034.1	$995.0
Fee Recovery Rate	90%	90%
Total Amount to be Recovered:	$930.7	$895.5
10 CFR Part 171 Billing Adjustments:		
Unpaid Current Year Invoices (estimated)	0.5	2.8
Less Current Year from Collections (Terminated—Operating Reactors)	−2.2	0
Less Payments Received in Current Year for Previous Year Invoices (estimated)	−12.3	−9.6
Subtotal	−14.0	−6.8
Amount to be Recovered through 10 CFR Parts 170 and 171 Fees	$916.7	$888.7
Less Estimated 10 CFR Part 170 Fees	−332.5	−$321.7
Less Prior Year Unbilled 10 CFR Part 170 Fees	−0.0	−0.0
10 CFR Part 171 Fee Collections Required	$584.2	$567.0

Changes From the FY 2014 Final Fee Rule

In this final fee rule, the NRC amends fees for power reactors, spent fuel storage/reactor decommissioning, nonpower reactors, uranium recovery facilities, fuel facilities, materials users, and the U.S. Department of Energy's (DOE) transportation license as compared to the FY 2014 final rule. The total amount of annual fees to be recovered, $567 million, represents a decrease of $19.4 million from the FY 2014 final rule. Overall, annual fees for operating reactors decrease as a result of reduced budgetary resources, but this decrease is partially offset by a decline in 10 CFR part 170 billings and the permanent shutdown of Vermont Yankee. Additionally, annual fees for the fuel facilities fee class increase from FY 2014 as a result of the following: (1) Reduced 10 CFR part 170 billings for operational readiness reviews and inspections due to significant delays in construction; and (2) the termination of the certificate for the United States Enrichment Corporation's Paducah, Kentucky facility. For the transportation fee class, the annual fees increase from FY 2014, primarily due to rulemaking activities concerning 10 CFR part 71 compatibility with the International Atomic Energy Agency's transportation standards and improvements. Additionally, the increase in the annual fee for the transportation fee class is attributed to reduced 10 CFR part 170 billings caused by shifts in workload priorities. For 10 CFR part 170 hourly fees, the total amount to be recovered is $321.7 million, a decrease of $10.8 million from FY 2014.

Changes From the FY 2015 Proposed Fee Rule (Including the FY 2015 Estimated Final Rule Amounts)

In comparison to the FY 2015 proposed fee rule and the estimated FY 2015 final budget and fee rule recovery amounts, the NRC will collect $321.7 million in hourly fees (user charges), a decrease of $2.6 million from both estimates, respectively, for this final rule. This change is a result of the decline in estimated 10 CFR part 170 collections for the power reactor fee class due to unexpected application suspensions (particularly, the U.S. Evolutionary Power Reactor (EPR) design certification application and the Calvert Cliffs combined license application). The NRC will collect $567 million in annual fees, a decrease of $34.9 million from the FY 2015 proposed fee rule estimate and an increase of $4.8 million from the estimated FY 2015 final annual fees total. The change from the FY 2015 proposed fee rule and estimated FY 2015 final annual fees total is the result of the reduced estimated 10 CFR part 170 collections, as well as the 10 CFR part 171 billing adjustment.

The NRC proposed to establish an annual fee for rare earth facilities in the proposed FY 2015 fee rule. At the time the NRC issued its proposed fee rule, the NRC estimated that a portion of the budgeted resources for this fee class was not going to be collected through 10 CFR part 170 user fees, therefore requiring the establishment of an annual part 10 CFR part 171 fee to recover the remainder of the budgeted authority for this fee class. Upon further analysis, the NRC determined all budgeted resources for the rare earth facilities will be collected through 10 CFR part 170 this fiscal year. Therefore, NRC lacks a statutory basis to assess 10 CFR part 171 fees to this fee class, because that fee would not bear a reasonable relationship to the cost of providing generic NRC services, as there are no generic activities supporting this fee class. Therefore, in this final rule, the NRC omits the annual fee for rare earth facilities.

Hourly Rate

The NRC's hourly rate is used in assessing full cost fees for specific services provided by the NRC, as well as flat fees for activities such as NRC review of applications. For FY 2015, the NRC's hourly rate is $268, a decrease of $9 from the hourly rate in the FY 2015 proposed fee rule. The FY 2014 hourly rate (the current hourly rate) is $279. This rate is applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The decrease in the FY 2015 hourly rate is due to an increase in estimated direct hours worked per mission-direct full-time equivalent (FTE) during the year and reduced budget. The hourly rate is inversely related to the mission-direct FTE rate. Therefore, as the FTE rate increases, the hourly rate decreases.

The NRC's hourly rate is derived by dividing the sum of recoverable budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and (3) agency overhead or indirect costs—which includes corporate support, office support, and the IG. The mission-direct FTE hours are the product of the mission-direct FTE multiplied by the hours per direct FTE. The only budgeted resources excluded from the hourly rate are those for contract activities related to mission-direct and fee-relief activities. Billable contract activities are included as a separate line item on the 10 CFR part 170 invoice.

In FY 2015, the NRC used 1,420 hours per direct FTE to calculate the hourly fee rate, which is higher than the FY 2014 estimate of 1,375 hours per direct FTE and represents increased productivity. These hours exclude all indirect activities such as training and general administration. The NRC generated this figure by reviewing and analyzing current available time and labor data from FY 2010 through FY 2012. As a result of that review, the NRC determined that the direct hours per FTE for FY 2015 budget formulation should be revised.

Table II shows the results of the hourly rate calculation methodology. The FY 2014 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE II—HOURLY RATE CALCULATION

	FY 2014 Final rule	FY 2015 Final rule
Mission-Direct Program Salaries & Benefits	$359.2	$365.6
Mission-Indirect Program Support	$21.0	$67.7
Agency Support (Corporate Support, Office Support and the IG)	*$486.0*	*$422.7*
Subtotal	$866.2	$856
Less Offsetting Receipts	*– $0.0*	*– $0.0*
Total Budget Included in Hourly Rate (Millions of Dollars)	$866.2	$856
Mission-Direct FTE (Whole numbers)	2,254	2,250
Professional Hourly Rate (Total Budget Included in Hourly Rate Divided by Mission-Direct FTE Hours-1420) (Whole Numbers)	$279	$268

As shown in Table II, dividing the FY 2015 $856 million budget amount included in the hourly rate by total mission-direct FTE hours (2,250 FTE times 1,420 hours) results in an hourly rate of $268. The hourly rate is rounded to the nearest whole dollar.

Flat Application Fee Changes

The NRC amends the current flat application fees in §§ 170.21 and 170.31 to reflect the revised hourly rate of $268. These flat fees are calculated by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2015. The agency estimates the average professional staff hours needed to process licensing actions every other year as part of its biennial review of fees performed in compliance with the Chief Financial Officers Act of 1990. The NRC performed this review for the FY 2015 proposed rule. The lower hourly rate of $268 is the primary reason for the decrease in application fees.

In general, any increases in application fees are due to the increased number of hours required to perform specific activities based on the biennial review. The NRC staff determined via a recent analysis that application fees for 12 fee categories (2.D., 3.C., 3.H., 3.M., 3.P., 3.R.2., 3.S., 4.B., 5.A., 7.A., 7.C., and 17 under § 170.31) will increase as a result of an increase in the average time spent processing these types of license applications. (Fee category 17 should have been counted in this analysis in the FY 2015 proposed fee rule.) The decrease in fees for 7 fee categories (2.C., 2.E., 2.F., 3.B., 3.I., 3.N., and 3.O. under § 170.31) is primarily due to the reduced hourly rate and a decrease in the average time to process these types of applications. Also, the NRC staff determined via a recent analysis that the application fees increase for 3 import and export fee categories (K.4., K.5., and 15.D. under § 170.31) and decrease for 13 import and export fee categories (15.A. thru 15.L., and 15.R. under § 170.31), an increase of 9 fee categories from the FY 2015 proposed fee rule as a result of the reduced hourly rate.

The amounts of the materials licensing flat fees are rounded so that the fees would be convenient to the user and the effects of rounding would be minimal. Fees under $1,000 are rounded to the nearest $10, fees that are greater than $1,000 but less than $100,000 are rounded to the nearest $100, and fees that are greater than $100,000 are rounded to the nearest $1,000.

The final licensing flat fees are applicable for fee categories K.1. through K.5. of § 170.21, and fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31. Applications filed on or after the effective date of the FY 2015 final fee rule would be subject to the revised fees in the final rule.

Application of Rebaselining, Fee-Relief, and Low-Level Waste (LLW) Surcharge

For this rulemaking, the NRC established rebaselined annual fees in accordance with SECY–05–0164, ''Annual Fee Calculation Method,'' September 15, 2005 (ADAMS Accession No. ML052580332). The rebaselining method analyzes the budget in detail and allocates the budgeted costs to various classes or subclasses of licensees. Stated otherwise, rebaselining is the annual reallocation of NRC resources based on changes in the NRC's budget. The NRC established the rebaselined methodology for calculating annual fees through notice and comment rulemaking in the FY 1999 fee rule (64 FR 31448; June 10, 1999), determining that base annual fees will be re-established (rebaselined) every third year, or more frequently if there is a substantial change in the total NRC budget or in the magnitude of the budget allocated to a specific class of licenses. The FY 2015 fee rulemaking

used this same rebaselining methodology.

Moreover, in FY 2015, the NRC will use its fee-relief surcharge to increase all licensees' annual fees, based on their percentage share of the budget. Every year, the NRC applies the 10 percent of its budget that is excluded from fee recovery under OBRA–90 to offset the total budget allocated for activities that do not directly benefit current NRC licensees (these activities fall within the NRC's fee-relief category). The budget for these fee-relief activities is totaled, and then reduced by the amount of the NRC's fee relief. Any difference between the 10-percent appropriation and the budgeted amount of these activities results in a fee-relief adjustment (either an increase or decrease) to all licensees' annual fees, based on their percentage share of the budget. In FY 2015, there is an increase to all licensees' annual fees, for the reasons stated.

From the FY 2015 proposed fee rule, the most significant change under fee relief is under the scholarship and fellowship fee relief category. For this category, the budgetary resources increased to $18.9 million from $4.1 million because the FY 2015 appropriations require the NRC to fund the $15 million Integrated University Program.

Additionally, in the Staff Requirements Memorandum for SECY–14–0082, ''Jurisdiction for Military Radium and U.S. Nuclear Regulatory Commission Oversight of U.S. Department of Defense Remediation of Radioactive Material'' (ADAMS Accession No. ML14356A070), the Commission approved the staff's recommendation to finalize and implement a Memorandum of Understanding (MOU) with the U.S. Department of Defense (DOD) for remediation of DOD unlicensed sites containing radioactive materials subject to the NRC's regulatory authority. The MOU is slated to be finalized in FY 2015. As part of this effort, the Commission approved the establishment of a new fee-relief category for the regulatory activities for the monitoring of DOD unlicensed sites under the MOU. Consistent with this direction, the NRC includes a new activity under fee-relief activities, within 10 CFR part 170 licensing and inspection fees or 10 CFR part 171 annual fees. These program activities capture site-specific oversight activities performed under the MOU and any ongoing non-site specific MOU-related program activities. These activities will, therefore, be funded by the agency's 10-percent appropriation.

The FY 2015 budgeted resources for fee-relief activities are greater than the 10-percent fee relief amount by $1.0 million, which differs from the −$14.6 million mentioned in the FY 2015 proposed fee rule due to the reasons stated. After applying the generic LLW surcharge amount of $3.9 million, the total net adjustment to fee assessments is $4.9 million. The NRC allocates the LLW surcharge based on the volume of LLW disposal of three classes of licenses: operating reactors, fuel facilities, and materials users. Because LLW activities support NRC licensees and Agreement States, the costs of these activities are recovered through annual fees from NRC licensees.

In comparison, the FY 2014 fee relief resources were −$1.3 million. After applying the generic LLW surcharge amount of $3.2 million, the net FY 2014 fee relief adjustment to fee assessments was $1.9 million. Table III summarizes the fee-relief activities for FY 2015. The FY 2014 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE III—FEE-RELIEF ACTIVITIES

[Dollars in millions]

Fee-relief activities	FY 2014 Budgeted costs	FY 2015 Budgeted costs
1. Activities not attributable to an existing NRC licensee or class of licensee:		
a. International activities	$11.2	$9.3
b. Agreement State oversight	$12.6	$12.0
c. Scholarships and Fellowships	$18.9	$18.9
d. Medical Isotope Production	$3.1	$4.9
2. Activities not assessed under 10 CFR part 170 licensing and inspection fees or 10 CFR part 171 annual fees based on existing law or Commission policy:		
a. Fee exemption for nonprofit educational institutions	$11.9	$10.3
b. Costs not recovered from small entities under 10 CFR 71.16(c)	$8.4	$8.8
c. Regulatory support to Agreement States	$17.9	$18.5
d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	$17.1	$16.4
e. *In Situ* leach rulemaking and unregistered general licensees	*$1.0*	*$1.4*
f. Potential Department of Defense remediation program MOU activities	0.0	0.0
Total fee-relief activities	$102.1	$100.5
Less 10 percent of the NRC's total FY budget (less non-fee items)	*−$103.4*	*−$99.5*
Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees	−$1.3	$1.0

Table IV shows how the NRC allocated the $4.9 million fee-relief assessment adjustment to each license fee class. As explained previously, the NRC allocated this fee-relief adjustment to each license fee class based on their percentage of the budget for their fee class compared to the NRC's total budget. This adjustment was added to the required annual fee recovery for each fee class.

Table IV also shows the allocation of the LLW surcharge activity. For FY 2015, the total budget allocated for LLW activity is $3.9 million. (Individual values may not sum to totals due to rounding.)

TABLE IV—ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE, FY 2015

[Dollars in millions]

	LLW Surcharge		Fee-relief adjustment		Total
	Percent	$	Percent	$	$
Operating Power Reactors	32	1.2	86.1	0.8	2.1
Spent Fuel Storage/Reactor Decommissioning	0	0	3.8	0.0	0.0
Research and Test Reactors	0	0	0.3	0.0	0.0
Fuel Facilities	54	2.1	4.9	0.0	2.1
Materials Users	14	0.5	3.1	0.1	0.6
Transportation	0	0	0.5	0.0	0.0
Rare Earth Facilities	0	0	0.0	0.0	0.0
Uranium Recovery	0	0	1.2	0.0	0.0
Total	100	3.9	100	1.0	4.9

Revised Annual Fees

As previously stated, the NRC is required to establish rebaselined annual fees, which includes updating the number of NRC licensees in its fee calculation methodology. In the agency's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the Commission determined that the agency should proceed with a presumption in favor of rebaselining when calculating annual fees each year. Rebaselining involves a detailed analysis of the NRC's budget, with the NRC allocating budgeted resources to fee classes and categories of licensees.

Therefore, in FY 2015, the NRC revises its annual fees in §§ 171.15 and 171.16 to recover approximately 90 percent of the NRC's FY 2015 budget authority, less non-fee amounts and the estimated amount to be recovered through 10 CFR part 170 fees. For FY 2015, the NRC's total fee recoverable budget, as mandated by law, is $895.5 million, a decrease of $35.2 million compared to FY 2014. After accounting for billing adjustments, the fee recoverable budget is further reduced to $888.7 million for FY 2015, a decrease of $28 million from FY 2014. The total estimated 10 CFR part 170 collections for this final rule total are $321.7 million, a decrease of $10.8 million from the FY 2014 fee rule, primarily within the power reactor and fuel facilities fee classes, while the spent fuel storage fee class has increased 10 CFR part 170 collections. The total amount to be recovered through annual fees from current licensees for this final rule is $567 million, a decrease of $17.2 million from the FY 2014 final rule. These decreases are later explained in detail within each fee class.

The FY 2015 budget was allocated to the appropriate fee class based on budgeted activities. Compared to FY 2014 annual fees, the FY 2015 rebaselined fees decrease for operating reactors, spent fuel storage and reactor decommissioning, and research and test reactors fee classes while annual fees increase for DOE transportation activities, fuel facilities fee classes, some materials users, and most uranium recovery licensees.

The factors affecting all annual fees include the distribution of budgeted costs to the different classes of licenses (based on the specific activities the NRC will perform in FY 2015), the estimated 10 CFR part 170 collections for the various classes of licenses, and allocation of the fee-relief surplus adjustment to all fee classes.

Table V shows the rebaselined fees for FY 2015 for a representative list of categories of licensees. The FY 2014 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE V—REBASELINED ANNUAL FEES

Class/Category of licenses	FY 2014 Final annual fee	FY 2015 Final annual fee
Operating Power Reactors	$4,999,000	$4,807,000
+ Spent Fuel Storage/Reactor Decommissioning	224,000	223,000
Total, Combined Fee	5,223,000	5,030,000
Spent Fuel Storage/Reactor Decommissioning	224,000	223,000
Research and Test Reactors (Nonpower Reactors)	84,500	83,500
High Enriched Uranium Fuel Facility	7,175,000	8,473,000
Low Enriched Uranium Fuel Facility	2,469,000	2,915,000
UF_6 Conversion and Deconversion Facility	1,466,000	1,731,000
Conventional Mills	33,800	36,100
Typical Materials Users:		
Radiographers (Category 3O)	29,800	25,800
Well Loggers (Category 5A)	13,600	14,400
Gauge Users (Category 3P)	6,800	8,000
Broad Scope Medical (Category 7B)	35,700	37,500

The work papers (ADAMS Accession No. ML15160A434) that support this final rule show in detail the allocation of the NRC's budgeted resources for each class of licenses and how the fees are calculated. The work papers are available as indicated in Section XV, ''Availability of Documents,'' of this document.

Paragraphs a. through h. of this section describes budgetary resources allocated to each class of licenses and the calculations of the rebaselined fees. Individual values in the tables

presented in this section may not sum to totals due to rounding.

a. Fuel Facilities.

The FY 2015 budgeted costs to be recovered in the annual fees assessment to the fuel facility class of licenses (which includes licensees in fee categories 1.A.(1)(a), 1.A.(1)(b), 1.A.(2)(a), 1.A.(2)(b), 1.A.(2)(c), 1.E., and 2.A.(1) under § 171.16) are approximately $42.9 million. This value is based on the full cost of budgeted resources associated with all activities that support this fee class, which is reduced by estimated 10 CFR part 170 collections and adjusted for allocated generic transportation resources and fee-relief. In FY 2015, the LLW surcharge for fuel facilities is added to the allocated fee-relief adjustment (see Table IV, ''Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2015,'' in Section II, ''Discussion,'' of this document). The summary calculations used to derive this value are presented in Table VI for FY 2015, with FY 2014 values shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2014 Final	FY 2015 Final
Total budgeted resources	$47.2	$42.8
Less estimated 10 CFR part 170 receipts	−$16.7	−$11.5
Net 10 CFR part 171 resources	$30.5	$31.3
Allocated generic transportation	$0.6	$0.8
Fee-relief adjustment/LLW surcharge	$1.1	$2.1
Billing adjustments	−$0.6	−$0.3
Reclassification of licensee current year fee billing received:	−$2.2	0.0
Total remaining required annual fee recovery	$29.5	$33.9

In FY 2015, the fuel facilities budgetary resources decreased due to reduced construction activities and licensing amendments compared to FY 2014. Despite the decrease in budgeted resources, the fuel facilities annual fees in FY 2015 increase compared to FY 2014 due to reduced 10 CFR part 170 billings for operation reviews and inspections resulting from numerous delays at the Chicago Bridge and Iron AREVA MOX Services Mixed Oxide Fuel Fabrication Facility, the International Isotopes uranium de-conversion facility, the Global Laser Enrichment (GLE) uranium enrichment facility, and the AREVA Eagle Rock Uranium Enrichment facility. Annual fees also increased as a result of the termination of the certificate for United States Enrichment Corporation's Paducah, Kentucky facility. The NRC allocates the total remaining annual fee recovery amount to the individual fuel facility licensees, based on the effort/fee determination matrix developed for the FY 1999 final fee rule (64 FR 31447; June 10, 1999). In the matrix included in the publicly-available NRC work papers, licensees are grouped into categories according to their licensed activities (*i.e.,* nuclear material enrichment, processing operations, and material form) and the level, scope, depth of coverage, and rigor of generic regulatory programmatic effort applicable to each category from a safety and safeguards perspective. This methodology can be applied to determine fees for new licensees, current licensees, licensees in unique license situations, and certificate holders.

This methodology is adaptable to changes in the number of licensees or certificate holders, licensed or certified material and/or activities, and total programmatic resources to be recovered through annual fees. When a license or certificate is modified, it may result in a change of category for a particular fuel facility licensee, as a result of the methodology used in the fuel facility effort/fee matrix. Consequently, this change may also have an effect on the fees assessed to other fuel facility licensees and certificate holders. For example, if a fuel facility licensee amends its license/certificate to reflect cessation of licensed activities (*e.g.,* decommissioning or license termination), then that licensee will not be subject to 10 CFR part 171 costs applicable to the fee class, and the budgeted generic costs for the safety and/or safeguards components that continue to be associated with the license will have to be spread among the remaining fuel facility licensees/certificate holders.

The methodology is applied as follows. First, a fee category is assigned, based on the nuclear material possessed or used, and/or the activity or activities authorized by license or certificate. Although a licensee/certificate holder may elect not to fully use a license/certificate, the license/certificate is still used as the source for determining authorized nuclear material possession and use/activity. Second, the category and license/certificate information are used to determine where the licensee/certificate holder fits into the matrix. The matrix depicts the categorization of licensees/certificate holders by authorized material types and use/activities.

Each year, the NRC's fuel facility project managers and regulatory analysts determine the level of effort associated with regulating each of these facilities. This is done by assigning, for each fuel facility, separate effort factors for the safety and safeguards activities associated with each type of regulatory activity. The matrix includes 10 types of regulatory activities, including enrichment and scrap/waste-related activities (see the work papers for the complete list). The NRC then calculates the total for all activities per licensee benefit factors by each fee category.

The effort factors for the various fuel facility fee categories are summarized in Table VII. In this rulemaking, some of the effort factors changed from the FY 2015 proposed fee rule as a result of the decertification of the Paducah facility. The value of the effort factors shown, as well as the percent of the total effort factor for all fuel facilities, reflects the total regulatory effort for each fee category (not per facility). This results in the spreading of costs to other fee categories.

TABLE VII—EFFORT FACTORS FOR FUEL FACILITIES, FY 2015

Facility type (fee category)	Number of facilities	Effort factors (percent of total)	
		Safety	Safeguards
High-Enriched Uranium Fuel (1.A.(1)(a))	2	89 (44.3)	97 (56.7)
Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70 (34.8)	26 (15.2)
Limited Operations (1.A.(2)(a))	0	0 (0.0)	0 (0.0)
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	1	3 (1.5)	15 (8.8)
Hot Cell (1.A.(2)(c))	1	6 (3.0)	3 (1.8)
Uranium Enrichment (1.E.)	1	21 (10.4)	23 (13.5)
UF_6 Conversion and Deconversion (2.A.(1))	1	12 (6.0)	7 (4.1)

For FY 2015, the total budgeted resources for safety activities are $17.2 million, excluding the fee-relief adjustment and the reclassification adjustment. This amount is allocated to each fee category based on its percent of the total regulatory effort for safety activities. For example, if the total effort factor for safety activities for all fuel facilities is 100, and the total effort factor for safety activities for a given fee category is 10, that fee category will be allocated 10 percent of the total budgeted resources for safety activities. Similarly, the budgeted resources amount of $14.6 million for safeguards activities is allocated to each fee category based on its percent of the total regulatory effort for safeguards activities. The fuel facility fee class' portion of the fee-relief/LLW adjustment, $2.1 million, is allocated to each fee category based on its percent of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The fee (rounded) for each facility is summarized in Table VIII.

TABLE VIII—ANNUAL FEES FOR FUEL FACILITIES

Facility type (fee category)	FY 2015 Final annual fee
High-Enriched Uranium Fuel (1.A.(1)(a))	$8,473,000
Low-Enriched Uranium Fuel (1.A.(1)(b))	2,915,000
Limited Operations (1.A(2)(a))	0
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	1,640,000
Hot Cell (and others) (1.A.(2)(c))	820,000
Uranium Enrichment (1.E.)	4,009,000
UF_6 Conversion and Deconversion (2.A.(1))	1,731,000

b. Uranium Recovery Facilities.

The total FY 2015 budgeted costs to be recovered through annual fees assessed to the uranium recovery class (which includes licensees in fee categories 2.A.(2)(a), 2.A.(2)(b), 2.A.(2)(c), 2.A.(2)(d), 2.A.(2)(e), 2.A.(3), 2.A.(4), 2.A.(5), and 18.B. under § 171.16) are approximately $1.0 million. The derivation of this value is shown in Table IX, with FY 2014 values shown for comparison purposes.

TABLE IX—ANNUAL FEE SUMMARY CALCULATIONS

[Dollars in millions]

Summary fee calculations	FY 2014 Final	FY 2015 Final
Total budgeted resources	$10.9	$11.3
Less estimated 10 CFR part 170 receipts	−$9.5	−$10.1
Net 10 CFR part 171 resources	$1.3	$1.2
Allocated generic transportation	N/A	N/A
Fee-relief adjustment	−$0.0	−$0.0
Billing adjustments	−$0.1	−$0.1
Total required annual fee recovery	$1.2	$1.1

In comparison to FY 2014, the FY 2015 budgetary resources for uranium recovery licensees increased due, in part, to the additional resources necessary to conduct the environmental reviews for materials licenses applications for uranium recovery facilities (including tribal consultations in support of the National Historic Preservation Act Section 106 reviews). Specifically, the NRC staff has been developing process changes to facilitate the environmental reviews for uranium recovery applications.

Since FY 2002, the NRC has computed the annual fee for the uranium recovery fee class by allocating the total annual fee amount for this fee class between the DOE and the other licensees in this fee class. The NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act (UMTRCA). The Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for the weapons program. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

In FY 2015, the annual fee assessed to DOE includes recovery of the costs

specifically budgeted for the NRC's UMTRCA Title I and II activities, plus 10 percent of the remaining annual fee amount, including generic/other costs (plus 10 percent of the fee-relief/LLW adjustment), for the uranium recovery class. The NRC assesses the remaining 90 percent generic/other costs plus 90 percent of the fee-relief adjustment, to the other NRC licensees in the fee class that are subject to annual fees.

The costs to be recovered through annual fees assessed to the uranium recovery class are shown in Table X.

TABLE X—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FEE CLASS

Summary of costs	FY 2015 Final annual fee
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses:	$622,898
UMTRCA Title I and Title II budgeted costs less 10 CFR part 170 receipts	
10 percent of generic/other uranium recovery budgeted costs	41,986
10 percent of uranium recovery fee-relief adjustment	1,251
Total Annual Fee Amount for DOE (rounded)	666,000
Annual Fee Amount for Other Uranium Recovery Licenses:	377,874
90 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for Title I and Title II activities.	
90 percent of uranium recovery fee-relief adjustment	11,255
Total Annual Fee Amount for Other Uranium Recovery Licenses	389,129

The NRC will continue to use a matrix, which is included in the work papers, to determine the level of effort associated with conducting the generic regulatory actions for the different (non-DOE) licensees in this fee class. The weights derived in this matrix are used to allocate the approximately $377,874 annual fee amount to these licensees. The use of this uranium recovery annual fee matrix was established in the FY 1995 final fee rule (60 FR 32217; June 20, 1995). In this rulemaking, some of the matrix factors changed slightly from the FY 2015 proposed fee rule to accurately reflect the number of materials licensees. The matrix is described as follows.

First, the methodology identifies the categories of licenses included in this fee class (besides DOE). These categories are: Conventional uranium mills and heap leach facilities; uranium *In Situ* Recovery (ISR) and resin ISR facilities, and mill tailings disposal facilities, as defined in Section 11e.(2) of the AEA (11e.(2) disposal facilities); and uranium water treatment facilities.

Second, the matrix identifies the types of operating activities that support and benefit these licensees. The activities related to generic decommissioning/reclamation are not included in the matrix because they are included in the fee-relief activities. Therefore, they are not a factor in determining annual fees. The activities included in the matrix relate to operations, waste operations, and groundwater protection. The relative weight of each type of activity is then determined, based on the regulatory resources associated with each activity. The operations, waste operations, and groundwater protection activities have weights of 0, 5, and 10, respectively, in the matrix. These benefit factors are first multiplied by the relative weight assigned to each activity. The NRC then calculates the total for all activities per licensee benefit factors by each fee category. Therefore, these benefit factors reflect the relative regulatory benefit associated with each licensee and fee category.

Each year, the NRC determines the level of benefit to each licensee for generic uranium recovery program activities for each type of generic activity in the matrix. This is done by assigning, for each fee category, separate benefit factors for each type of regulatory activity in the matrix. The relative weight of each type of activity is then determined, based on the regulatory resources associated with each activity. These benefit factors are first multiplied by the relative weight assigned to each activity. The NRC then calculates total and per licensee benefit factors for each fee category.

Table XI displays the benefit factors per licensee and per fee category, for each of the non-DOE fee categories included in the uranium recovery fee class as follows:

TABLE XI—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Conventional and Heap Leach mills (2.A.(2)(a))	1	150	150	9
Basic *In Situ* Recovery facilities (2.A.(2)(b))	6	190	1,140	71
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	1	215	215	13
11e.(2) disposal incidental to existing tailings sites (2.A.(4))	1	85	85	5
Uranium water treatment (2.A.(5))	1	25	25	2
Total	10	665	1,615	100

Applying these factors to the approximately $389,129 in budgeted costs to be recovered from non-DOE uranium recovery licensees results in the total annual fees for each fee category. The annual fee per licensee is calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in

that fee category, as summarized in Table XII.

TABLE XII—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

(Other than DOE)

Facility type (fee category)	FY 2015 Final annual fee
Conventional and Heap Leach mills (2.A.(2)(a))	$36,100
Basic *In Situ* Recovery facilities (2.A.(2)(b))	45,800
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	51,800
11e.(2) disposal incidental to existing tailings sites (2.A.(4))	20,500
Uranium water treatment (2.A.(5))	6,000

c. Operating Power Reactors

The total budgeted costs to be recovered from the power reactor fee class in FY 2015 in the form of annual fees is $475.9 million, as shown in Table XIII. The FY 2014 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XIII—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2014 Final	FY 2015 Final
Total budgeted resources	$799.3	$762.1
Less estimated 10 CFR part 170 receipts	*−$290.9*	*−$284.1*
Net 10 CFR part 171 resources	$508.4	$478.0
Allocated generic transportation	$1.1	$1.7
Fee-relief adjustment/LLW surcharge	$0.6	$2.1
Billing adjustment	*−$10.2*	*−5.9*
Total required annual fee recovery	$499.9	$475.9

In comparison to FY 2014, the operating reactor budgetary resources decrease in FY 2015 to reflect the conclusion of Kewaunee, Crystal River 3, and San Onofre Nuclear Generating Station, Units 1 and 2, operating reactor oversight responsibilities. In FY 2015, the operating power reactor annual fee decreases as a result of reduced budgetary resources and are partially offset by a decrease in 10 CFR part 170 billings due to unexpected new reactor application suspensions and the shutdown of one power reactor, Vermont Yankee. The permanent shutdown of the Vermont Yankee reactor decreases the fleet of operating reactors, which subsequently increases the annual fees for the rest of the fleet.

The budgeted costs to be recovered through annual fees to power reactors are divided equally among the 99 power reactors licensed to operate, resulting in an FY 2015 annual fee of $4,807,000 per reactor. Additionally, each power reactor licensed to operate would be assessed the FY 2015 spent fuel storage/reactor decommissioning annual fee of $223,000. The total FY 2015 annual fee is $5,030,000 for each power reactor licensed to operate. The annual fees for power reactors are presented in § 171.15.

d. Spent Fuel Storage/Reactors in Decommissioning

For FY 2015, budgeted costs of $32.4 million for spent fuel storage/reactor decommissioning would be recovered through annual fees assessed to 10 CFR part 50 power reactors and to 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license. Those reactor licensees that have ceased operations and have no fuel onsite would not be subject to these annual fees.

In comparison to FY 2014, the decreased annual fee is a result of a decrease in budgetary resources and increased estimated 10 CFR part 170 collections for inspections at Beaver Valley and Pilgrim Power Stations for FY 2015. Table XIV shows the calculation of this annual fee amount. The FY 2014 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XIV—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR IN DECOMMISSIONING FEE CLASS

[Dollars in millions]

Summary fee calculations	FY 2014 Final	FY 2015 Final
Total budgeted resources	$32.7	$32.4
Less estimated 10 CFR part 170 receipts	*−$5.4*	*−$5.9*
Net 10 CFR part 171 resources	$27.3	$26.5
Allocated generic transportation	$0.6	$1.0

TABLE XIV—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR IN DECOMMISSIONING FEE CLASS—Continued

[Dollars in millions]

Summary fee calculations	FY 2014 Final	FY 2015 Final
Fee-relief adjustment	*$0.0*	*– $0.0*
Billing adjustments	*– $0.4*	*– $0.3*
Total required annual fee recovery	$27.5	$27.2

The required annual fee recovery amount is divided equally among 122 licensees, resulting in an FY 2015 annual fee of $223,000 per licensee.

e. Research and Test Reactors (Nonpower Reactors)

Approximately $330,000 in budgeted costs would be recovered through annual fees assessed to the research and test reactor class of licenses for FY 2015. Table XV summarizes the annual fee calculation for the research and test reactors for FY 2015. The FY 2014 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR RESEARCH AND TEST REACTORS

[Dollars in millions]

Summary fee calculations	FY 2014 Final	FY 2015 Final
Total budgeted resources	$2.63	$2.51
Less estimated 10 CFR part 170 receipts	*– $2.28*	*– $2.19*
Net 10 CFR part 171 resources	$0.35	$0.32
Allocated generic transportation	$0.03	$0.03
Fee-relief adjustment	*– $0.01*	*– $0.00*
Billing adjustments	*– $0.03*	*– $0.02*
Total required annual fee recovery	$0.34	$0.33

In FY 2015, the annual fees decrease for research and test reactors as result of a slight decline in budgetary resources. The required annual fee recovery amount is divided equally among the four research and test reactors subject to annual fees and results in an FY 2015 annual fee of $83,500 for each licensee.

f. Materials Users.

The NRC will recover $35.7 million through annual fees assessed to materials users licensed under 10 CFR parts 30, 40, and 70. Table XVI shows the calculation of the FY 2015 annual fee amount for materials users licensees. The FY 2014 values are shown for comparison. Note the following fee categories under § 171.16 are included in this fee class: 1.C., 1.D., 1.F., 2.B., 2.C. through 2.F., 3.A. through 3.S., 4.A. through 4.C., 5.A., 5.B., 6.A., 7.A. through 7.C., 8.A., 9.A. through 9.D., and 17. (Individual values may not sum to totals due to rounding.)

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary Fee Calculations	FY 2014 Final	FY 2015 Final
Total budgeted resources	$32.8	$34.1
Less estimated 10 CFR part 170 receipts	*– $0.9*	*– $1.0*
Net 10 CFR part 171 resources	$31.9	$33.1
Allocated generic transportation	$1.3	$2.2
Fee-relief adjustment/LLW surcharge	$0.2	$0.6
Billing adjustments	*– $0.3*	*– $0.2*
Total required annual fee recovery	$33.1	$35.7

To equitably and fairly allocate the $35.7 million in FY 2015 budgeted costs to be recovered in annual fees from the approximately 2,900 diverse materials users licensees, the NRC continues to base the annual fees for each fee category within this class on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the license, this approach continues to provide a proxy for allocating the generic and other regulatory costs to the diverse categories of licenses based on the NRC's cost to regulate each category. This fee calculation also considers the

inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

The annual fee for these categories of materials users' licenses is developed as follows:

Annual fee = Constant × [Application Fee + (Average Inspection Cost/Inspection Priority)] + Inspection Multiplier × (Average Inspection Cost/Inspection Priority) + Unique Category Costs.

For FY 2015, the constant multiplier necessary to recover approximately $26 million in general costs (including allocated generic transportation costs) is 1.52. The average inspection cost is the average inspection hours for each fee category multiplied by the hourly rate of $268. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is the multiple necessary to recover approximately $8.9 million in inspection costs, and is 1.73 for FY 2015. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2015, approximately $235,000 in budgeted costs for the implementation of revised 10 CFR part 35, ''Medical Use of Byproduct Material (unique costs),'' has been allocated to holders of NRC human-use licenses.

The annual fee to be assessed to each licensee also includes a share of the fee-relief assessment of approximately $31,000 allocated to the materials users fee class (see Table IV, ''Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2015,'' in Section II, ''Discussion,'' of this document), and for certain categories of these licensees, a share of the approximately $542,700 surcharge costs allocated to the fee class. The annual fee for each fee category is shown in § 171.16(d).

g. Transportation

Table XVII shows the calculation of the FY 2015 generic transportation budgeted resources to be recovered through annual fees. In comparison to FY 2014, the total budgetary resources for generic transportation activities, including those to support DOE Certificate of Compliance (CoCs), increase in FY 2015 due to: (1) Rulemaking activities involving 10 CFR part 71 Compatibility with IAEA Transportation Standards and Improvements, (2) the increased activities from the development of the Continued Storage Rule and associated generic environmental impact statement combined, and (3) a significant decrease in transportation licensing work due to shifts towards storage licensing priorities. For FY 2015, the total amount of annual fees to be collected for generic transportation activities, including those to support DOE CoCs, is $7.4 million, due to the reasons mentioned.

The FY 2014 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary Fee Calculations	FY 2014 Final	FY 2015 Final
Total Budgeted Resources	$8.0	$10.0
Less Estimated 10 CFR Part 170 Receipts	*−$3.1*	*−$2.6*
Net 10 CFR Part 171 Resources	$4.9	$7.4

The NRC must approve any package used for shipping nuclear material before shipment. If the package meets NRC requirements, the NRC issues a Radioactive Material Package CoC to the organization requesting approval of a package. Organizations are authorized to ship radioactive material in a package approved for use under the general licensing provisions of 10 CFR part 71, ''Packaging and Transportation of Radioactive Material.'' The resources associated with generic transportation activities are distributed to the license fee classes based on the number of CoCs benefitting (used by) that fee class, as a proxy for the generic transportation resources expended for each fee class.

Generic transportation resources associated with fee-exempt entities are not included in this total. These costs are included in the appropriate fee-relief category (*e.g.,* the fee-relief category for nonprofit educational institutions).

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE as part of existing annual fees for license fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

The distribution of these resources to the license fee classes and DOE is shown in Table XVIII. The distribution is adjusted to account for the licensees in each fee class that are fee-exempt. For example, if four CoCs benefit the entire research and test reactor class, but only 4 of 31 research and test reactors are subject to annual fees, the number of CoCs used to determine the proportion of generic transportation resources allocated to research and test reactor annual fees equals (4/31) × 4, or 0.5 CoCs.

TABLE XVIII—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2015

[Dollars in millions]

License fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Total	90.4	100.0	7.46
DOE	20.0	22.1	1.65
Operating Power Reactors	21.0	23.2	1.73
Spent Fuel Storage/Reactor Decommissioning	12.0	13.3	0.99

TABLE XVIII—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2015—Continued

[Dollars in millions]

License fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Research and Test Reactors	0.4	0.4	0.03
Fuel Facilities	10.0	11.1	0.83
Materials Users	27.0	29.9	2.23

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds and does not allocate these DOE-related resources to other licensees' annual fees, because these resources specifically support DOE. Note that DOE's annual fee includes a reduction for the fee-relief surplus adjustment (see Table IV, ''Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2015,'' in Section II, ''Discussion,'' of this document), resulting in a total annual fee of $1,623,000 million for FY 2015. The overall increase is due to rulemaking activities involving 10 CFR part 71 Compatibility with IAEA Transportation Standards and Improvements combined with a significant decrease in transportation licensing work due to shifts towards storage licensing priorities. This rulemaking is essential for 10 CFR part 71 updates and compliance.

h. Small Entity Fees

For FY 2015, the NRC staff performed a biennial review using the fee methodology developed in FY 2009 that applies a fixed percentage of 39 percent to the prior 2-year weighted average of materials users' fees. This methodology disproportionately impacted NRC's small licensees fees by increasing fees by an approximate 43 percent on average compared to other materials licensees not eligible for small entity fee status whose fees increased by 38 percent or less for FY 2015; therefore, the NRC staff limited the increase to 21 percent based on historical applications of the fee methodology. Consequently, the change resulted in a fee of $3,400 for an upper-tier small entity and $700 for a lower-tier small entity for FY 2015. The NRC staff believes these fees are reasonable and provide relief to small entities while simultaneously recovering from those licensees some of the NRC's costs for activities that benefit the industry.

The NRC prematurely published a change to the small entity size standards in the FY 2015 proposed fee rule. Therefore, the NRC is not changing or amending the size standards in the final fee rule. Licensees should continue to refer to 10 CFR 2.810 to determine eligibility under NRC's size standards. The NRC will conduct the next biennial review in FY 2017.

Administrative Changes

The NRC also makes 11 administrative changes:

1. *Increase Direct Hours per Full-Time Equivalent in the Hourly Rate Calculation.* The hourly rate in 10 CFR part 170 is calculated by dividing the cost per direct FTE by the number of direct hours per direct FTE in a year. ''Direct hours'' are hours charged to mission direct activities in the Nuclear Reactor Safety Program and Nuclear Reactor Materials and Waste Program. The FY 2014 final fee rule used 1,375 hours per direct FTE in the hourly rate calculations. During the FY 2015 budget formulation process, the NRC staff reviewed and analyzed time and labor data from FY 2010 through FY 2012 to determine whether it should revise the direct hours per FTE. Between FY 2010 and FY 2012, the total direct hours charged by direct employees increased. The increase in direct hours was apparent in all mission business lines. To reflect this increase in productivity as demonstrated by the time and labor data, the staff determined that the number of direct hours per FTE should increase to 1,420 hours for FY 2015. The staff used 1,420 hours in the FY 2015 budget formulation cycle.

2. *Adds New Definition for ''Overhead and General and Administrative Costs'' under 10 CFR 170.3, ''Definitions.''* The NRC adds a new definition to describe overhead and general and administrative costs that are included in full cost charges relating to hours charged by resident inspectors and project managers to licensees. The identical definition is added under 10 CFR 171.5, ''Definitions.''

3. *Amends Definition for ''Utilization Facility'' under 10 CFR 170.3, ''Definitions.''* The NRC amends the definition for ''utilization facility'' to reflect the definition contained in the direct final rule, ''Definition of a Utilization Facility,'' published October 17, 2014 (79 FR 62329), and effective December 31, 2014. The amended definition would allow the NRC to add SHINE Medical Technologies, Inc.'s, proposed accelerator-driven subcritical operating assemblies to the NRC's definition of a ''utilization facility.''

4. *Revises the Assessment of Administrative Time for Project Managers and Resident Inspectors.* The NRC staff has examined the charging of administrative allocation time for project managers and resident inspectors under 10 CFR part 170. The current practice evenly distributes overhead time charges among the sites assigned to the individual. The NRC staff believes this method of distribution does not consider that some licensees generate more direct work than others. The NRC, therefore, will allocate administrative allocation costs to each licensee based on direct time to each docket. This method ensures that a licensee's administrative allocation costs are proportional to the regulatory services rendered by the NRC. This method aligns with the NRC's longstanding fee policy that fees assessed to licensees should, to the maximum extent practicable, reflect the actual costs of NRC regulatory services, and does not penalize licensees who require fewer regulatory services.

5. *Adds Fee Subcategories to 10 CFR 170.31 to Reflect a License with Multiple Sites.* The NRC adds fee subcategories to 3.L. licenses (broad scope) under 10 CFR 170.31 to assess additional fees to licensees such as the United States Department of Agriculture and the Department of the Army, in order to accurately reflect the cost of services provided by the NRC. The staff spends a disproportionate amount of time on these licensees as compared to other licensees in the same fee category. These two broad scope licenses also have a considerable number of sites throughout the country and operate in a manner similar to master materials licenses under fee category 17. In FY 2014, the staff compared the work

efforts expended by the NRC for master materials licenses with multiple sites to NRC work efforts for broad scope licenses with multiple sites. The staff concluded that NRC work efforts for multi-site broad scope licensees are similar to work efforts for master materials licensees. Therefore, consistent with NRC policy that fees assessed to licensees accurately reflect the cost of services provided, the NRC revises its fee categories to consider the number of sites a broad scope licensee has in establishing fees. An identical change is made to 10 CFR 171.16, ''Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC.''

6. *Amends 10 CFR 170.31, Footnote 6, to Avoid Duplicate Billing.* The NRC amends footnote 6 to 10 CFR 170.31, ''Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses,'' to avoid duplicate billing for fuel cycle facility licensees. The NRC currently charges a single annual fee to fuel cycle facility licensees for major activities. These licensees are not charged additional annual fees for ancillary activities. An identical change is made under 10 CFR 171.16, ''Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC.''

7. *Modifies Definition for ''Overhead and General and Administrative Costs'' under 10 CFR 171.5, ''Definitions.''* The NRC modifies the definition for ''Overhead and General and Administrative Costs'' to reflect the FY 2008 merger of the Advisory Committee on Nuclear Waste with the Advisory Committee on Reactor Safeguards.

8. *Revises Fees to Reflect Biennial Review of Fees.* To comply with the Chief Financial Officers Act of 1990, the NRC evaluates, on a biennial basis, the historical professional staff hours used to process a new license application. The NRC also evaluates the inspection time by reviewing hours spent by NRC staff on those materials users' fee categories that are subject to flat application fees. This review also includes new license and amendment applications for import and export licenses. Changes resulting from this biennial review impact 10 CFR part 170 flat fees for the small materials users and import and export licensees.

Two program offices, the Office of Nuclear Material Safety and Safeguards (NMSS) and the Office of International Programs (OIP), have completed their biennial review to the CFO regarding the FY 2015 fees. The NMSS recommended changes to the professional staff hours for most of the small materials users. The OIP also recommended changes to the hours for some import and export license fee categories.

Cumulatively, the FY 2015 biennial review resulted in increased professional staff hours within 11 fee categories and decreased professional staff hours within 11 fee categories. The changes in the number of hours and the hourly rate are components that will be used to determine the 10 CFR part 170 fees for the materials user's licenses as well as import and export applications.

9. *Modifies Small Entity Fees.* In accordance with NRC policy, the staff conducted a biennial review of small entity fees to determine if the fees should be changed. The small entity fees primarily impact the NRC's small materials licensees. In FY 2015, the staff performed a biennial review using the fee methodology developed in FY 2009 that applies a fixed percentage of 39 percent to the prior 2-year weighted average of materials users' fees. As a result, the upper tier small entity fee increased from $2,800 to $4,000 and the lower-tier fee increased from $600 to $900. This constitutes a 43-percent and 50-percent increase, respectively. Implementing this increase would have a disproportionate impact upon the NRC's small licensees compared to other licensees. Therefore, the NRC staff revised the increase to 21 percent for the upper-tier fee. The 21-percent increase was applied based on historical trends in the small entity fee and has been used in previous biennial reviews. The NRC staff amends the upper-tier small entity fee to $3,400 and amends the lower-tier small entity fee to $700 for FY 2015. The staff believes these fees are reasonable and provide relief to small entities while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them.

10. *Adds Fee Subcategories to 10 CFR 171.16 to Reflect a License with Multiple Sites.* The NRC adds fee subcategories to 3.L. licenses (broad scope) under 10 CFR 171.16 to assess additional fees to licensees such as the United States Department of Agriculture and the Department of the Army, in order to accurately reflect the cost of services provided by the NRC. The staff spends a disproportionate amount of time on these licensees as compared to other licensees in the same fee category. These two broad scope licenses also have a considerable number of sites throughout the country and operate in a manner similar to master materials licenses under fee category 17. In FY 2014, the staff compared the work efforts expended by the NRC for master materials licenses with multiple sites to NRC work efforts for broad scope licenses with multiple sites. The staff concluded that NRC work efforts for multi-site broad scope licensees are similar to work efforts for master materials licensees. Therefore, consistent with NRC policy that fees assessed to licensees accurately reflect the cost of services provided, the NRC modifies its fee categories to consider the number of sites a broad scope licensee has in establishing fees.

11. *Amends 10 CFR 171.16, Footnote 16, to Avoid Duplicate Billing.* The NRC modifies the footnote description under 10 CFR 171.16, ''Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC,'' to avoid duplicate billing for fuel cycle facility licensees. The NRC's current policy charges a single, large annual fee to fuel cycle facility licensees for major activities. These licensees are not charged additional annual fees for ancillary activities.

FY 2015 Billing

The FY 2015 fee rule is a major rule as defined by the Congressional Review Act of 1996 (5 U.S.C. 801–808). Therefore, the NRC's fee schedules for FY 2015 will become effective 60 days after publication of the final rule in the **Federal Register**. Upon publication of the final rule, the NRC will send an invoice for the amount of the annual fees to reactor licensees, 10 CFR part 72 licensees, major fuel cycle facilities, and other licensees with annual fees of $100,000 or more. For these licensees, payment is due 30 days after the effective date of the FY 2015 final rule. Because these licensees are billed quarterly, the payment amount due is the total FY 2015 annual fee less payments made in the first three quarters of the fiscal year.

Materials licensees with annual fees of less than $100,000 are billed annually. Those materials licensees whose license anniversary date during FY 2015 falls before the effective date of the FY 2015 final rule will be billed for the annual fee during the anniversary month of the license at the FY 2014 annual fee rate. Those materials licensees whose license anniversary

date falls on or after the effective date of the FY 2015 final rule will be billed for the annual fee at the FY 2015 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

III. Opportunities for Public Participation

The NRC published the FY 2015 proposed fee rule in the **Federal Register** on March 23, 2015 (80 FR 15476), for a 30-day public comment period. The rule proposed to amend the licensing, inspection, and annual fees charged to the NRC's applicants and licensees in order to implement OBRA–90, as amended, which requires the NRC to recover approximately 90 percent of its budget authority in FY 2015 through fees (not including amounts appropriated for WIR, the NWF, generic homeland security activities, and IG services for the DNFSB.) These fees represent the cost of the NRC's services provided to applicants and licensees. The public comment period for the proposed rule closed on April 22, 2015.

The NRC also held a public meeting on April 20, 2015, to provide more transparency regarding fees in relation to the budget process and fulfill its commitment to external stakeholders to address NRC program processes and inefficiencies mentioned in the comments submitted for the FY 2014 proposed fee rule. The first session of the public meeting addressed the FY 2015 budget for the following program areas: Operating reactors, new reactors, fuel facilities, decommissioning, low-level waste, and mission support. The second session of the public meeting addressed the NRC fee process in relation to the budget laws that govern fees, the calculation of fees, FY 2015 proposed fee rule highlights including improvements, and next steps regarding the final rule. Additionally, the second session addressed the fee billing process including the charging of staff hours, validation of charges, preparation of invoices, and allocation of administrative time for program managers and resident inspectors. During the public meeting, the NRC received comments on the FY 2015 proposed fee rule. These comments are detailed in the transcription of the public meeting (ADAMS Accession No. ML15153A028). All of these comments except one are identical to comments later received as comment submissions for the FY 2015 proposed fee rule. The NRC responds to the one additional comment raised in the public meeting, as well as all other comment submissions, in Section IV, Public Comment Analysis, of this document.

IV. Public Comment Analysis

A. Overview of Public Comments

The NRC received 11 written comment submissions for the proposed rule. A comment submission for the purpose of this rule is defined as a communication or document submitted to the NRC by an individual or entity, with one or more distinct comments addressing a subject or an issue. A comment, on the other hand, refers to a statement made in the submission addressing a subject or issue. Nine comment submissions were received after the 30-day comment period closed; the NRC has addressed all nine late-filed comment submissions as part of this final rule.

The primary concern for the majority of the commenters is that the FY 2015 proposed fee rule was published late in the fiscal year and that the work papers lacked adequate justification to substantiate a change in fees, thereby denying the public an opportunity to submit meaningful commentary for consideration in the FY 2015 final fee rule. The commenters are listed in Table XIX, and are classified as follows: One government agency (DOE); two members of the uranium industry (Kennecott Uranium Company and Wyoming Mining Association (WMA)); one materials licensee (Rendezvous Engineering, P.C.); one rare earth applicant (Rare Element Resources); and six members of the nuclear industry (Southern Nuclear Operating Company (SNC), Duke Energy (Duke), Exelon Generation, LLC (Exelon), Nuclear Energy Institute (NEI), Tennessee Valley Authority (TVA), and AREVA, Inc. (AREVA)).

TABLE XIX—FY 2015 PROPOSED FEE RULE COMMENTER SUBMISSIONS

Commenter	Affiliation	ADAMS Accession No.	Acronym
Thomas C. Pauling	Department of Energy	ML15112A215 (#1)	DOE
Anthony R. Pietrangelo	Nuclear Energy Institute	ML15113A307 (#2)	NEI
Jonathan Downing	Wyoming Mining Association	ML15113B224 (#3)	WMA
Bryan C. Hanson	Exelon Generation	ML15113B230 (#4)	Exelon
C.R. Pierce	Southern Nuclear Operating Company	ML15117A174 (#5)	SNC
M. Christopher Nolan	Duke Energy	ML15117A324 (#6)	Duke
Gayle Elliott	AREVA, Inc	ML15119A447 (#7)	AREVA
Matthew F. Ostdiek, P.E	Rendezvous Engineering, P.C	ML15119A453 (#8)	N/A
Oscar Paulson	Kennecott Uranium Company	ML15119A504 (#9)	N/A
Jaye T. Pickarts	Rare Element Resources	ML15127A144 (#10)	N/A
J.W. Shea	Tennessee Valley Authority	ML15131A477 (#11)	TVA

Information about obtaining the complete text of the comment submissions is available in Section XV, ''Availability of Documents,'' of this document.

Public Comments and Overall NRC Responses

The NRC has carefully considered the public comments received. The comments have been organized by topic followed by the NRC response.

A. Inadequate Explanation and Transparency

1. Uranium Recovery

Comment: Neither the FY 2015 proposed fee rule nor the work papers explain the rationale for recovery costs associated with generic and other uranium program activities that are assessed to DOE and other uranium recovery licensees. (DOE)

Response: The NRC described the overall methodology for determining fees for uranium recovery facilities, including DOE, in the 2002 fee rule (67 FR 42612; June 24, 2002). The NRC recovers fees from DOE through both user fees charged under 10 CFR part 170 and annual fees charged under 10 CFR part 171. The user fees cover specific UMTRCA oversight activities, while the 10 CFR part 171 fees cover generic work related to UMTRCA and other uranium recovery activities. As shown in the work papers, the NRC calculated the

total amount of budgeted resources for UMTRCA activities related to DOE sites in the FY 2015 appropriation by computing the cost of staff hours budgeted to conduct the work (in terms of FTE) and the budgeted contract costs. The total amount of budgeted resources was then reduced by the amount expected to be recovered by direct fees for site-specific UMTRCA activities. The NRC produced this estimate of direct fees by analyzing billing data and the actual contractual work charged to DOE for the previous four quarters. The estimate, therefore, reflects any recent reductions in NRC oversight activities. The remainder of the UMTRCA budgeted amount related to DOE sites was assessed to DOE for generic activities. In addition to those generic costs, DOE was assessed for 10 percent of the overall generic costs attributable to the uranium recovery program. The remaining 90 percent of the overall generic costs was assessed to other members of the uranium recovery class.

The NRC performs several types of activities in its oversight of UMTRCA sites that have been transferred to DOE for long-term surveillance and maintenance. The NRC staff reviews the reports generated by DOE, including routine ground water monitoring reports, annual site remediation performance reports, annual inspection reports and other technical reports generated by DOE. The NRC staff also reviews and provides comments on non-routine reports such as the reports developed by DOE concerning the Many Devils Wash at the Shiprock site and the Phytoremediation Pilot Study at the Monument Valley site. In addition, if DOE proposes to revise a Ground Water Corrective Action Plan or Remediation Plan at a site, the NRC staff reviews and (if appropriate) concurs on the revised plan. The NRC staff also performs Observational Site Visits at UMTRCA sites to observe the DOE, and DOE contractors, performing the annual inspections of the UMTRCA sites required by the site Long-Term Surveillance Plan. Other significant staff actions include participating in the activities related to the development and implementation of the 5-year plan to address uranium contamination on the Navajo Nation. No change was made to the final rule in response to this comment.

Comment: The FY 2015 proposed fee rule lacks adequate justification regarding the 20-percent increase in fees for uranium recovery licenses. The justification that the NRC provides regarding the Section 106 Tribal Consultation process as one of the factors triggering the fee increase for uranium recovery licensees is not substantiated since this process should be streamlined and not used as justification for higher annual fees. (WMA, Kennecott Uranium Recovery)

Response: Regarding the 20-percent increase in annual fees, the FY 2015 annual fee recoverable amount was higher for all other uranium recovery licensees for primarily two reasons. First, under the NRC's established fee methodology, once the NRC determines how much the UMTRCA program will need to pay in annual fees, then the remainder of the NRC's budgetary authority must be recouped through the remaining uranium recovery licensees. The reduced budgetary resources for the UMTRCA program, therefore, contributed to this year's fee increase for the other uranium recovery licensees. Second, there are increased budgetary resources in FY 2015 to support contested uranium recovery hearings before the Atomic Safety and Licensing Board; the work on these contested hearings must be recouped through annual fees.

Additionally, the National Historic Preservation Act Section 106 consultation process associated with uranium recovery licensing actions has grown significantly over the past several years. This growth can be attributed to two main factors: (1) The siting of these projects in areas that are known to be the aboriginal homelands of a large number of Federally-recognized Native American tribes and tribes at or near sites that are considered sacred by these tribes (*e.g.,* the Pumpkin Buttes, the Missouri Buttes, Devils Tower, and the Black Hills); and (2) the increased interest from tribes to participate as consulting parties in the Section 106 process for uranium recovery licensing actions. No change was made to the final rule in response to this comment.

Comment: The proposed rule and work papers do not reflect the resources that have been authorized by the Further Continuing Appropriations Act of 2015, which became law more than 3 months before the publication of this rulemaking. Instead, the proposed rule and work papers are based on the earlier President's Budget, which was $44.2 million greater than the appropriated amount. Due to this course of action, it is impossible to determine whether any of the resource allocations in the work papers are accurate. The proposed rule indicates that the final rule will make appropriate estimated adjustments without allowing the public any meaningful opportunity to understand the actual calculations or comment on this adjustment. (Exelon)

Response: In its proposed rule, the NRC provided estimated final FY 2015 calculations based on the anticipated impacts as a result of the FY 2015 appropriation. To meet the requirements of OBRA–90 that NRC collect approximately 90 percent of its appropriation by the end of the fiscal year and Administrative Procedure Act requirements concerning opportunity for public comment, the NRC published the proposed fee rule, which included estimated FY 2015 final fees based on the most accurate data available at the time of publication. No change was made to the final rule in response to this comment.

2. Operating Reactor Fees

Comment: Regarding annual fees, the proposed fee rule and work papers do not provide sufficient detail on how the 10 CFR parts 170 and 171 operating reactor fee estimates were calculated, rendering the proposed fee rule arbitrary and capricious. (Exelon)

Response: The NRC disagrees with the comment that the work papers contain insufficient detail with respect to how the 10 CFR parts 170 and 171 operating reactor fee estimates were calculated. Consistent with prior years, license fees are based on the NRC's budget formulation structure hierarchy of business lines, product lines, and products. The NRC provides those business lines, product lines, and products in its work papers. Detailed information below the product level (*e.g.,* cost centers) is determined when the budget is executed. The work papers do not distinguish by specific budget line items which fees are recovered through user and annual fees because it is impractical for the NRC to determine in advance the precise percent of a given business line that will be recovered through 10 CFR part 170 user fees versus 10 CFR part 171 annual fees. No change was made to the final rule in response to this comment.

Comment: Neither the proposed rule nor the work papers provide any information showing the specific costs that are being recovered through annual fees. The work papers merely list all items comprising the entire NRC-budgeted resources for new reactors, operating reactors, and unexplained materials licensing activities and derive the annual fee by subtracting the portion of estimated 10 CFR part 170 collections attributed to entities paying user fees ($288.5 million). As a consequence, it is impossible to determine which of the specific line items are being recovered through user fees and which are being recovered under annual fees. The descriptions of the line items are very

vague, preventing one from determining whether they are generic, and potentially appropriate for recovery under 10 CFR part 171 or attributable to a service provided to an identifiable beneficiary and, therefore, appropriate for recovery less than 10 CFR part 170. (Exelon)

Response: The NRC disagrees with the comment that the work papers contain insufficient detail with respect to which specific line items are being recovered through user fees, and which are being recovered through annual fees. Consistent with prior years, license fees are based on the NRC's budget formulation structure hierarchy of business lines, product lines, and products. The commenter is correct that the work papers do not distinguish these activities on the basis of whether these line items will be recovered through user or annual fees. But, that is because it would prove unduly burdensome for the NRC to perform this type of calculation for every business line, product line, and product in its budget. No change was made to the final rule in response to this comment.

Comment: The proposed rule and the work papers do not state how the estimated $324.3 million in 10 CFR part 170 costs are calculated for licensees. (Exelon)

Response: The NRC estimates the amount of 10 CFR part 170 fees based on established fee methodology guidelines (42 FR 22149; May 2, 1977), which specified that the NRC has the authority to recover the full cost of providing services to identifiable beneficiaries. As in previous years, the NRC applied longstanding principles to calculate the 10 CFR part 170 estimates based on the analysis of financial data. The data analyzed to devise the 10 CFR part 170 estimate included: (1) Four quarters of the most recent billing data (hourly rate invoice data); (2) actual contractual work charged (prior period data) to develop contract work estimates; and (3) the number of FTE hours charged, multiplied by the NRC professional hourly rate. These factors, along with workload projections, are used by the NRC to determine the 10 CFR part 170 estimated charges. Because the fee calculation worksheets used to develop the 10 CFR part 170 estimates involve thousands of calculations, it would be impractical for the NRC to provide details on every calculation, let alone explanations for every calculation such that each individual calculation became accessible and understandable to members of the public. No change was made to the final rule in response to this comment.

Comment: The work papers allocate to operating reactors over $7 million for spent fuel storage and transportation (SFST). As there is no meaningful description, one cannot determine whether the allocated costs are attributable solely to the Waste Confidence rulemaking or include other activities as well. (Exelon)

Response: The SFST business line activities include efforts to maintain and enhance its technical capabilities and understanding of the potential behavior of different geologic environments and engineered barrier systems for disposal of spent fuel and high-level waste, and monitoring national-level developments stemming from the report of the Blue Ribbon Commission on America's Nuclear Future and DOE's response to that report. Beginning in FY 2011, the NRC began budgeting for interim measures for the disposal of spent nuclear fuel. At that time, the NRC determined that it was appropriate to include these SFST resources in the power reactors fee class because power reactors ultimately benefit from disposal of spent nuclear fuel. These activities are in addition to the Waste Confidence (now Continued Storage) rulemaking activities. No change was made to the final rule in response to this comment.

Comment: The $7 million is in addition to the $28.9 million for spent fuel storage and decommissioning activities recovered through an annual fee on power reactors and 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license. The NRC should inform the operating reactors whether the SFST costs assessed to operating reactors includes activities pertaining to spent fuel disposal activities listed in the FY 2014 CBJ. These costs should be counted separately or be an offset from the carry-over appropriation relating to the review of Yucca Mountain license application or recovered through user fees assessed to DOE or the NWF. (Exelon)

Response: The Waste Confidence (Continued Storage) rulemaking was completed in FY 2014. A small portion of the operating reactors' fees include SFST business line activities to maintain and enhance the NRC's technical capabilities and understanding of the potential behavior of different geologic environments and engineered barrier systems for disposal of spent fuel and high-level waste, and monitoring national-level developments stemming from the report of the Blue Ribbon Commission on America's Nuclear Future and DOE's response to that report. Beginning in FY 2011, the NRC began budgeting for interim measures for the disposal of spent nuclear fuel. At that time, the NRC determined that it was appropriate to include these SFST resources in the power reactors fee class because power reactors ultimately benefit from disposal of spent nuclear fuel. Further, it continues to be neither feasible nor appropriate for the NRC to parse out fees for activities that might be attributable to DOE's contractual obligations with respect to spent fuel versus those fees that would have been borne by licensees even if DOE had performed under the Standard Contract. Finally, with respect to offsetting fees from the carryover appropriations relating to the review of the Yucca Mountain construction authorization application or recovering costs through user fees assessed to the NWF, the NRC disagrees with the comment. Funds appropriated from the NWF may only be used for activities prescribed in section 302(d) of the Nuclear Waste Policy Act, which includes licensing activities associated with the Yucca Mountain high-level waste repository. That section covers neither the NRC's work on interim strategies for disposal of high-level waste, nor monitoring national-level developments stemming from the report of the Blue Ribbon Commission. Therefore, these activities are not chargeable to NWF appropriations. The NRC's NWF carryover funding is not included in the ''fee relief items'' or any part of the FY 2015 budget that is to be recovered by fees. No change was made to the final rule in response to this comment.

Comment: The NRC work papers imply that up to $1 million/reactor (20 percent) of the 10 CFR part 171 fees could be supporting NRC work on new and advanced reactors. The NRC should justify in a transparent manner how much of the annual fees support this new reactor business line, and how this portion of the annual fee directly supports operating plant regulatory activities. (SNC)

Response: The NRC does not compute new reactors costs separately when it determines the operating reactor annual fee. In other words, the NRC does not break the annual fee for operating reactors into separate, constituent parts in such a way that it can extract new reactor costs from operating reactor costs. This is because these costs are all intertwined within the operating reactor annual fee calculations. The fee calculation for the operating reactor fee class is derived from a methodology that includes analyzing the NRC's budget structure, and then making multiple adjustments to account for fee relief, generic transportations cost, estimated 10 CFR part 170 collections, etc. It is

not, therefore, possible to simply analyze the budgeted business line for new reactors, and then extrapolate from there. No change was made to the final rule in response to this comment.

3. Rare Earth Facilities

Comment: The NRC should reevaluate the proposed annual fee for rare earth facilities to assure consistency with the NRC's statutory obligation to ''fairly and equitably'' allocate annual fees among licensees in a manner that has a reasonable relationship to the cost of providing regulatory services. The agency should explain in detail the basis for the proposed rare earth facilities fee in Table XVI in comparison to uranium recovery and other rare earth facilities fees. The rare earth facilities' proposed annual fee amount of $83,800 is more than double the conventional uranium mill facilities' proposed annual fee ($40,700) and significantly larger than the fees associated with *in situ* uranium recovery facilities ($51,500 and $58,300). In addition, the annual fee charged by the California Radiologic Health Branch for the Mountain Pass rare earth facility is capped at $29,418—approximately one-third of the NRC's proposed annual fee. (Rare Element Resources)

Response: The NRC agrees with this comment. As mentioned previously, the proposed FY 2015 fee rule established an annual fee for rare earth facilities. Upon further analysis, however, the NRC determined that all the budgeted resources for the rare earth facility fee class will be collected through 10 CFR part 170 fees this fiscal year. Therefore, in this final rule, the NRC omitted the annual fee for rare earth facilities in response to this comment.

B. Fairness of Fees

Comment: The proposed fee rule fails to subtract from the NRC budget the cost of activities that are covered by appropriations and carry-over appropriations from the NWF. There is no reason not to treat a carry-over appropriation as an appropriation for the fiscal year, because that appropriation remains available. But even if the NRC could not deduct the carry-over appropriation as a non-fee item, it would be inappropriate to charge the costs of the Yucca Mountain application to reactors as an annual fee, because these costs are direct services to an applicant (DOE), not generic costs. (Exelon)

Response: The NRC disagrees with the comment. The NRC received no new NWF appropriations in FY 2015. The NRC's FY 2015 activities related to review of the Yucca Mountain high-level waste repository application are being charged to the carryover balance of the NRC's NWF appropriations from prior years and will not be billed to licensees. OBRA–90 specifies that the NRC must deduct from the annual charges collected from all licensees any ''amounts appropriated to the Commission from the Nuclear Waste Fund *for the fiscal year.''* 42 U.S.C. 2214(c)(2)(A)(ii) (emphasis added). In FY 2015, the NRC did not receive any new appropriations from the NWF. Therefore, there was no amount to subtract from the budget in calculating FY 2015 annual fees; all the carryover money that the NRC is using in FY 2015 was already deducted during the years in which it was appropriated. No change was made to the final rule in response to this comment.

Comment: The NRC should recover its generic new reactor costs through a more focused class of licensees. Specifically, NRC should recover its generic new reactor costs by creating a new fee class consisting of the holders of design certifications and design approvals, licensees that hold or have active applications for combined licenses, holders of active construction permits, and holders of any other NRC approvals allowing or pertaining to new plant activities. (Exelon)

Response: Initially, to the extent that the NRC's new reactor safety work directly benefits a licensee or applicant, the NRC assesses 10 CFR part 170 user fees to that licensee or applicant. As a result, existing operating reactor licensees are not paying any fees for new reactor work that directly benefits an entity engaged in new reactor activities. As for the portion of the new reactor work that is not collected through 10 CFR part 170 user fees, OBRA–90, as amended, requires that the NRC allocate those costs of this work fairly and equitably. Because the NRC's generic new reactor work yields benefits for existing operating reactor licensees, the NRC's current system of allocating all operating reactor costs to existing licensees satisfies OBRA–90's requirements.

Implementing a new fee class would be unduly burdensome, costly, and generally unworkable for two reasons. First, although generic new reactor activities may preferentially benefit new reactor vendors or licensees, there are many activities that appear to be focused on new reactors but ultimately have a direct benefit to operating units. To illustrate, consider the rulemaking effort to change the financial qualification standards for merchant plants. Although this rulemaking was initially focused on new reactor applicants, the Commission, in approving the rulemaking, expanded its scope to include license transfers, which provides a direct and appreciable benefit to existing operating reactors. Similarly, the expertise developed in the areas of seismic and flooding analysis was developed to address new reactor applicants. Now, however, that expertise is being brought to bear on seismic and flooding reevaluations being done in response to the Fukushima event.

Contrary to Exelon's comment, these are not ''indirect'' benefits to existing reactors, but rather concrete cases where work that, on its face, was geared towards new reactor activities yielded valuable and tangible benefits for the existing fleet, and therefore was appropriately billed to existing reactors. To devise methods to separate the NRC's generic new reactor costs from generic operating reactor costs, and then implement oversight to ensure the costs were correctly allocated, would require appreciable and recurring expenses that would be billed to all licensees. Further, such a process, which would have to be performed on a year-to-year basis, would be unworkable in any practical sense given the fluid nature of the NRC's generic regulatory work vis-à-vis power reactors.

Second, creating a new fee class would also prove impracticable because entities holding licenses for currently operating reactors may also be, either now or in the future, applicants for new nuclear power plant licenses. Given the evolving nature of the new reactor landscape, there is no practicable or reliable method to determine which existing NRC licensees will develop an interest in future reactor activities. Exelon's comment argues that the NRC should merely identify those entities that have pending regulatory approvals pertaining to new plant activities. But the existing marketplace is more fluid than Exelon's comment suggests, and having a stable and predictable regulatory infrastructure benefits more entities than just those currently seeking pending regulatory approvals because it promotes business planning. Exelon itself was engaged in new reactor activities from 2003–2012 (and, therefore, directly benefitted from all of the NRC's generic new reactor work). It is plausible that an entity previously involved in new reactor activities could re-engage in those activities at some time in the future.

Ultimately, identification of fee classes is a matter of line-drawing. By virtue of being a generic activity without a specific, concrete beneficiary, activities that fall in the 10 CFR part 171

annual fee category could be theoretically parsed into an almost infinite amount of fee classes. For example, if the NRC were to base fees on distinctions such as whether generic work benefited boiling water reactors versus pressurized water reactors or coastal versus inland reactors, the exercise likely would result in distinctions that are both artificial and unduly burdensome from an administrative and recordkeeping standpoint. The NRC's decision to draw the fee class line in such a way that encompasses generic new reactor work satisfies OBRA–90's requirement that costs be allocated fairly and that, ''[t]o the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services.'' No change was made to the final rule in response to this comment.

Comment: The proposed fee rule fails to recover user fees from every person who receives a service or thing of value the full cost of such service or thing of value. Of the $935.3 million that the Commission must recover through fees, only $324.5 million is estimated to be recovered through 10 CFR part 170 user fees. This could be correct only if approximately two-thirds of the NRC's budget does not benefit any identifiable entity, which is presumably not the case. As an example, user fees do not appear to be imposed for vendor inspections despite the fact that vendors are identifiable persons receiving the benefit of NRC inspections to establish their qualifications to provide safety-related services. Also, the costs for advanced reactor research should be recovered through user fees charged to applicants or pre-applicants. (Exelon)

Response: Within the confines of the IOAA, the NRC recovers user fees from as many people as legally possible. To take the commenter's specific examples, the NRC cannot assess user fees when performing vendor inspections. The NRC's vendor inspection program verifies that reactor licensees are fulfilling their regulatory obligations with respect to providing effective oversight of the supply chain. The licensee, not the NRC, establishes a vendor's qualifications to provide safety-related items and services; the vendor, therefore, does not receive a tangible benefit from the NRC when the NRC performs its inspection because the vendor is not receiving any sort of NRC stamp-of-approval or certification. The NRC cannot bill vendor inspections directly to specific licensees because the vendor is typically supplying more than one licensee at any given time. It is expected that many licensees will benefit from the inspection, both the specific customers at the time of the inspection, future customers who may not be known at the time of the inspection, and the industry in general because the Nuclear Procurement Issues Committee (NUPIC) uses NRC vendor inspection findings in preparation for its audits.

Regarding advanced reactor research, the NRC is not conducting any generic research for advanced non-light water reactor designs that can be charged as user fees to specific applicants. Because these are generic costs that do not directly benefit a specific applicant, NRC cannot legally recover these costs through IOAA user fees. No change was made to the final rule in response to this document.

Comment: The annual fee for operating reactors should not be assessed solely on the 99 current operating licensees licensed under 10 CFR part 50, but should also include holders of COLs under 10 CFR part 52. The NRC's generic activities for operating reactors, such as Fukushima Near-Term Task Force activities, benefit 10 CFR part 52 combined license holders as much as 10 CFR part 50 operating licensees. Assigning costs only to 10 CFR part 50 operating licenses is inequitable, particularly because the current COL holders are far better positioned to recover these costs than many current operating licensees; they remain electric utilities able to recover costs through rates and regulatory costs during construction are largely capitalized. (Exelon)

Response: The NRC disagrees with the commenter's proposed recommendation. Historically, plants licensed under 10 CFR part 50 did not enter into the fee class of operating plants until permission was granted by the NRC to load fuel and begin power operation. Although combined license holders under 10 CFR part 52 do hold an operating license, they do not approach a comparable status to plants licensed under 10 CFR part 50 until the Commission determines that the inspections, tests, analyses, and acceptance criteria are satisfied pursuant to 10 CFR 52.103(g), all operational programs are functional, and program compliance with regulations demonstrated. Therefore, the NRC believes that fairness concerns dictate that the NRC should not charge COL holders the same fees as operating plants during their construction and pre-operation phases. No change was made to the final rule in response to this comment.

Comment: The FY 2015 proposed fee rule hourly rate of $277 remains high in comparison to the hourly rates of consultants working for the uranium recovery industry which contributes to huge regulatory costs for licensees due to the large number of hours expended by NRC staff. (WMA, Kennecott Uranium Recovery)

Response: The fees assessed to licensees and applicants by the NRC must conform to OBRA–90 and IOAA requirements, in contrast to industry consultants working for the uranium recovery industry. Under the IOAA, the NRC must recover the full costs of providing specific regulatory benefits to identifiable applicants and licensees. In so doing, the NRC establishes an hourly rate for its work. Consistent with the law, the NRC determines its hourly rate by dividing the sum of recoverable budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and (3) agency overhead or indirect costs—which includes corporate support, office support and the IG. The mission-direct FTE hours are the product of the mission-direct FTE multiplied by the hours per direct FTE. The only budgeted resources excluded from the hourly rate are those for contract activities related to mission-direct and fee-relief activities. No change was made to the final rule in response to this comment.

C. Fuel Facilities

Comment: The NRC should adequately explain the basis for the significant increase in annual fees for fuel facilities in the proposed fee rule. Although the proposed rule attributes the increase to a reduction in 10 CFR part 170 fees from construction delays and a slight increase in budgeted resources, it does not explain how or why the redirected resources that were budgeted for construction-related activities were redirected to 10 CFR part 171-related activities for fuel facilities. (NEI)

Response: Fuel Facility Business Line (FFBL) fees for FY 2015 are tied to the President's FY 2015 budget. As noted by the commenter, the proposed FY 2015 FFBL budget, and corresponding FY 2015 fees, increased significantly in FY 2015. When the FY 2015 budget request was developed in FY 2013, drivers for the increased FFBL budget encompassed a number of planned or proposed activities, including: construction oversight activities for several facilities under construction; an increase in the number of complex licensing activities associated with facilities under construction; an application for a new facility; a continuation of post-Fukushima activities; and a number of

infrastructure enhancements. These FY 2015 planning assumptions were based on industry feedback and Commission direction. Some of this projected work did not materialize and the FFBL budget was reduced accordingly in the FY 2015 enacted budget. As a result of this reduction, the final fee increase is not as significant as the anticipated increase identified in the proposed rule, which was based on higher FFBL resources in the President's budget.

In addition to an increase in the FFBL budget line, another factor for the increase in FFBL annual fees is the reduced number of FFBL licensees to whom the NRC can distribute those fees (one facility was decertified in 2015). No change was made to the final rule in response to this comment; however, the final rule has been changed to reflect changes in the FFBL calculations.

D. Other Issues

Comment: We encourage the NRC to conduct future meetings regarding fees. (NEI)

Response: The NRC supports future meetings that allow for the exchange information between the NRC and the public in our efforts to be more transparent. No change was made to the final rule in response to this comment.

Comment: The NRC should improve the transparency, timeliness, and predictability of the fee rule by more explicitly integrating the rulemaking with NRC's budget process. The NRC's current schedule for publishing the proposed and final annual fee rule falls short of these objectives and inhibits sound financial planning by licensees in budgeting for NRC fees. Greater transparency and predictability in fee policy could be realized if the NRC published the proposed rule in the first quarter of the fiscal year (based on the CBJ if Congress has yet to enact appropriations) and the final fee rule in the second or early third quarter of the fiscal year. (NEI)

Response: OBRA–90 requires that the NRC collect approximately 90 percent of its budget authority through fees by the end of the fiscal year, and the NRC must set its fees in accordance with its own budget. Further, the annual appropriation cycle places additional constraints upon the NRC. Because the NRC does not know the amount of fees it will need to collect until after it receives its annual appropriation from Congress, the NRC cannot start the Federal rulemaking process until sometime in the fall, usually after the first quarter. The NRC believes that reliance on the most up-to-date financial data available in determining fees as opposed to the CBJ ensures that the NRC meets the requirements of OBRA–90 as this practice ensures that NRC fees assessed bear a reasonable relationship to the cost of NRC services. The NRC recognizes that the issuance of the rule may not coincide with budget cycles of industry; however, the NRC must promulgate a notice-and-comment rule based on the most accurate data available regarding the cost of NRC services in the context of NRC's budget for a given fiscal year. No change was made to the final rule in response to this comment.

Comment: The NRC estimates that the FY 2015 final fee rule hourly rate will be $268, which is lower than the FY 2015 proposed fee rule hourly rate. Imposing the higher hourly rate for the first three quarters of FY 2015 amounts to an unjustified overcharge and appears contrary to the IOAA. The IOAA requires that charges by federal agencies be fair and based on, among other things, the costs to the agency and the value of the service to the recipient. The NRC should establish regulations in 10 CFR part 170 to allow for a remedy for licensees to be reimbursed for these overcharges as a result of NRC's issuance of the rule late in the year. (NEI, Exelon)

Response: The NRC disagrees with the comment that the estimated lower 10 CFR part 170 hourly rate will result in an unjustified overcharge and contradicts the IOAA. The hourly rate is established annually in the NRC's final fee rules; in the prior two rules, the effective dates were August 30, 2013, and August 29, 2014, respectively. The NRC acknowledges that the hourly rate charged during the first 3 quarters of the fiscal year is not the same as the hourly rate proposed in the same fiscal year. However, the NRC cannot change the current hourly rate during a fiscal year until 60 days after NRC issuance of the final rule changing the hourly rate. The NRC notes that for FY 2015, licensees will receive the majority of the benefit of the reduced hourly rate in the following fiscal year, even if the FY 2016 proposed fee rule contains a higher hourly rate. Therefore, no adjustments will be made to prior invoices as a result of the reduced hourly rate. No change was made to the final rule in response to this comment.

Comment: The portion of the budget allocated to corporate support—a key factor in both the hourly rate and annual fee calculation—appears to be disproportionately large with respect to the resources allocated for mission-direct and mission-indirect activities. Transparency in the fee rule is challenged by the use of the same term ''Corporate Support'' in the NRC CBJ, but which is apparently calculated in a substantially different manner. In both the fee rule and the CBJ, the budget for corporate support is excessive. Both fail to provide a clear explanation of the overhead necessary to support the NRC's core programs. The proposed fee rule also does not provide an adequate explanation of why the level of corporate support differs by more than $100 million between the FY 2015 CBJ and the FY 2015 proposed fee rule. The NRC should provide a clear explanation of the overhead necessary to support the NRC's core programs. (NEI, Duke Energy)

Response: Corporate support is one component of agency support (the other components are office support and the IG). The NRC is committed to cost-efficient budgeting and the prudent use of resources to achieve the agency's mission objectives. In recent years, the NRC has taken a comprehensive look at overhead resources, reducing both FTE and contract support dollars through streamlining initiatives. Centralization of corporate functions was a primary contributor to the decrease. Another contributor included the merger between the Office of Federal and State Materials and Environmental Management and the Office of Nuclear Material Safety and Safeguards.

To assist in the continued streamlining of corporate support functions, the NRC recently contracted with an outside entity to conduct a review of the agency's overhead functions and to identify ways to reduce costs with no impact on the agency's ability to carry out its mission. This review, which involved interviews with and benchmarking against peer agencies, confirmed that there is no standard government-wide definition of overhead costs, but found that NRC overhead costs are roughly in line with peer agencies with respect to the standard corporate support cost categories used by the Federal Chief Executive Officers Council—acquisition, financial management, information technology, human capital, and real property. However, because of its mission, the NRC has additional security requirements that contribute to higher overhead costs in areas such as physical and personnel security. The review also resulted in recommendations on how the NRC can implement leading practices that have reduced overhead costs at peer agencies. The NRC will consider these recommendations in implementing the Project AIM strategy approved by the Commission.

Finally, with respect to the commenters' concerns regarding

transparency, the NRC acknowledges that the different definitions of ''Corporate Support'' used in the fee rule and the agency's CBJ have made it difficult for licensees and members of the public to understand the relationship between the numbers presented in the two documents. The NRC is committed to transparency, and it will examine ways to present information about overhead costs more consistently in future fee rules, and to clarify any differences necessitated by the unique requirements of the fee rule calculations. In line with related recommendations of the independent overhead review, the NRC will continue to examine how the agency can more appropriately categorize its resources to ensure that overhead and programmatic costs are properly and clearly presented. A change was made to the final rule to capture corporate support under agency support in this final rule as a result of this comment.

Comment: The industry is concerned about the decrease in 10 CFR part 170-related activities under the FY 2015 proposed fee rule. (NEI)

Response: The decline in 10 CFR part 170 activities concerning power reactors is a result of unexpected application suspensions (particularly, the U.S. EPR design certification application and the Calvert Cliffs combined license application). As the NRC completes the generic regulatory actions that resulted from the Fukushima Near-Term Task Force (NTTF) report, the costs related to those generic actions will decline. Relatedly, as the affected licensees and certificate holders implement the NTTF recommendations, follow-up activities will likely result in site-specific action on the part of the NRC. This shift in activities will likely cause the costs related to site-specific actions to increase for that workload, resulting in an increase in fees for site-specific activities (10 CFR part 170). No change was made to the final rule in response to this comment.

Comment: The NRC invoices lack standard details that every consultant, law or accounting firm in the private sector must provide and the NRC's hourly rates exceed those of many of these organizations in the Western part of the country. Also, the current invoices do not offer industry any opportunity to gauge the reasonableness of fees incurred for different phases of the licensing process making it impossible to implement a lessons-learned initiative on future licensing actions or provide for meaningful budget planning. (WMA, Kennecott Uranium Company)

Response: The NRC currently offers to provide estimates of costs incurred on a biweekly basis to licensees. The estimates include all (10 CFR part 170) costs that accumulated for license fee billing during the previous NRC pay period. The estimates include NRC staff names with associated number of hours worked, as well as contractor company names associated with contract costs which offer licensees additional detail. These estimates may assist licensees in budget planning and preparing to receive their next quarterly invoice. Licensees may request to receive biweekly estimates by sending an email to *FEES.Resource@nrc.gov* with docket number(s) and licensee email address(es) to which the estimates should be sent. Unlike other organizations, the fees assessed by NRC to licensees and applicants including fees subject to NRC's hourly rate must comply with OBRA–90 requirements. No change was made to the final rule in response to this comment.

Comment: The NRC current estimate of the direct hours per FTE provides does not appear to be justifiable. While the current estimate of direct hours per FTE increased slightly from FY 2014 to 1420 hours per FTE, that estimate remains below the 1446 hour estimated in 2005, and even further below the 1776 hours estimated in previous fiscal years. (Exelon)

Response: The NRC uses an estimate of the number of direct hours per FTE to calculate the hourly rate used in 10 CFR part 170 billing. The OMB's Circular A–25, ''User Charges,'' does not specifically address the number of hours to assume per FTE in calculating fees, but does emphasize that agency fees should reflect the full cost of providing services to identifiable beneficiaries.

In the final fee rule for FY 2005 (70 FR 30526), the NRC revised its estimate of the number of direct hours per FTE to use a realistic estimate based on time and labor data for program employees who perform activities directly associated with the programmatic mission of the NRC. The NRC periodically reviews time and labor data to assess changes in the average number of productive hours from year to year, and determine a realistic estimate of direct hours per FTE based on the most recent data. The estimate does not include time for administrative, training, and other activities a direct program FTE may perform that, while relevant to consider for certain costing purposes, would more accurately be considered overhead rather than ''direct'' time for purposes of calculating a rate per hour of direct activities. The analysis is conducted at the beginning of the budget formulation cycle. The resulting productivity assumption informs workload and resource estimates in the agency's budget request. When the NRC calculates the fees required to recover the budget enacted by Congress, this same estimate of direct hours per FTE is used to calculate the hourly rate.

The estimate of 1,420 hours per FTE used in the fee rule calculation for FY 2015 was based on an analysis of actual time and labor data from FY 2011 through FY 2012. This was the most recent data available when the FY 2015 budget was formulated. Use of an updated, realistic estimate of direct hours per FTE helps ensure that the hourly rate accurately reflects the current cost of providing 10 CFR part 170 services, allowing the NRC to more fully recover the costs of these services through 10 CFR part 170 fees. No change was made to the final rule in response this comment.

Comment: Regarding small entity size standards, the NRC should consider establishing lower licensing fees by creating one or more additional ranges between the $520,000 and $7,500,000 gross annual receipts range. A fee rate schedule with more steps for small businesses would help reduce the license fee burden on the smaller entities and address small business concerns. (Rendezvous Engineering, P.C.)

Response: To reduce the significance of the annual fees on a substantial number of small entities, the NRC established the maximum small entity fee in 1991. In FY 1992, the NRC introduced a second lower tier to the small entity fee. Because the NRC's methodology for small entity size standards has been approved by the Small Business Administration, the NRC did not modify its current methodology for this rulemaking. No change was made to the final rule in response to this comment.

E. Comments on Matters Not Related to This Rulemaking

The NRC also received comments not related to this rulemaking. These comments suggested that the NRC implement a number of recommendations to improve the efficiency of NRC operations. These recommendations included: favoring and enhancing risk-informed, performance-based licensing and regulatory approaches; increasing the efficiency of certain environmental reviews; adhering to existing Commission-approved guidance while working to prepare new guidance with the aid of stakeholder input; certifying

standardized designs for uranium recovery facilities to streamline the application and review process; developing guidance, after an opportunity for public comment, regarding the consultation process under Section 106 of the National Historic Preservation Act; shifting experienced NRC staff personnel from the Office of New Reactors to the Office of Nuclear Reactor Regulation; and increasing the agency's focus on resource management and workload prioritization. (NEI, Exelon, WMA, Duke, Kennecott Uranium Recovery). The NRC also received two comments expressing support for the development of a proposed rule to address a variable annual fee structure for small modular reactors. (AREVA, TVA)

All of these matters are outside the scope of this rulemaking. The primary purpose of the NRC's annual fee recovery rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the appropriations that the NRC received for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations in order to ensure compliance with OBRA–90, as amended. The NRC's annual fee recovery rulemaking is to update the NRC's fee schedules to account for the appropriations the NRC received for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations.

The NRC takes very seriously the importance of examining and improving the efficiency of its operations and the prioritization of its regulatory activities. Recognizing the importance of continuous reexamination and improvement of the way the agency does business, the NRC has undertaken, and continues to undertake, a number of significant initiatives aimed at improving the efficiency of NRC operations and enhancing the agency's approach to regulating. Though comments addressing these issues may not be within the scope of this fee rulemaking, the NRC will consider this input in our future program operations.

V. Section-by-Section Analysis

The following paragraphs describe the specific amendments for this final rule.

10 CFR 170.3, Definitions

The NRC adds a new definition of ''Overhead and General and Administrative Costs'' and revises the definition for ''Utilization facility.''

10 CFR 170.20, Average Cost per Professional Staff-Hour

The NRC revises this section to reflect the hourly rate for FY 2015.

10 CFR 170.21, Schedule of Fees for Production or Utilization Facilities, Review of Standard Referenced Design Approvals, Special Projects, Inspections, and Import and Export Licenses

The NRC revises fees for fee category code K. to reflect the FY 2015 hourly rate for flat fee applications.

10 CFR 170.31, Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses

The NRC adds subcategories to fee category 3.L. licenses (broad scope) to assess additional fees to licensees such as the United States Department of Agriculture and the Department of the Army, in order to accurately reflect the cost of services provided by the NRC. The NRC revises footnote 6 to avoid duplicate billing for fuel cycle facility licensees.

10 CFR 171.5, Definitions

The NRC modifies the definition for ''Overhead and General and Administrative Costs'' to reflect the FY 2008 merger of the Advisory Committee on Nuclear Waste with the Advisory Committee on Reactor Safeguards.

10 CFR 171.15, Annual Fees: Reactor Licenses and Independent Fuel Storage Licenses

The NRC revises paragraph (b)(1) to reflect the required FY 2015 annual fee to be collected from each operating power reactor by September 30, 2015. The NRC revises the introductory text of paragraph (b)(2) to reflect FY 2015 in reference to annual fees and fee-relief adjustment. The NRC revises paragraph (c)(1) and the introductory text of paragraph (c)(2) to reflect the FY 2015 spent fuel storage/reactor decommissioning and spent fuel storage annual fee for 10 CFR part 50 licenses and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license, and the FY 2015 fee-relief adjustment. The NRC revises the introductory text of paragraph (d)(1) and paragraphs (d)(2) and (d)(3) to reflect the FY 2015 fee-relief adjustment for the operating reactor power class of licenses, the number of operating power reactors, and the FY 2015 fee-relief adjustment for spent fuel storage reactor decommissioning class of licenses. The NRC revises paragraph (e) to reflect the FY 2015 annual fees for research reactors and test reactors.

10 CFR 171.16, Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC

The NRC revises paragraphs (d) and (e) to reflect FY 2015 annual fees and the FY 2015 fee-relief adjustment. The NRC adds subcategories to fee category 3.L. licenses (broad scope) to assess additional fees to licensees such as the Department of Agriculture and the Department of the Army, in order to accurately reflect the cost of services provided by the NRC. The NRC also revises footnote 6 to avoid duplicate billing for fuel cycle facility licensees.

VI. Regulatory Flexibility Certification

Section 604 of the Regulatory Flexibility Act requires agencies to perform an analysis that considers the impact of a rulemaking on small entities. The NRC's regulatory flexibility analysis for this final rule is available as indicated in Section XV, Availability of Documents, of this document, and a summary is provided in the following paragraphs.

The NRC is required by the OBRA–90, as amended, to recover approximately 90 percent of its FY 2015 budget authority through the assessment of user fees. The OBRA–90 further requires that the NRC establish a schedule of charges that fairly and equitably allocates the aggregate amount of these charges among licensees.

The FY 2015 final rule establishes the schedules of fees necessary for the NRC to recover 90 percent of its budget authority for FY 2015. The final rule estimates some increases in annual fees charged to certain licensees and holders of certificates, registrations, and approvals, and decreases in those annual fees charged to others. Licensees affected by these final estimates include those who qualify as small entities under the NRC's size standards in § 2.810.

The NRC prepared a FY 2015 biennial regulatory analysis in accordance with the FY 2001 final rule (66 FR 32467; June 14, 2001). This rule also stated the small entity fees will be reexamined every 2 years and in the same years the NRC conducts the biennial review of fees as required by the Chief Financial Officer's Act.

For this final rule, small entity fees increase to $3,400 for the maximum upper-tier small entity fee and increase to $700 for the lower-tier small entity as a result of the biennial review which factored in the number of increased

hours for application reviews and inspections in the fee calculations. The next small entity biennial review is scheduled for FY 2017.

Additionally, the Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, has prepared the ''Small Entity Compliance Guide,'' which is available as indicated in Section XV, Availability of Documents, of this document.

VII. Regulatory Analysis

Under OBRA–90, as amended, and the AEA, the NRC is required to recover 90 percent of its budget authority, or total appropriations of $1,015.3 million, in FY 2015. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and more fee methodology guidelines through the establishment of 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy in order to ensure that the NRC continues to comply with the statutory requirements for cost recovery in OBRA–90 and the AEA.

In this rulemaking, the NRC continues this long-standing approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this rulemaking.

VIII. Backfitting and Issue Finality

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required. A backfit analysis is not required because these amendments do not require the modification of, or addition to, systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

IX. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

X. National Environmental Policy Act

The NRC has determined that this rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

XI. Paperwork Reduction Act

This rule does not contain any information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XII. Congressional Review Act

In accordance with the Congressional Review Act of 1996 (5 U.S.C. 801–808), the NRC has determined that this action is a major rule and has verified the determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

XIII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC amends the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover approximately 90 percent of its budget authority in FY 2015, as required by OBRA–90, as amended. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XIV. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the NRC is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the ''Small Entity Compliance Guide'' for the FY 2015 final fee rule. This document is available as indicated in Section XV, ''Availability of Documents,'' of this document.

XV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./Web Link
FY 2015 Final Rule Work Papers	ML15160A434.
FY 2015 Regulatory Flexibility Analysis	ML15058A385.
FY 2015 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide.	ML15058A332.
NUREG–1100, Volume 30, ''Congressional Budget Justification: Fiscal Year 2015'' (March 2014).	*http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1100/v30/.*
NRC Form 526, Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171.	*http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf.*
Consolidated and Further Continuing Appropriations Act, 2015	*https://www.congress.gov/113/bills/hr83/BILLS-113hr83enr.pdf.*
SECY–05–0164, ''Annual Fee Calculation Method,'' September 15, 2005.	ML052580332.
Staff Requirements Memorandum for SECY–14–0082, ''Jurisdiction for Military Radium and U.S. Nuclear Regulatory Commission Oversight of U.S. Department of Defense Remediation of Radioactive Material,'' December 22, 2014.	ML14356A070.
FY 2015 Proposed Fee Rule Comment Submissions	ML15156A633.
OMB's Circular A–25, ''User Charges''	*https://www.whitehouse.gov/omb/circulars_a025/.*
Transcript of Public Meeting on Fees, April 20, 2015	ML15153A028.
FY 2015 Proposed Fee Rule	ML15057A090.
FY 2015 Proposed Fee Rule Work Papers	ML15021A198.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR parts 170 and 171.

PART 170—FEES FOR FACILITIES, MATERIALS IMPORT AND EXPORT LICENSES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 1. The authority citation for part 170 continues to read as follows:

Authority: Independent Offices Appropriations Act sec. 501 (31 U.S.C. 9701); Atomic Energy Act sec. 161(w) (42 U.S.C. 2201(w)); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Chief Financial Officers Act sec. 205 (31 U.S.C. 901, 902); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act secs. 623, Energy Policy Act of 2005 sec. 651(e), Pub. L. 109–58, 119 Stat. 783 (42 U.S.C. 2201(w), 2014, 2021, 2021b, 2111).

■ 2. In § 170.3, add a new definition for ''Overhead and general and administrative costs'' in alphabetical order and revise the definition for ''Utilization facility'' to read as follows:

§ 170.3 Definitions.

* * * * *

Overhead and general and administrative costs means:

(1) The Government benefits for each employee such as leave and holidays, retirement and disability benefits, health and life insurance costs, and social security costs;

(2) Travel costs;

(3) Overhead [*e.g.,* supervision and support staff that directly support the NRC's Nuclear Reactor Safety Program and Nuclear Materials Safety and Waste Program; administrative support costs (*e.g.,* rental of space, equipment, telecommunications, and supplies)]; and

(4) Indirect costs that would include, but not be limited to, NRC central policy direction, legal, and executive management services for the Commission, and special and independent reviews, investigations, and enforcement, and appraisal of NRC programs and operations. Some of the organizations included, in whole or in part, are the Commissioners, Secretary, Executive Director for Operations, General Counsel, Congressional and Public Affairs (except for international safety and safeguards programs), Inspector General, Investigations, Enforcement, Small Business and Civil Rights, the Technical Training Center, Advisory Committee on Reactor Safeguards, and the Atomic Safety and Licensing Board Panel. The Commission views these budgeted costs as support for all its regulatory services provided to applicants, licensees, and certificate holders, and these costs must be recovered under Public Law 101–508.

* * * * *

Utilization facility means:

(1) Any nuclear reactor other than one designed or used primarily for the formation of plutonium or U–233; or

(2) An accelerator-driven subcritical operating assembly used for the irradiation of materials containing special nuclear material and described in the application assigned docket number 50–608.

■ 3. Revise § 170.20 to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the professional staff-hour rate of $268 per hour.

■ 4. In § 170.21, in the table, revise the fee category K. to read as follows:

§ 170.21 Schedule of fees for production or utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses.

* * * * *

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
* * * * * * *	
K. Import and export licenses:	
Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110.	
1. Application for import or export of production or utilization facilities [4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	$17,400
2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a).	
Application—new license, or amendment; or license exemption request	9,400
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	4,300
4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	4,800
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities.	

SCHEDULE OF FACILITY FEES—Continued

[See footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
Minor amendment to license	2,700

[1] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect when the service was provided.

* * * * * * *

[4] Imports only of major components for end-use at NRC-licensed reactors are authorized under NRC general import license in 10 CFR 110.27.

■ 5. In § 170.31, revise the table to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210]	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [Program Code(s): 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities	Full Cost.
(c) Others, including hot cell facilities	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200].	Full Cost.
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.[4]	
Application [Program Code(s): 22140]	$1,200.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[4]	
Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	$2,500.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200]	Full Cost.
F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter.[4] [Program Code(s): 22155].	Full Cost.
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, *in-situ* recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities [Program Code(s): 11100]	Full Cost.
(b) Basic *In Situ* Recovery facilities [Program Code(s): 11500]	Full Cost.
(c) Expanded *In Situ* Recovery facilities [Program Code(s): 11510]	Full Cost.
(d) *In Situ* Recovery Resin facilities [Program Code(s): 11550]	Full Cost.
(e) Resin Toll Milling facilities [Program Code(s): 11555]	Full Cost.
(f) Other facilities [Program Code(s): 11700]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000].	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010].	Full Cost.
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820].	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[6] [7] [8]	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
Application [Program Code(s): 11210]	$1,180.
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter.	
Application [Program Code(s): 11240]	$2,700.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter.	
Application [Program Codes(s): 11230, 11231]	$2,700.
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution.	
Application [Program Code(s): 11710]	$2,500.
F. All other source material licenses.	
Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	$2,500.
3. Byproduct material:	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	
Application [Program Code(s): 03211, 03212, 03213]	$12,500.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	
Application [Program Code(s): 03214, 03215, 22135, 22162]	$3,500.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4).	
Application [Program Code(s): 02500, 02511, 02513]	$5,000.
D. [Reserved]	N/A.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).	
Application [Program Code(s): 03510, 03520]	$3,100.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03511]	$6,300.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03521]	$59,800.
H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03254, 03255, 03257]	$6,400.
I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03250, 03251, 03252, 03253, 03256]	$10,600.
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03240, 03241, 03243]	$1,900.
K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03242, 03244]	$1,100.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5.	
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20.	
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 20 or more.	
Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	$5,300.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution.	
Application [Program Code(s): 03620]	$4,800.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C.	
Application [Program Code(s): 03219, 03225, 03226]	$6,100.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations.	
Application [Program Code(s): 03310, 03320]	$3,100.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. [9]	
Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130].	$2,600.
Q. Registration of a device(s) generally licensed under part 31 of this chapter.	
Registration	$400.
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section.[5]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified.	
Application [Program Code(s): 02700]	$2,500.
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4), or (5).	
Application [Program Code(s): 02710]	$2,400.
S. Licenses for production of accelerator-produced radionuclides.	
Application [Program Code(s): 03210]	$13,700.
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101].	N/A.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03234]	$6,700.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03232]	$4,800.
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies.	
Application [Program Code(s): 03110, 03111, 03112]	$4,400.
B. Licenses for possession and use of byproduct material for field flooding tracer studies.	
Licensing [Program Code(s): 03113]	Full Cost.
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	
Application [Program Code(s): 03218]	$21,400.
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices.	
Application [Program Code(s): 02300, 02310]	$10,700.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[10]	
Application [Program Code(s): 02110]	$8,400.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.	
Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	$4,300.
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	
Application [Program Code(s): 03710]	$2,500.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	
Application—each device	$5,200.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	
Application—each device	$8,700.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	
Application—each source	$5,100.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2 3]
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	
Application—each source	$1,020.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators.	
Application	$4,000.
Inspections	Full Cost.
2. Users.	
Application	$4,000.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities	Full Cost.
12. Special projects:	
Including approvals, pre-application/licensing activities, and inspections.	
Application [Program Code: 25110]	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including MMLs. Application [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200].	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses:	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	$17,400.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.).	
Application—new license, or amendment; or license exemption request	$9,400.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	$4,300.
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	$4,800.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment	$1,300.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in Appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).	
Category 1 (Appendix P, 10 CFR Part 110) Exports:	
F. Application for export of Appendix P Category 1 materials requiring Commission review (e.g. exceptional circumstance review under 10 CFR 110.42(e)(4)) and to obtain government-to-government consent for this process. For additional consent see 15.I.).	
Application—new license, or amendment; or license exemption request	$14,700.
G. Application for export of Appendix P Category 1 materials requiring Executive Branch review and to obtain government-to-government consent for this process. For additional consents see 15.I.	
Application—new license, or amendment; or license exemption request	$8,000.
H. Application for export of Appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see 15.I.	
Application—new license, or amendment; or license exemption request	$5,400.
I. Requests for each additional government-to-government consent in support of an export license application or active export license.	
Application—new license, or amendment; or license exemption request	$270.
Category 2 (Appendix P, 10 CFR Part 110) Exports:	
J. Application for export of Appendix P Category 2 materials requiring Commission review (e.g. exceptional circumstance review under 10 CFR 110.42(e)(4)).	
Application—new license, or amendment; or license exemption request	$14,700.
K. Applications for export of Appendix P Category 2 materials requiring Executive Branch review.	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
Application—new license, or amendment; or license exemption request	$8,000.
L. Application for the export of Category 2 materials.	
Application—new license, or amendment; or license exemption request	$4,000.
M. [Reserved]	N/A.
N. [Reserved]	N/A.
O. [Reserved]	N/A.
P. [Reserved]	N/A.
Q. [Reserved]	N/A.
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):	
R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities.	
Minor amendment	$1,300.
16. Reciprocity:	
Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.	
Application	$1,900.
17. Master materials licenses of broad scope issued to Government agencies.	
Application [Program Code(s): 03614]	Full Cost.
18. Department of Energy.	
A. Certificates of Compliance. Evaluation of casks, 11packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	Full Cost.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at Full Cost.s; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to Full Cost. fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

[3] Full Cost. fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

[4] Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6] Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[7] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[8] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[9] Licensees paying fees under 3.N. are not subject to paying fees under 3.P. for calibration or leak testing services authorized on the same license.

[10] Licensees paying fees under 7.B. are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 6. The authority citation for part 171 continues to read as follows:

Authority: Consolidated Omnibus Budget Reconciliation Act sec. 7601, Pub. L. 99–272, as amended by sec. 5601, Pub. L. 100–203, as amended by sec. 3201, Pub. L. 101–239, as amended by sec. 6101, Pub. L. 101–508, as amended by sec. 2903a, Pub. L. 102–486 (42 U.S.C. 2213, 2214), and as amended by Title IV, Pub. L. 109–103 (42 U.S.C. 2214); Atomic Energy Act sec. 161(w), 223, 234 (42 U.S.C. 2201(w), 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005 sec. 651(e), Pub. L. 109–58 (42 U.S.C. 2014, 2021, 2021b, 2111).

■ 7. In § 171.15, revise paragraph (b)(1), the introductory text of paragraph (b)(2), paragraph (c)(1), the introductory text of paragraphs (c)(2) and (d)(1), and paragraphs (d)(2), (d)(3), and (e) to read as follows:

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2015 annual fee for each operating power reactor which must be collected by September 30, 2015, is $5,030,000.

(2) The FY 2015 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (fee-relief adjustment). The activities comprising the spent storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2015 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2015 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2015 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is $223,000.

(2) The FY 2015 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section) and a fee-relief adjustment. The activities comprising the FY 2015 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2015 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) The fee-relief adjustment allocated to annual fees includes a surcharge for the activities listed in paragraph (d)(1)(i) of this section, plus the amount remaining after total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (d)(1)(iii) of this section are reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (d)(1)(ii) and (d)(1)(iii) of this section for a given fiscal year, annual fees will be reduced. The activities comprising the FY 2015 fee-relief adjustment are as follows:

* * * * *

(2) The total FY 2015 fee-relief adjustment allocated to the operating power reactor class of licenses is a $2,088,700 fee-relief surplus, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2015 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately a $21,098 fee-relief surplus. This amount is calculated by dividing the total operating power reactor fee-relief surplus adjustment, $2,088,700 million, by the number of operating power reactors (99).

(3) The FY 2015 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is a $37,100 fee-relief assessment. The FY 2015 spent fuel storage/reactor decommissioning fee-relief adjustment to be assessed to each operating power reactor, each power reactor in decommissioning or possession-only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is a $304 fee-relief assessment. This amount is calculated by dividing the total fee-relief adjustment costs allocated to this class by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

(e) The FY 2015 annual fees for licensees authorized to operate a research or test (nonpower) reactor licensed under 10 CFR part 50 of this chapter, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor	$83,500
Test reactor	83,500

■ 8. In § 171.16, revise paragraph (d) and the introductory text of paragraph (e) to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(d) The FY 2015 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2015 fee-relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2015 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in the following table:

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	$8,473,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210]	2,915,000

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [Program Code(s): 21310, 21320]	0
(b) Gas centrifuge enrichment demonstration facilities	1,640,000
(c) Others, including hot cell facilities	820,000
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200]	[11] N/A
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.[15] [Program Code(s): 22140]	3,200
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[15] [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	8,200
E. Licenses or certificates for the operation of a uranium enrichment facility [Program Code(s): 21200]	4,009,000
F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter.[15] [Program Code: 22155]	6,800
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [Program Code: 11400]	1,731,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities [Program Code(s): 11100]	36,100
(b) Basic *In Situ* Recovery facilities [Program Code(s): 11500]	45,800
(c) Expanded *In Situ* Recovery facilities [Program Code(s): 11510]	51,800
(d) *In Situ* Recovery Resin facilities [Program Code(s): 11550]	0
(e) Resin Toll Milling facilities [Program Code(s): 11555]	[5] N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000]	[5] N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010]	20,500
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820]	6,000
B. Licenses that authorize possession, use, and/or installation of source material for shielding.[16] [17] [18] [Program Code: 11210]	3,500
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	6,800
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter [Program Code(s): 11230 and 11231]	6,800
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	8,300
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	7,800
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03211, 03212, 03213]	30,700
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03214, 03215, 22135, 22162]	13,000
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). [Program Code(s): 02500, 02511, 02513]	13,500
D. [Reserved]	[5] N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520]	9,900
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511]	12,300
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521]	108,900

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees[1 2 3]
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255]	12,400
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03256]	18,300
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243]	4,700
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244]	3,500
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	17,900
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20	24,000
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 20 or more	29,900
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620]	12,400
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. [Program Code(s): 03219, 03225, 03226]	21,200
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license [Program Code(s): 03310, 03320]	25,800
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[19] [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	8,000
Q. Registration of devices generally licensed under part 31 of this chapter	[13] N/A
R. Possession of items or products containing radium–226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section:[14]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	8,000
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5) [Program Code(s): 02710]	8,300
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	31,100
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]	[5] N/A
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03234]	22,200
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03232]	14,700
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies [Program Code(s): 03110, 03111, 03112]	14,400
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	[5] N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218]	40,100
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. [Program Code(s): 02300, 02310]	24,700

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [Program Code(s): 02110]	37,500
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [20] [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	13,300
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities [Program Code(s): 03710]	8,000
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	7,900
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	13,200
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	7,800
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	1,600
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
2. Other Casks	[6] N/A
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	[6] N/A
2. Users	[6] N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	[6] N/A
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects [Program Code(s): 25110]	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	[12] N/A
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs) [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200]	[7] N/A
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies [Program Code(s): 03614]	343,000
18. Department of Energy:	
A. Certificates of Compliance	[10] 1,623,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	666,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 2015, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

[4] Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.B. or 7.C.

[10] This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

[11] See § 171.15(c).

[12] See § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[15] Licensees paying annual fees under category 1.A., 1.B., and 1.E. are not subject to the annual fees for categories 1.C., 1.D., and 1.F. for sealed sources authorized in the license.

[16] Licensees subject to fees under categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[17] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[18] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[19] Licensees paying fees under 3.N. are not subject to paying fees under 3.P. for calibration or leak testing services authorized on the same license.

[20] Licensees paying fees under 7.B. are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

(e) The fee-relief adjustment allocated to annual fees includes the budgeted resources for the activities listed in paragraph (e)(1) of this section, plus the total budgeted resources for the activities included in paragraphs (e)(2) and (e)(3) of this section, as reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (e)(2) and (e)(3) of this section for a given fiscal year, a negative fee-relief adjustment (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2015 fee-relief adjustment are as follows:

* * * * *

Dated at Rockville, Maryland, this 17th day of June 2015.

For the Nuclear Regulatory Commission.

Maureen E. Wylie,

Chief Financial Officer.

[FR Doc. 2015–15763 Filed 6–29–15; 8:45 am]

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Part V

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Geophysical and Geotechnical Survey in Cook Inlet, Alaska; Notices

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE018

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Geophysical and Geotechnical Survey in Cook Inlet, Alaska

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from ExxonMobil Alaska LNG LLC (AK LNG) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to a geophysical and geotechnical survey in Cook Inlet, Alaska. This action is proposed to occur for 84 days after August 7, 2015. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to AK LNG to incidentally take, by Level B Harassment only, marine mammals during the specified activity.

DATES: Comments and information must be received no later than July 30, 2015.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *itp.young@noaa.gov*. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size. NMFS is not responsible for comments sent to addresses other than those provided here.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. The following associated documents are also available at the same internet address: Draft Environmental Assessment.

FOR FURTHER INFORMATION CONTACT: Sara Young, Office of Protected Resources, NMFS, (301) 427–8484.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after NMFS provides a notice of a proposed authorization to the public for review and comment: (1) NMFS makes certain findings; and (2) the taking is limited to harassment.

An Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On February 4, 2015, NMFS received an application from AK LNG for the taking of marine mammals incidental to a geotechnical and geophysical survey in Cook Inlet, Alaska. NMFS determined that the application was adequate and complete on June 8, 2015.

AK LNG proposes to conduct a geophysical and geotechnical survey in Cook Inlet to investigate the technical suitability of a pipeline study corridor across Cook Inlet and potential marine terminal locations near Nikiski. The proposed activity would occur for 12 weeks during the 2015 open water season after August 7, 2015. The following specific aspects of the proposed activities are likely to result in the take of marine mammals: Sub-bottom profiler (chirp and boomer), and a seismic airgun. Take, by Level B Harassment only, of individuals of four species is anticipated to result from the specified activities.

Description of the Specified Activity

Overview

The planned geophysical surveys involve remote sensors including single beam echo sounder, multibeam echo sounder, sub-bottom profilers (chirp and boomer), 0.983 L (60 in^3) airgun, side scan sonar, geophysical resistivity meters, and magnetometer to characterize the bottom surface and subsurface. The planned shallow geotechnical investigations include vibracoring, sediment grab sampling, and piezo-cone penetration testing (PCPT) to directly evaluate seabed features and soil conditions. Geotechnical borings are planned at potential shoreline crossings and in the terminal boring subarea within the Marine Terminal survey area, and will be used to collect information on the mechanical properties of in-situ soils to support feasibility studies for construction crossing techniques and decisions on siting and design of pilings, dolphins, and other marine structures. Geophysical resistivity imaging will be conducted at the potential shoreline crossings. Shear wave velocity profiles (downhole geophysics) will be conducted within some of the boreholes. Further details of the planned operations are provided below.

Dates and Duration

Geophysical and geotechnical surveys that do not involve equipment that could acoustically harass listed marine mammals could begin as soon as April 2015, depending on the ice conditions. These surveys include echo sounders and side scan sonar surveys operating at frequencies above the hearing range of local marine mammals and geotechnical borings, which are not expected to produce underwater noise exceeding

ambient. The remaining surveys, including use of sub-bottom profilers and the small airgun, would occur soon after receipt of the IHA, if granted. These activities would be scheduled in such a manner as to minimize potential effects to marine mammals, subsistence activities, and other users of Cook Inlet waters. It is expected that approximately 12 weeks (84 work days) are required to complete the G&G Program. The work days would not all be consecutive due to weather, rest days, and any timing restrictions.

Specified Geographic Region

The Cook Inlet 2015 G&G Program will include geophysical surveys, shallow geotechnical investigations, and geotechnical borings. Two separate areas will be investigated and are shown in Figure 1 of the application: The pipeline survey area and the Marine Terminal survey area (which includes an LNG carrier approach zone). The pipeline survey area runs from the Kenai Peninsula, across the Inlet, up to Beluga, also considered the Upper Inlet. The Terminal area will include an area west and south of Nikiski, the northern edge of what is considered the Lower Inlet. The G&G Program survey areas (also referred to as the action area or action areas) are larger than the proposed pipeline route and the Marine Terminal site to ensure detection of all potential hazards, or to identify areas free of hazards. This provides siting flexibility should the pipeline corridor or Marine Terminal sites need to be adjusted to avoid existing hazards.

- Pipeline Survey Area—The proposed pipeline survey area (Figure 1) crosses Cook Inlet from Boulder Point on the Kenai Peninsula across to Shorty Creek about halfway between the village of Tyonek and the Beluga River. This survey area is approximately 45 km (28 mi) in length along the corridor centerline and averages about 13 km (8 mi) wide. The total survey area is 541 km2 (209 mi2). The pipeline survey area includes a subarea where vibracores will be conducted in addition to the geophysical surveys and shallow geotechnical investigations.
- Marine Terminal Survey Area—The proposed Marine Terminal survey area (Figure 1) encompassing 371 km2 (143 mi2) is located near Nikiski where potential sites and vessel routes for the Marine Terminal are being investigated. The Marine Terminal survey area includes two subareas: A seismic survey subarea where the airgun will be operated in addition to the other geophysical equipment, and a terminal boring subarea where geotechnical boreholes will be drilled in addition to the geophysical survey and shallow geotechnical investigations. The seismic survey subarea encompasses 25 km2 (8.5 mi2) and the terminal boring subarea encompasses 12 km2 (4.6 mi2).

Detailed Description of Activities

The details of this activity are broken down into two categories for further description and analysis: Geophysical surveys and geotechnical surveys.

Geophysical Surveys

The types of acoustical geophysical equipment planned for use in the Cook Inlet 2015 G&G Program are indicated, by survey area, in Table 1 in the application. The equipment includes: Single beam echo sounder, multibeam echo sounder, sub-bottom profilers (chirp and boomer), 0.983 L (60 in^3) airgun, and side scan sonar. The magnetometer and resistivity system are not included in the table since they are not acoustical in nature and, thus, do not generate sound that might harass marine mammals, nor do they affect habitat.

Downhole geophysics is included in the table as a sound source, but is not considered further in this assessment as the energy source will not generate significant sound energy within the water column since the equipment will be located downhole within the geotechnical boreholes. The transmitter (source) and receiver are both housed within the same probe or tool that is lowered into the hole on a wireline. The suspension log transmitter is an electromechanical device. It consists of a metallic barrel (the hammer) disposed horizontally in the tool and actuated by an electromagnet (solenoid) to hit the inside of tool body (the plate). The fundamental H1 mode is at about 4.5 KHz, and H2 is at 9 KHz. An extra resonance (unknown) mode is also present at about 15Khz. An analysis performed to estimate the expected sound level of the proposed borehole logging equipment scaled the sound produced by a steel pile driven by a hammer (given that both are cylindrical noise sources and produce impulsive sounds) and concluded that the sound level produced at 25m by the borehole logging equipment would be less than 142 dB. This is not considering the confining effect of the borehole which would lower the sound level even further (I&R, 2015).

The other types of geophysical equipment proposed for the 2015 program will generate impulsive sound in the water column and are described below Information on the acoustic characteristics of geophysical and geotechnical sound sources is also summarized in Table 2 in the application, followed by a corresponding description of each piece of equipment to be used.

Single Beam Echo Sounders

Single beam echo sounders calculate water depth by measuring the time it takes for emitted sound to reflect off the seafloor bottom and return to the transducer. They are usually mounted on the vessel hull or a side-mounted pole. Echo sounding is expected to be conducted concurrently with sub-bottom profiling. Given an operating frequency of more than 200 kHz (Table 2), it is unlikely that the single beam echosounder will cause behavioral disturbance to marine mammals in the area (Wartzok and Ketten 1999, Southall et al. 2007, Reichmuth and Southall 2011, Castellote et al. 2014). While literature has shown pinniped behavioral reaction to sounds at 200kHz, as well as detection of subharmonics at 90 and 130 KHz by several odontocetes, the ambient noise levels in Cook Inlet make behavioral disturbance unlikely (Hastie et al. 2014, Deng et al. 2014). Further, single beam echo sounders operate at relatively low energy levels (146 dB re 1 µPa-m [rms]). The simultaneous operations of echo sounder with sub-bottom profiler should have no additive effect on marine mammals. The high ambient noise levels in Cook Inlet, as well as the low proposed source level of this technology will like not disturb marine mammals to the point of Level B harassment. Thus, this equipment is not further evaluated in this application

Multibeam Echo Sounders

Multibeam echo sounders emit a swath of sonar downward to the seafloor at source energy levels of 188 dB re 1 µPa-m (rms). The reflection of the sonar signal provides for the production of three dimensional seafloor images. These systems are usually side-mounted to the vessel. Echo sounding is expected to be conducted concurrently with sub-bottom profiling. Given the operating frequencies of the planned multibeam system (>200 kHz, Table 2), the generated underwater sound will be beyond the hearing range of Cook Inlet marine mammals (Wartzok and Ketten 1999, Kastelein et al. 2005, Southall et al. 2007, Reichmuth and Southall 2011, Castellote et al. 2014). Further, most sound energy is emitted directly downward from this equipment, not laterally. As with the single beam, the multibeam is not further evaluated because it far exceeds the maximum hearing frequency of local marine mammals. Due to this technology being

above the hearing frequency of local marine mammal species, the simultaneous operations of echo sounder with sub-bottom profiler should have no additive effect on marine mammals.

Side-Scan Sonar

Side-scan sonar emits a cone-shaped pulse downward to the seafloor with source energy of about 188 dB re 1 µPa-m (rms). Acoustic reflections provide a two-dimensional image of the seafloor and other features. The side-scan sonar system planned for use during this program will emit sound energy at frequencies of 400 and 1600 kHz (Table 2), which are well beyond the normal hearing range of Cook Inlet marine mammals (Wartzok and Ketten 1999, Kastelein et al. 2005, Southall et al. 2007, Reichmuth and Southall 2011, Castellote et al. 2014). Side-scan sonar is not further evaluated in this application.

Sub-Bottom Profiler—Chirp

The chirp sub-bottom profiler planned for use in this program is a precisely controlled ''chirp'' system that emits high-energy sounds with a resolution of one millisecond (ms) and is used to penetrate and profile the shallow sediments near the sea floor. At operating frequencies of 2 to 16 kHz (Table 2), this system will be operating at the lower end of the hearing range of beluga whales and well below the most sensitive hearing range of beluga whales (45–80 kHz, Castellote et al. 2014). The source level is estimated at 202 dB re 1 µPa-m (rms). The beam width is 24 degrees and pointed downward.

Sub-Bottom Profiler—Boomer

A boomer sub-bottom profiling system with a penetration depth of up to 600 ms and resolution of 2 to 10 ms will be used to penetrate and profile the Cook Inlet sediments to an intermediate depth. The system will be towed behind the vessel. With a sound energy source level of about 205 dB re 1 µPa-m (rms) at frequencies of 0.5 to 6 kHz (Table 2), most of the sound energy generated by the boomer will be at frequencies that are well below peak hearing sensitivities of beluga whales (45–80 kHz; Castellote et al. 2014), but would still be detectable by these animals. The boomer is pointed downward but the equipment is omni-directional so the physical orientation is irrelevant.

Airgun

A 0.983 L (60 in^3) airgun will be used to gather high resolution profiling at greater depths below the seafloor. The published source level from Sercel (the manufacturer) for a 0.983 L (60 in^3) airgun is 216 dB re 1 µPa-m (equating to about 206 dB re 1 µPa-m (rms). These airguns typically produce sound levels at frequencies of less than 1 kHz (Richardson et al. 1995, Zykov and Carr 2012), or below the most sensitive hearing of beluga whales (45–80 kHz; Castellote et al. 2014), but within the functional hearing of these animals (>75 Hz; Southall et al. 2007). The airgun will only be used during geophysical surveys conducted in the smaller seismic survey subarea within the Marine Terminal survey area (Lower Inlet).

Geotechnical Surveys

Shallow Geotechnical Investigations—Vibracores

Vibracoring is conducted to obtain cores of the seafloor sediment from the surface down to a depth of about 6.1 m (20 ft). The cores are later analyzed in the laboratory for moisture, organic and carbonate content, shear strength, and grain size. Vibracore samplers consist of a 10-cm (4.0-in) diameter core barrel and a vibratory driving mechanism mounted on a four-legged frame, which is lowered to the seafloor. The electric motor driving mechanism oscillates the core barrel into the sediment where a core sample is then extracted. The duration of the operation varies with substrate type, but generally the sound source (driving mechanism) is operable for only the one or two minutes it takes to complete the 6.1-m (20-ft) bore and the entire setup process often takes less than one hour.

Chorney et al. (2011) conducted sound measurements on an operating vibracorer in Alaska and found that it emitted a sound pressure level at 1-m source of 187.4 dB re 1 µPa-m (rms), with a frequency range of between 10 Hz and 20 kHz (Table 2). Vibracoring will result in the largest zone of influence (ZOI; area ensonified by sound energy greater than the 120 dB threshold) among the continuous sound sources. Vibracoring would also have a very small effect on the benthic habitat.

Vibracoring will be conducted at approximate intervals of one core every 4.0 km (2.5 mi) along the pipeline corridor centerline for a total of about 22 samplings total. Approximately 33 vibracores will also be collected within the Marine Terminal survey area. Only about three or four vibracorings per day are expected to be conducted over about 14 days of vibracoring activity, but given the expected duration per vibracore the total time the sound source would be operating is expected to be about 2.0 hours or less.

Because of the very brief duration within a day (up to four 1 or 2-minute periods) of this continuous, non-impulsive sound, combined with the small number of days the source will be used overall, NMFS does not believe that the vibracore operations will result in the take of marine mammals. However, because the applicant requested take from this source and included a quantitative analysis in their application, that analysis will be included here for reference and opportunity for public comment.

Geotechnical Borings

Geotechnical borings will be conducted within the Marine Terminal survey area and within the pipeline survey area near potential shoreline crossings. Geotechnical borings will be conducted by collecting geotechnical samples from borings 15.2 to 70.0 m (50–200 ft) deep using a rotary drilling unit mounted on a small jack-up platform. Geotechnical borings provide geological information at greater sediment depths than vibracores. These data are required to help inform proper designs and construction techniques for pipeline crossing and terminal facilities. The number of and general locations for the planned geotechnical boreholes are provided below in Table 3.

The jack-up platform is expected to be the Seacore *Skate 3* modular jack-up or a similar jack-up. The Skate 3 modular platform is supported by four 76-cm (30-in) diameter legs. The borings will be drilled with a Comacchio MC–S conventional rotary geotechnical drill rig mounted on rubber skids. Four geotechnical boreholes will be drilled at each of the two shoreline crossings (8 total), and up to 34 boreholes will be drilled in the terminal boring subarea within the Marine Terminal survey area.

Sound source verifications of large jack-up drilling rigs in Cook Inlet (*Spartan 151* and *Endeavour*) have shown that underwater sound generated by rotary drilling from elevated platforms on jack-ups generally does not exceed the underwater ambient sound levels at the source (MAI 2011, I&R 2014). Underwater sound generated by these larger drill rigs was identified as being associated with the rigs' large hotel generators or with underwater deep-well pumps, neither of which type of equipment is used by the Skate 3, which should therefore make the operational noise quieter than the sound source levels measured for the *Spartan 151* and *Endeavour*. The Skate 3 is equipped with only a small deck-mounted pump and generator. Sound source information is not available for the *Skate 3,* however, the rubber tracks

of the skid and the narrow legs of the rig greatly limit the transmission of sound (via vibrations) from the drilling table into the water column. Underwater sound generated from the Skate 3 from geotechnical borings is expected to be much less than those in the sound source verifications for the rigs mentioned above (MAI, 2011; I&R, 2014); the borings are therefore not further evaluated as potential noise impact. However, the intrusive borings will affect benthic habitat and is later described.

Sediment Grab Samples

Grab sampling will involve using a Van Veen grab sampler that will be lowered with its ''jaws'' open to the seafloor from the geophysical vessel at which point the mechanical closing mechanism is activated, thus ''grabbing'' a sample of bottom sediment. The sampler is retrieved to the vessel deck and a sample of the sediments collected for environmental and geotechnical analysis, such as soil description and sieve analyses. Grab sampling does not produce significant underwater sound, but will have a small effect on the benthic habitat. Grab samples will be obtained as warranted to aid interpretation of geophysical data.

Piezo-Cone Penetration Testing

Piezo-cone penetration testing (PCPT) involves placing a metal frame on the ocean bottom and then pushing an instrumented cone into the seafloor at a controlled rate, measuring the resistance and friction of the penetration. The results provide a measure of the geotechnical engineering property of the soil, including load bearing capacity and stratigraphy. The target depth is about 4.9 m (16 ft). PCPTs will be conducted at intervals of about one per 8.0 km (5.0 mi) along the pipeline corridor centerline and elsewhere in the pipeline survey area and Marine Terminal survey area. Precise target locations will be determined in the field and will be adjusted by onboard personnel after the preliminary geophysical data has been made available to select sample locations that better identify soil transition zones and/or other features. PCPT will have an inconsequential effect on benthic habitat as well as local marine mammal populations

Vessels

The geophysical surveys will be conducted from one of two source vessels with the smaller of the two used in more shallow, nearshore water conditions. Vibracoring will be conducted from a third vessel as noted in Table 4 in the application. Geotechnical borings will be conducted from a jack-up platform. The jack-up platform is not self-powered, and will be positioned over each sampling location by a tug. The proposed vessels are: Three source vessels, one jack-up platform, and one tug. The contracted vessels will either be these vessels or similar vessels with similar configurations.

Description of Marine Mammals in the Area of the Specified Activity

Marine mammals that regularly inhabit upper Cook Inlet and Nikiski activity areas are the beluga whale (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), and harbor seal (*Phoca vitulina*) (Table 6). However, these species are found there in relatively low numbers, and generally only during the summer fish runs (Nemeth *et al.* 2007, Boveng *et al.* 2012). Killer whales (*Orcinus orca*) are occasionally observed in upper Cook Inlet where they have been observed attempting to prey on beluga whales (Shelden et al. 2003). Based on a number of factors, Shelden et al. (2003) concluded that the killer whales found in upper Cook Inlet to date are the transient type, while resident types occasionally enter lower Cook Inlet. Marine mammals occasionally found in lower Cook Inlet include humpback whales (*Megaptera novaeangliae*), gray whales (*Eschrichtius robustus*), minke whales (*Balaenoptera acutorostrata*), Dall's porpoise (*Phocoena dalli*), and Steller sea lion (*Eumetopias jubatus).* Background information of species evaluated in this proposed Authorization is detailed in Table 1 below.

TABLE 1—MARINE MAMMALS INHABITING THE COOK INLET ACTION AREA

Species	Stock	ESA/MMPA status [1]; strategic (Y/N)	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	Relative occurrence in Cook Inlet; season of occurrence
Killer whale	Alaska Resident	-;N	2,347 (N/A; 2,084; 2009)	Occasionally sighted in Lower Cook Inlet.
	Alaska Transient	-:N	345 (N/A; 303; 2003).	
Beluga whale	Cook Inlet	E/D;Y	312 (0.10; 280; 2012)	Use upper Inlet in summer and lower in winter: Annual.
Harbor porpoise	Gulf of Alaska	-;Y	31,046 (0.214; 25,987; 1998)	Widespread in the Inlet: Annual (less in winter).
Harbor seal	Cook Inlet/Shelikof	-;N	22,900 (0.053; 21,896; 2006)	Frequently found in upper and lower inlet; annual (more in northern Inlet in summer).

Beluga Whale (Delphinapterus leucas)

The Cook Inlet beluga whale Distinct Population Stock (DPS) is a small geographically isolated population that is separated from other beluga populations by the Alaska Peninsula. The population is genetically (mtDNA) distinct from other Alaska populations suggesting that the Peninsula is an effective barrier to genetic exchange (O'Corry-Crowe et al. 1997) and that these whales may have been separated from other stocks at least since the last ice age. Laidre et al. (2000) examined data from over 20 marine mammal surveys conducted in the northern Gulf of Alaska and found that sightings of belugas outside Cook Inlet were exceedingly rare, and these were composed of a few stragglers from the Cook Inlet DPS observed at Kodiak Island, Prince William Sound, and Yakutat Bay. Several marine mammal surveys specific to Cook Inlet (Laidre et al. 2000, Speckman and Piatt 2000), including those that concentrated on beluga whales (Rugh et al. 2000, 2005a), clearly indicate that this stock largely confines itself to Cook Inlet. There is no indication that these whales make forays into the Bering Sea where they might intermix with other Alaskan stocks.

The Cook Inlet beluga DPS was originally estimated at 1,300 whales in

1979 (Calkins 1989) and has been the focus of management concerns since experiencing a dramatic decline in the 1990s. Between 1994 and 1998 the stock declined 47%, which has been attributed to overharvesting by subsistence hunting. During that period, subsistence hunting was estimated to have annually removed 10–15% of the population. Only five belugas have been harvested since 1999, yet the population has continued to decline (Allen and Angliss 2014), with the most recent estimate at only 312 animals (Allen and Angliss 2014). The NMFS listed the population as ''depleted'' in 2000 as a consequence of the decline, and as ''endangered'' under the Endangered Species Act (ESA) in 2008 when the population failed to recover following a moratorium on subsistence harvest. In April 2011, the NMFS designated critical habitat for the Cook Inlet beluga whale under the ESA (Figure 2 in the application).

Prior to the decline, this DPS was believed to range throughout Cook Inlet and occasionally into Prince William Sound and Yakutat (Nemeth et al. 2007). However, the range has contracted coincident with the population reduction (Speckman and Piatt 2000). During the summer and fall, beluga whales are concentrated near the Susitna River mouth, Knik Arm, Turnagain Arm, and Chickaloon Bay (Nemeth et al. 2007) where they feed on migrating eulachon (*Thaleichthys pacifcus*) and salmon (Onchorhynchus spp.) (Moore et al. 2000). The limits of Critical Habitat Area 1 reflect the summer distribution (Figure 3 in the application). During the winter, beluga whales concentrate in deeper waters in the mid-inlet to Kalgin Island, and in the shallow waters along the west shore of Cook Inlet to Kamishak Bay. The limits of Critical Habitat Area 2 reflect the winter distribution. Some whales may also winter in and near Kachemak Bay.

Goetz et al. (2012) modeled beluga use in Cook Inlet based on the NMFS aerial surveys conducted between 1994 and 2008. The combined model results shown in Figure 3 in the application indicate a very clumped distribution of summering beluga whales, and that lower densities of belugas are expected to occur in most of the pipeline survey area (but not necessarily specific G&G survey locations; see Section 6.3 in the application) and the vicinity of the proposed Marine Terminal. However, beluga whales begin moving into Knik Arm around August 15 where they spend about a month feeding on Eagle River salmon. The area between Nikiski, Kenai, and Kalgin Island provides important wintering habitat for Cook Inlet beluga whales. Use of this area would be expected between fall and spring, with animals largely absent during the summer months when G&G surveys would occur (Goetz *et al.* 2012).

Killer Whale (Orcinus orca)

Two different stocks of killer whales inhabit the Cook Inlet region of Alaska: The Alaska Resident Stock and the Gulf of Alaska, Aleutian Islands, Bering Sea Transient Stock (Allen and Angliss 2014). The Alaska Resident stock is estimated at 2,347 animals and occurs from Southeast Alaska to the Bering Sea (Allen and Angliss 2014). Resident whales feed exclusively on fish and are genetically distinct from transient whales (Saulitis et al. 2000).

The transient whales feed primarily on marine mammals (Saulitis et al. 2000). The transient population inhabiting the Gulf of Alaska shares mitochondrial DNA haplotypes with whales found along the Aleutian Islands and the Bering Sea, suggesting a common stock, although there appears to be some subpopulation genetic structuring occurring to suggest the gene flow between groups is limited (see Allen and Angliss 2014). For the three regions combined, the transient population has been estimated at 587 animals (Allen and Angliss 2014).

Killer whales are occasionally observed in lower Cook Inlet, especially near Homer and Port Graham (Shelden et al. 2003, Rugh et al. 2005a). The few whales that have been photographically identified in lower Cook Inlet belong to resident groups more commonly found in nearby Kenai Fjords and Prince William Sound (Shelden et al. 2003). Prior to the 1980s, killer whale sightings in upper Cook Inlet were very rare. During aerial surveys conducted between 1993 and 2004, killer whales were observed on only three flights, all in the Kachemak and English Bay area (Rugh et al. 2005a). However, anecdotal reports of killer whales feeding on belugas in upper Cook Inlet began increasing in the 1990s, possibly in response to declines in sea lion and harbor seal prey elsewhere (Shelden et al. 2003). These sporadic ventures of transient killer whales into beluga summering grounds have been implicated as a possible contributor to the decline of Cook Inlet belugas in the 1990s, although the number of confirmed mortalities from killer whales is small (Shelden et al. 2003). If killer whales were to venture into upper Cook Inlet in 2015, they might be encountered during the G&G Program.

Harbor Porpoise (Phocoena phocoena)

Harbor porpoise are small (approximately 1.2 m [4 ft] in length), relatively inconspicuous toothed whales. The Gulf of Alaska Stock is distributed from Cape Suckling to Unimak Pass and was most recently estimated at 31,046 animals (Allen and Angliss 2014). They are found primarily in coastal waters less than 100 m (328 ft) deep (Hobbs and Waite 2010) where they feed on Pacific herring (*Clupea pallasii*), other schooling fishes, and cephalopods.

Although they have been frequently observed during aerial surveys in Cook Inlet, most sightings of harbor porpoise are of single animals, and are concentrated at Chinitna and Tuxedni bays on the west side of lower Cook Inlet (Rugh et al. 2005a). Dahlheim et al. (2000) estimated the 1991 Cook Inlet-wide population at only 136 animals. Also, during marine mammal monitoring efforts conducted in upper Cook Inlet by Apache from 2012 to 2014, harbor porpoise represented less than 2% of all marine mammal sightings. However, they are one of the three marine mammals (besides belugas and harbor seals) regularly seen in upper Cook Inlet (Nemeth et al. 2007), especially during spring eulachon and summer salmon runs. Because harbor porpoise have been observed throughout Cook Inlet during the summer months, including mid-inlet waters, they represent species that might be encountered during G&G Program surveys in upper Cook Inlet.

Harbor Seal (Phoca vitulina)

At over 150,000 animals state-wide (Allen and Angliss 2014), harbor seals are one of the more common marine mammal species in Alaskan waters. They are most commonly seen hauled out at tidal flats and rocky areas. Harbor seals feed largely on schooling fish such as Alaska pollock (Theragra chalcogramma), Pacific cod (Gadus macrocephalus), salmon, Pacific herring, eulachon, and squid. Although harbor seals may make seasonal movements in response to prey, they are resident to Alaska and do not migrate.

The Cook Inlet/Shelikof Stock, ranging from approximately Anchorage down along the south side of the Alaska Peninsula to Unimak Pass, has been recently estimated at a stable 22,900 (Allen and Angliss 2014). Large numbers concentrate at the river mouths and embayments of lower Cook Inlet, including the Fox River mouth in Kachemak Bay (Rugh et al. 2005a). Montgomery et al. (2007) recorded over 200 haulout sites in lower Cook Inlet

alone. However, only a few dozen to a couple hundred seals seasonally occur in upper Cook Inlet (Rugh et al. 2005a), mostly at the mouth of the Susitna River where their numbers vary with the spring eulachon and summer salmon runs (Nemeth et al. 2007, Boveng et al. 2012). Review of NMFS aerial survey data collected from 1993–2012 (Shelden et al. 2013) finds that the annual high counts of seals hauled out in Cook Inlet ranged from about 100–380, with most of these animals hauling out at the mouths of the Theodore and Lewis Rivers. There are certainly thousands of harbor seals occurring in lower Cook Inlet, but no references have been found showing more than about 400 harbor seals occurring seasonally in upper Cook Inlet. In 2012, up to 100 harbor seals were observed hauled out at the mouths of the Theodore and Lewis rivers (located about 16 km [10 mi] northeast of the pipeline survey area) during monitoring activity associated with Apache's 2012 Cook Inlet seismic program, and harbor seals constituted 60 percent of all marine mammal sightings by Apache observers during 2012 to 2014 survey and monitoring efforts (L. Parker, Apache, pers. comm.). Montgomery et al. (2007) also found that seals elsewhere in Cook Inlet move in response to local steelhead (*Onchorhynchus mykiss*) and salmon runs. Harbor seals may be encountered during G&G surveys in Cook Inlet.

Humpback Whale (Megaptera novaeangliae)

Although there is considerable distributional overlap in the humpback whale stocks that use Alaska, the whales seasonally found in lower Cook Inlet are probably of the Central North Pacific stock. Listed as endangered under the Endangered Species Act (ESA), this stock has recently been estimated at 7,469, with the portion of the stock that feeds in the Gulf of Alaska estimated at 2,845 animals (Allen and Angliss 2014). The Central North Pacific stock winters in Hawaii and summers from British Columbia to the Aleutian Islands (Calambokidis et al. 1997), including Cook Inlet.

Humpback use of Cook Inlet is largely confined to lower Cook Inlet. They have been regularly seen near Kachemak Bay during the summer months (Rugh et al. 2005a), and there is a whale-watching venture in Homer capitalizing on this seasonal event. There are anecdotal observations of humpback whales as far north as Anchor Point, with recent summer observations extending to Cape Starichkof (Owl Ridge 2014). Because of the southern distribution of humpbacks in Cook Inlet, it is unlikely that they will be encountered during this activity in close enough proximity to cause Level B harassment and are not considered further in this proposed Authorization.

Gray Whale (Eschrichtius robustus)

Each spring, the Eastern North Pacific stock of gray whale migrates 8,000 kilometers (5,000 miles) northward from breeding lagoons in Baja California to feeding grounds in the Bering and Chukchi seas, reversing their travel again in the fall (Rice and Wolman 1971). Their migration route is for the most part coastal until they reach the feeding grounds. A small portion of whales do not annually complete the full circuit, as small numbers can be found in the summer feeding along the Oregon, Washington, British Columbia, and Alaskan coasts (Rice et al. 1984, Moore et al. 2007).

Human exploitation reduced this stock to an estimated ''few thousand'' animals (Jones and Schwartz 2002). However, by the late 1980s, the stock was appearing to reach carrying capacity and estimated to be at 26,600 animals (Jones and Schwartz 2002). By 2002, that stock had been reduced to about 16,000 animals, especially following unusually high mortality events in 1999 and 2000 (Allen and Angliss 2014). The stock has continued to grow since then and is currently estimated at 19,126 animals with a minimum estimate of 18,017 (Carretta et al. 2013). Most gray whales migrate past the mouth of Cook Inlet to and from northern feeding grounds. However, small numbers of summering gray whales have been noted by fisherman near Kachemak Bay and north of Anchor Point. Further, summering gray whales were seen offshore of Cape Starichkof by marine mammal observers monitoring Buccaneer's Cosmopolitan drilling program in 2013 (Owl Ridge 2014). Regardless, gray whales are not expected to be encountered in upper Cook Inlet, where the activity is concentrated, north of Kachemak Bay. Therefore, it is unlikely that they will be encountered during this activity in close enough proximity to cause Level B harassment and are not considered further in this proposed Authorization.

Minke Whale (Balaenoptera acutorostrata)

Minke whales are the smallest of the rorqual group of baleen whales reaching lengths of up to 35 feet. They are also the most common of the baleen whales, although there are no population estimates for the North Pacific, although estimates have been made for some portions of Alaska. Zerbini et al. (2006) estimated the coastal population between Kenai Fjords and the Aleutian Islands at 1,233 animals.

During Cook Inlet-wide aerial surveys conducted from 1993 to 2004, minke whales were encountered only twice (1998, 1999), both times off Anchor Point 16 miles northwest of Homer. A minke whale was also reported off Cape Starichkof in 2011 (A. Holmes, pers. comm.) and 2013 (E. Fernandez and C. Hesselbach, pers. comm.), suggesting this location is regularly used by minke whales, including during the winter. Recently, several minke whales were recorded off Cape Starichkof in early summer 2013 during exploratory drilling conducted there (Owl Ridge 2014). There are no records north of Cape Starichkof, and this species is unlikely to be seen in upper Cook Inlet. There is little chance of encountering a minke whale during these activities and they are not analyzed further.

Dall's Porpoise (Phocoenoides dalli)

Dall's porpoise are widely distributed throughout the North Pacific Ocean including Alaska, although they are not found in upper Cook Inlet and the shallower waters of the Bering, Chukchi, and Beaufort Seas (Allen and Angliss 2014). Compared to harbor porpoise, Dall's porpoise prefer the deep offshore and shelf slope waters. The Alaskan population has been estimated at 83,400 animals (Allen and Angliss 2014), making it one of the more common cetaceans in the state. Dall's porpoise have been observed in lower Cook Inlet, including Kachemak Bay and near Anchor Point (Owl Ridge 2014), but sightings there are rare. The concentration of sightings of Dall's porpoise in a southerly part of the Inlet suggest it is unlikely they will be encountered during AK LNG's activities and they are therefore not considered further in this analysis.

Steller Sea Lion (Eumetopias jubatus)

The Western Stock of the Steller sea lion is defined as all populations west of longitude 144° W to the western end of the Aleutian Islands. The most recent estimate for this stock is 45,649 animals (Allen and Angliss 2014), considerably less than that estimated 140,000 animals in the 1950s (Merrick et al. 1987). Because of this dramatic decline, the stock was listed under the ESA as a threatened DPS in 1990, and relisted as endangered in 1997. Critical habitat was designated in 1993, and is defined as a 20-nautical-mile radius around all major rookeries and haulout sites. The 20-nautical-mile buffer was established based on telemetry data that indicated these sea lions concentrated their

summer foraging effort within this distance of rookeries and haul outs.

Steller sea lions inhabit lower Cook Inlet, especially in the vicinity of Shaw Island and Elizabeth Island (Nagahut Rocks) haulout sites (Rugh *et al.* 2005a), but are rarely seen in upper Cook Inlet (Nemeth *et al.* 2007). Of the 42 Steller sea lion groups recorded during Cook Inlet aerial surveys between 1993 and 2004, none were recorded north of Anchor Point and only one in the vicinity of Kachemak Bay (Rugh *et al.* 2005a). Marine mammal observers associated with Buccaneer's drilling project off Cape Starichkof did observe seven Steller sea lions during the summer of 2013 (Owl Ridge 2014).

The upper reaches of Cook Inlet may not provide adequate foraging conditions for sea lions for establishing a major haul out presence. Steller sea lions feed largely on walleye pollock (*Theragra chalcogramma*), salmon (*Onchorhyncus spp.*), and arrowtooth flounder (*Atheresthes stomias*) during the summer, and walleye pollock and Pacific cod (*Gadus macrocephalus*) during the winter (Sinclair and Zeppelin 2002), none of which, except for salmon, are found in abundance in upper Cook Inlet (Nemeth *et al.* 2007). Steller sea lions are unlikely to be encountered during operations in upper Cook Inlet, as they are primarily encountered along the Kenai Peninsula, especially closer to Anchor Point, and therefore they are not considered further in this proposed Authorization.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components (*e.g.,* seismic airgun operations, sub-bottom profiler chirper and boomer) of the specified activity may impact marine mammals. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that NMFS expects to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific proposed activity would impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

NMFS intends to provide a background of potential effects of AK LNG's activities in this section. Operating active acoustic sources have the potential for adverse effects on marine mammals. The majority of anticipated impacts would be from the use of these sources.

Acoustic Impacts

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Current data indicate that not all marine mammal species have equal hearing capabilities (Richardson *et al.,* 1995; Southall *et al.,* 1997; Wartzok and Ketten, 1999; Au and Hastings, 2008).

Southall *et al.* (2007) designated ''functional hearing groups'' for marine mammals based on available behavioral data; audiograms derived from auditory evoked potentials; anatomical modeling; and other data. Southall *et al.* (2007) also estimated the lower and upper frequencies of functional hearing for each group. However, animals are less sensitive to sounds at the outer edges of their functional hearing range and are more sensitive to a range of frequencies within the middle of their functional hearing range.

The functional groups applicable to this proposed survey and the associated frequencies are:

- Low frequency cetaceans (13 species of mysticetes): Functional hearing estimates occur between approximately 7 Hertz (Hz) and 25 kHz (extended from 22 kHz based on data indicating that some mysticetes can hear above 22 kHz; Au *et al.,* 2006; Lucifredi and Stein, 2007; Ketten and Mountain, 2009; Tubelli *et al.,* 2012);
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing estimates occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia,* the franciscana, and four species of *cephalorhynchids*): Functional hearing estimates occur between approximately 200 Hz and 180 kHz; and
- Pinnipeds in water: Phocid (true seals) functional hearing estimates occur between approximately 75 Hz and 100 kHz (Hemila *et al.,* 2006; Mulsow *et al.,* 2011; Reichmuth *et al.,* 2013) and otariid (seals and sea lions) functional hearing estimates occur between approximately 100 Hz to 40 kHz.

As mentioned previously in this document, four marine mammal species (3 odontocetes and 1 phocid) would likely occur in the proposed action area. Table 2 presents the classification of these species into their respective functional hearing group. NMFS consider a species' functional hearing group when analyzing the effects of exposure to sound on marine mammals.

TABLE 2—CLASSIFICATION OF MARINE MAMMALS THAT COULD POTENTIALLY OCCUR IN THE PROPOSED ACTIVITY AREA IN COOK INLET, 2015 BY FUNCTIONAL HEARING GROUP (SOUTHALL *et al.,* 2007)

Mid-frequency hearing range.	Beluga whale, killer whale.
High Frequency Hearing Range.	Harbor porpoise.
Pinnipeds in Water Hearing Range.	Harbor seal.

1. Potential Effects of Airgun Sounds on Marine Mammals

The effects of sounds from airgun operations might include one or more of the following: Tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of noise on marine mammals are highly variable, often depending on species and contextual factors (based on Richardson *et al.,* 1995).

Tolerance

Studies on marine mammals' tolerance to sound in the natural environment are relatively rare. Richardson *et al.* (1995) defined tolerance as the occurrence of marine mammals in areas where they are exposed to human activities or manmade noise. In many cases, tolerance develops by the animal habituating to the stimulus (*i.e.,* the gradual waning of responses to a repeated or ongoing stimulus) (Richardson, *et al.,* 1995), but because of ecological or physiological requirements, many marine animals may need to remain in areas where they are exposed to chronic stimuli (Richardson, *et al.,* 1995).

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. Several studies have also shown that marine mammals at distances of more than a few kilometers from operating seismic vessels often show no apparent

response. That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of the marine mammal group. Although various baleen whales and toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times marine mammals of all three types have shown no overt reactions (Stone, 2003; Stone and Tasker, 2006; Moulton *et al.* 2005, 2006) and (MacLean and Koski, 2005; Bain and Williams, 2006).

Weir (2008) observed marine mammal responses to seismic pulses from a 24 airgun array firing a total volume of either 5,085 in^3 or 3,147 in^3 in Angolan waters between August 2004 and May 2005. Weir (2008) recorded a total of 207 sightings of humpback whales (n = 66), sperm whales (n = 124), and Atlantic spotted dolphins (n = 17) and reported that there were no significant differences in encounter rates (sightings per hour) for humpback and sperm whales according to the airgun array's operational status (*i.e.,* active versus silent).

Bain and Williams (2006) examined the effects of a large airgun array (maximum total discharge volume of 1,100 in^3) on six species in shallow waters off British Columbia and Washington: harbor seal, California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), gray whale (*Eschrichtius robustus*), Dall's porpoise (*Phocoenoides dalli*), and harbor porpoise. Harbor porpoises showed reactions at received levels less than 155 dB re: 1 µPa at a distance of greater than 70 km (43 mi) from the seismic source (Bain and Williams, 2006). However, the tendency for greater responsiveness by harbor porpoise is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson, *et al.,* 1995; Southall, *et al.,* 2007). In contrast, the authors reported that gray whales seemed to tolerate exposures to sound up to approximately 170 dB re: 1 µPa (Bain and Williams, 2006) and Dall's porpoises occupied and tolerated areas receiving exposures of 170–180 dB re: 1 µPa (Bain and Williams, 2006; Parsons, *et al.,* 2009). The authors observed several gray whales that moved away from the airguns toward deeper water where sound levels were higher due to propagation effects resulting in higher noise exposures (Bain and Williams, 2006). However, it is unclear whether their movements reflected a response to the sounds (Bain and Williams, 2006). Thus, the authors surmised that the lack of gray whale responses to higher received sound levels were ambiguous at best because one expects the species to be the most sensitive to the low-frequency sound emanating from the airguns (Bain and Williams, 2006).

Pirotta *et al.* (2014) observed short-term responses of harbor porpoises to a two-dimensional (2-D) seismic survey in an enclosed bay in northeast Scotland which did not result in broad-scale displacement. The harbor porpoises that remained in the enclosed bay area reduced their buzzing activity by 15 percent during the seismic survey (Pirotta, *et al.,* 2014). Thus, the authors suggest that animals exposed to anthropogenic disturbance may make trade-offs between perceived risks and the cost of leaving disturbed areas (Pirotta, *et al.,* 2014).

Masking

Marine mammals use acoustic signals for a variety of purposes, which differ among species, but include communication between individuals, navigation, foraging, reproduction, avoiding predators, and learning about their environment (Erbe and Farmer, 2000; Tyack, 2000).

The term masking refers to the inability of an animal to recognize the occurrence of an acoustic stimulus because of interference of another acoustic stimulus (Clark *et al.,* 2009). Thus, masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. It is a phenomenon that affects animals that are trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations.

Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.,* 1995).

Marine mammals are thought to be able to compensate for masking by adjusting their acoustic behavior through shifting call frequencies, increasing call volume, and increasing vocalization rates. For example in one study, blue whales increased call rates when exposed to noise from seismic surveys in the St. Lawrence Estuary (Di Iorio and Clark, 2010). Other studies reported that some North Atlantic right whales exposed to high shipping noise increased call frequency (Parks *et al.,* 2007) and some humpback whales responded to low-frequency active sonar playbacks by increasing song length (Miller *et al.,* 2000). Additionally, beluga whales change their vocalizations in the presence of high background noise possibly to avoid masking calls (Au *et al.,* 1985; Lesage *et al.,* 1999; Scheifele *et al.,* 2005).

Studies have shown that some baleen and toothed whales continue calling in the presence of seismic pulses, and some researchers have heard these calls between the seismic pulses (*e.g.,* Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, 2005b, 2006; and Dunn and Hernandez, 2009).

In contrast, Clark and Gagnon (2006) reported that fin whales in the northeast Pacific Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, NMFS is aware of one report that observed sperm whales ceased calls when exposed to pulses from a very distant seismic ship (Bowles *et al.,* 1994). However, more recent studies have found that sperm whales continued calling in the presence of seismic pulses (Madsen *et al.,* 2002; Tyack *et al.,* 2003; Smultea *et al.,* 2004; Holst *et al.,* 2006; and Jochens *et al.,* 2008).

Risch *et al.* (2012) documented reductions in humpback whale vocalizations in the Stellwagen Bank National Marine Sanctuary concurrent with transmissions of the Ocean Acoustic Waveguide Remote Sensing (OAWRS) low-frequency fish sensor system at distances of 200 km (124 mi) from the source. The recorded OAWRS produced series of frequency modulated pulses and the signal received levels ranged from 88 to 110 dB re: 1 µPa (Risch, *et al.,* 2012). The authors hypothesized that individuals did not leave the area but instead ceased singing and noted that the duration and frequency range of the OAWRS signals (a novel sound to the whales) were similar to those of natural humpback whale song components used during mating (Risch *et al.,* 2012). Thus, the novelty of the sound to humpback whales in the study area provided a compelling contextual probability for the observed effects (Risch *et al.,* 2012). However, the authors did not state or imply that these changes had long-term effects on individual animals or populations (Risch *et al.,* 2012).

Several studies have also reported hearing dolphins and porpoises calling while airguns were operating (*e.g.,*

Gordon *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, b; and Potter *et al.,* 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than the dominant components of airgun sounds, thus limiting the potential for masking in those species.

Although some degree of masking is inevitable when high levels of manmade broadband sounds are present in the sea, marine mammals have evolved systems and behavior that function to reduce the impacts of masking. Odontocete conspecifics may readily detect structured signals, such as the echolocation click sequences of small toothed whales even in the presence of strong background noise because their frequency content and temporal features usually differ strongly from those of the background noise (Au and Moore, 1988, 1990). The components of background noise that are similar in frequency to the sound signal in question primarily determine the degree of masking of that signal.

Redundancy and context can also facilitate detection of weak signals. These phenomena may help marine mammals detect weak sounds in the presence of natural or manmade noise. Most masking studies in marine mammals present the test signal and the masking noise from the same direction. The sound localization abilities of marine mammals suggest that, if signal and noise come from different directions, masking would not be as severe as the usual types of masking studies might suggest (Richardson *et al.,* 1995). The dominant background noise may be highly directional if it comes from a particular anthropogenic source such as a ship or industrial site. Directional hearing may significantly reduce the masking effects of these sounds by improving the effective signal-to-noise ratio. In the cases of higher frequency hearing by the bottlenose dolphin, beluga whale, and killer whale, empirical evidence confirms that masking depends strongly on the relative directions of arrival of sound signals and the masking noise (Penner *et al.,* 1986; Dubrovskiy, 1990; Bain *et al.,* 1993; Bain and Dahlheim, 1994). Toothed whales and probably other marine mammals as well, have additional capabilities besides directional hearing that can facilitate detection of sounds in the presence of background noise. There is evidence that some toothed whales can shift the dominant frequencies of their echolocation signals from a frequency range with a lot of ambient noise toward frequencies with less noise (Au *et al.,* 1974, 1985; Moore and Pawloski, 1990; Thomas and Turl, 1990; Romanenko and Kitain, 1992; Lesage *et al.,* 1999). A few marine mammal species increase the source levels or alter the frequency of their calls in the presence of elevated sound levels (Dahlheim, 1987; Au, 1993; Lesage *et al.,* 1993, 1999; Terhune, 1999; Foote *et al.,* 2004; Parks *et al.,* 2007, 2009; Di Iorio and Clark, 2010; Holt *et al.,* 2009).

These data demonstrating adaptations for reduced masking pertain mainly to the very high frequency echolocation signals of toothed whales. There is less information about the existence of corresponding mechanisms at moderate or low frequencies or in other types of marine mammals. For example, Zaitseva *et al.* (1980) found that, for the bottlenose dolphin, the angular separation between a sound source and a masking noise source had little effect on the degree of masking when the sound frequency was 18 kHz, in contrast to the pronounced effect at higher frequencies. Studies have noted directional hearing at frequencies as low as 0.5–2 kHz in several marine mammals, including killer whales (Richardson *et al.,* 1995a). This ability may be useful in reducing masking at these frequencies. In summary, high levels of sound generated by anthropogenic activities may act to mask the detection of weaker biologically important sounds by some marine mammals. This masking may be more prominent for lower frequencies. For higher frequencies, such as that used in echolocation by toothed whales, several mechanisms are available that may allow them to reduce the effects of such masking.

Behavioral Disturbance

Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007).

Types of behavioral reactions can include the following: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, one could expect the consequences of behavioral modification to be biologically significant if the change affects growth, survival, and/or reproduction (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Examples of behavioral modifications that could impact growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those associated with beaked whale stranding related to exposure to military mid-frequency tactical sonar);
- Permanent habitat abandonment due to loss of desirable acoustic environment; and
- Disruption of feeding or social interaction resulting in significant energetic costs, inhibited breeding, or cow-calf separation.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Richardson *et al.,* 1995; Southall *et al.,* 2007). Many studies have also shown that marine mammals at distances more than a few kilometers away often show no apparent response when exposed to seismic activities (*e.g.,* Madsen & Mohl, 2000 for sperm whales; Malme *et al.,* 1983, 1984 for gray whales; and Richardson *et al.,* 1986 for bowhead whales). Other studies have shown that marine mammals continue important behaviors in the presence of seismic pulses (*e.g.,* Dunn & Hernandez, 2009 for blue whales; Greene Jr. *et al.,* 1999 for bowhead whales; Holst and Beland, 2010; Holst and Smultea, 2008; Holst *et al.,* 2005; Nieukirk *et al.,* 2004; Richardson, *et al.,* 1986; Smultea *et al.,* 2004).

Baleen Whales: Studies have shown that underwater sounds from seismic activities are often readily detectable by baleen whales in the water at distances of many kilometers (Castellote *et al.,* 2012 for fin whales).

Observers have seen various species of *Balaenoptera* (blue, sei, fin, and minke whales) in areas ensonified by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and have localized calls from blue and fin whales in areas with airgun operations (*e.g.,* McDonald *et al.,* 1995; Dunn and Hernandez, 2009; Castellote *et al.,* 2010). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during

times of good visibility, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting versus silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006).

Ship-based monitoring studies of baleen whales (including blue, fin, sei, minke, and humpback whales) in the northwest Atlantic found that overall, this group had lower sighting rates during seismic versus non-seismic periods (Moulton and Holst, 2010). The authors observed that baleen whales as a group were significantly farther from the vessel during seismic compared with non-seismic periods. Moreover, the authors observed that the whales swam away more often from the operating seismic vessel (Moulton and Holst, 2010). Initial sightings of blue and minke whales were significantly farther from the vessel during seismic operations compared to non-seismic periods and the authors observed the same trend for fin whales (Moulton and Holst, 2010). Also, the authors observed that minke whales most often swam away from the vessel when seismic operations were underway (Moulton and Holst, 2010).

Toothed Whales: Few systematic data are available describing reactions of toothed whales to noise pulses. However, systematic work on sperm whales is underway (*e.g.,* Gordon *et al.,* 2006; Madsen *et al.,* 2006; Winsor and Mate, 2006; Jochens *et al.,* 2008; Miller *et al.,* 2009) and there is an increasing amount of information about responses of various odontocetes, including killer whales and belugas, to seismic surveys based on monitoring studies (*e.g.,* Stone, 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.,* 2006; Stone and Tasker, 2006; Potter *et al.,* 2007; Hauser *et al.,* 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.,* 2009; Richardson *et al.,* 2009; Moulton and Holst, 2010). Reactions of toothed whales to large arrays of airguns are variable and, at least for delphinids, seem to be confined to a smaller radius than has been observed for mysticetes.

Observers stationed on seismic vessels operating off the United Kingdom from 1997–2000 have provided data on the occurrence and behavior of various toothed whales exposed to seismic pulses (Stone, 2003; Gordon *et al.,* 2004). The studies note that killer whales were significantly farther from large airgun arrays during periods of active airgun operations compared with periods of silence. The displacement of the median distance from the array was approximately 0.5 km (0.3 mi) or more. Killer whales also appear to be more tolerant of seismic shooting in deeper water (Stone, 2003; Gordon *et al.,* 2004).

The beluga may be a species that (at least in certain geographic areas) shows long-distance avoidance of seismic vessels. Aerial surveys during seismic operations in the southeastern Beaufort Sea recorded much lower sighting rates of beluga whales within 10–20 km (6.2–12.4 mi) of an active seismic vessel. These results were consistent with the low number of beluga sightings reported by observers aboard the seismic vessel, suggesting that some belugas might have been avoiding the seismic operations at distances of 10–20 km (6.2–12.4 mi) (Miller *et al.,* 2005).

Delphinids

Seismic operators and protected species observers (observers) on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (*e.g.,* Goold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.,* 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.,* 2009; Barkaszi *et al.,* 2009; Moulton and Holst, 2010). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing (*e.g.,* Moulton and Miller, 2005). Nonetheless, there have been indications that small toothed whales sometimes move away or maintain a somewhat greater distance from the vessel when a large array of airguns is operating than when it is silent (*e.g.,* Goold, 1996a,b,c; Stone and Tasker, 2006; Weir, 2008, Barry *et al.,* 2010; Moulton and Holst, 2010). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km or less, and some individuals show no apparent avoidance.

Captive bottlenose dolphins exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2000, 2002, 2005). However, the animals tolerated high received levels of sound (pk–pk level >200 dB re 1 µPa) before exhibiting aversive behaviors.

Porpoises

Results for porpoises depend upon the species. The limited available data suggest that harbor porpoises show stronger avoidance of seismic operations than do Dall's porpoises (Stone, 2003; MacLean and Koski, 2005; Bain and Williams, 2006; Stone and Tasker, 2006). Dall's porpoises seem relatively tolerant of airgun operations (MacLean and Koski, 2005; Bain and Williams, 2006), although they too have been observed to avoid large arrays of operating airguns (Calambokidis and Osmek, 1998; Bain and Williams, 2006). This apparent difference in responsiveness of these two porpoise species is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.,* 1995; Southall *et al.,* 2007).

Pinnipeds

Pinnipeds are not likely to show a strong avoidance reaction to the airgun sources proposed for use. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds and only slight (if any) changes in behavior. Monitoring work in the Alaskan Beaufort Sea during 1996–2001 provided considerable information regarding the behavior of Arctic ice seals exposed to seismic pulses (Harris *et al.,* 2001; Moulton and Lawson, 2002). These seismic projects usually involved arrays of 6 to 16 airguns with total volumes of 560 to 1,500 in^3. The combined results suggest that some seals avoid the immediate area around seismic vessels. In most survey years, ringed seal (*Phoca hispida*) sightings tended to be farther away from the seismic vessel when the airguns were operating than when they were not (Moulton and Lawson, 2002). However, these avoidance movements were relatively small, on the order of 100 m (328 ft) to a few hundreds of meters, and many seals remained within 100–200 m (328–656 ft) of the trackline as the operating airgun array passed by the animals. Seal sighting rates at the water surface were lower during airgun array operations than during no-airgun periods in each survey year except 1997. Similarly, seals are often very tolerant of pulsed sounds from seal-scaring devices (Mate and Harvey, 1987; Jefferson and Curry, 1994; Richardson *et al.,* 1995). However, initial telemetry work suggests that avoidance and other behavioral reactions by two other species of seals to small airgun sources may at times be stronger than evident to date from visual studies of pinniped reactions to airguns (Thompson *et al.,* 1998).

Hearing Impairment

Exposure to high intensity sound for a sufficient duration may result in

auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran *et al.,* 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is the initial threshold shift. If the threshold shift eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is a temporary threshold shift (Southall *et al.,* 2007).

Threshold Shift (noise-induced loss of hearing)—When animals exhibit reduced hearing sensitivity (*i.e.,* sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced threshold shift (TS). An animal can experience temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days (*i.e.,* there is complete recovery), can occur in specific frequency ranges (*i.e.,* an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced initially by only 6 dB or reduced by 30 dB). PTS is permanent, but some recovery is possible. PTS can also occur in a specific frequency range and amount as mentioned above for TTS.

The following physiological mechanisms are thought to play a role in inducing auditory TS: Effects to sensory hair cells in the inner ear that reduce their sensitivity, modification of the chemical environment within the sensory cells, residual muscular activity in the middle ear, displacement of certain inner ear membranes, increased blood flow, and post-stimulatory reduction in both efferent and sensory neural output (Southall *et al.,* 2007). The amplitude, duration, frequency, temporal pattern, and energy distribution of sound exposure all can affect the amount of associated TS and the frequency range in which it occurs. As amplitude and duration of sound exposure increase, so, generally, does the amount of TS, along with the recovery time. For intermittent sounds, less TS could occur than compared to a continuous exposure with the same energy (some recovery could occur between intermittent exposures depending on the duty cycle between sounds) (Kryter *et al.,* 1966; Ward, 1997). For example, one short but loud (higher SPL) sound exposure may induce the same impairment as one longer but softer sound, which in turn may cause more impairment than a series of several intermittent softer sounds with the same total energy (Ward, 1997). Additionally, though TTS is temporary, prolonged exposure to sounds strong enough to elicit TTS, or shorter-term exposure to sound levels well above the TTS threshold, can cause PTS, at least in terrestrial mammals (Kryter, 1985). Although in the case of the proposed seismic survey, NMFS does not expect that animals would experience levels high enough or durations long enough to result in PTS given that the airgun is a very low volume airgun, and the use of the airgun will be restricted to seven days in a small geographic area.

PTS is considered auditory injury (Southall *et al.,* 2007). Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007).

Although the published body of scientific literature contains numerous theoretical studies and discussion papers on hearing impairments that can occur with exposure to a loud sound, only a few studies provide empirical information on the levels at which noise-induced loss in hearing sensitivity occurs in non-human animals.

Recent studies by Kujawa and Liberman (2009) and Lin *et al.* (2011) found that despite completely reversible threshold shifts that leave cochlear sensory cells intact, large threshold shifts could cause synaptic level changes and delayed cochlear nerve degeneration in mice and guinea pigs, respectively. NMFS notes that the high level of TTS that led to the synaptic changes shown in these studies is in the range of the high degree of TTS that Southall *et al.* (2007) used to calculate PTS levels. It is unknown whether smaller levels of TTS would lead to similar changes. NMFS, however, acknowledges the complexity of noise exposure on the nervous system, and will re-examine this issue as more data become available.

For marine mammals, published data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran *et al.,* 2000, 2002b, 2003, 2005a, 2007, 2010a, 2010b; Finneran and Schlundt, 2010; Lucke *et al.,* 2009; Mooney *et al.,* 2009a, 2009b; Popov *et al.,* 2011a, 2011b; Kastelein *et al.,* 2012a; Schlundt *et al.,* 2000; Nachtigall *et al.,* 2003, 2004). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.,* 1999, 2005; Kastelein *et al.,* 2012b).

Lucke *et al.* (2009) found a threshold shift (TS) of a harbor porpoise after exposing it to airgun noise with a received sound pressure level (SPL) at 200.2 dB (peak-to-peak) re: 1 μPa, which corresponds to a sound exposure level of 164.5 dB re: 1 μPa2 s after integrating exposure. NMFS currently uses the root-mean-square (rms) of received SPL at 180 dB and 190 dB re: 1 μPa as the threshold above which permanent threshold shift (PTS) could occur for cetaceans and pinnipeds, respectively. Because the airgun noise is a broadband impulse, one cannot directly determine the equivalent of rms SPL from the reported peak-to-peak SPLs. However, applying a conservative conversion factor of 16 dB for broadband signals from seismic surveys (McCauley, *et al.,* 2000) to correct for the difference between peak-to-peak levels reported in Lucke *et al.* (2009) and rms SPLs, the rms SPL for TTS would be approximately 184 dB re: 1 μPa, and the received levels associated with PTS (Level A harassment) would be higher. This is still above NMFS' current 180 dB rms re: 1 μPa threshold for injury. However, NMFS recognizes that TTS of harbor porpoises is lower than other cetacean species empirically tested (Finneran & Schlundt, 2010; Finneran *et al.,* 2002; Kastelein and Jennings, 2012).

A recent study on bottlenose dolphins (Schlundt, *et al.,* 2013) measured hearing thresholds at multiple frequencies to determine the amount of TTS induced before and after exposure to a sequence of impulses produced by a seismic air gun. The air gun volume and operating pressure varied from 40–150 in^3 and 1000–2000 psi, respectively. After three years and 180 sessions, the authors observed no significant TTS at any test frequency, for any combinations of air gun volume, pressure, or proximity to the dolphin during behavioral tests (Schlundt, *et al.,* 2013). Schlundt *et al.* (2013) suggest that the potential for airguns to cause hearing loss in dolphins is lower than previously predicted, perhaps as a result of the low-frequency content of air gun impulses compared to the high-frequency hearing ability of dolphins.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture.

Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so one can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur during the proposed seismic survey, although TTS is possible but unlikely. Cetaceans generally avoid the immediate area around operating seismic vessels, as do some other marine mammals. Some pinnipeds show avoidance reactions to airguns, but their avoidance reactions are generally not as strong or consistent compared to cetacean reactions.

Non-auditory Physical Effects: Non-auditory physical effects might occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. Some marine mammal species (*i.e.,* beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds.

Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg, 2000; Sapolsky *et al.,* 2005; Seyle, 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: Behavioral responses; autonomic nervous system responses; neuroendocrine responses; or immune responses.

In the case of many stressors, an animal's first and most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the sympathetic part of the autonomic nervous system and the classical ''fight or flight'' response, which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with stress. These responses have a relatively short duration and may or may not have significant long-term effects on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine or sympathetic nervous systems; the system that has received the most study has been the hypothalmus-pituitary-adrenal system (also known as the HPA axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, the pituitary hormones regulate virtually all neuroendocrine functions affected by stress—including immune competence, reproduction, metabolism, and behavior. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction (Moberg, 1987; Rivier, 1995), altered metabolism (Elasser *et al.,* 2000), reduced immune competence (Blecha, 2000), and behavioral disturbance. Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.,* 2004) have been equated with stress for many years.

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the biotic cost of the response. During a stress response, an animal uses glycogen stores that the body quickly replenishes after alleviation of the stressor. In such circumstances, the cost of the stress response would not pose a risk to the animal's welfare. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, it diverts energy resources from other biotic functions, which impair those functions that experience the diversion. For example, when mounting a stress response diverts energy away from growth in young animals, those animals may experience stunted growth. When mounting a stress response diverts energy from a fetus, an animal's reproductive success and fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state called ''distress'' (*sensu* Seyle, 1950) or ''allostatic loading'' (*sensu* McEwen and Wingfield, 2003). This pathological state will last until the animal replenishes its biotic reserves sufficient to restore normal function. Note that these examples involved a long-term (days or weeks) stress response exposure to stimuli.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses have also been documented fairly well through controlled experiment; because this physiology exists in every vertebrate that has been studied, it is not surprising that stress responses and their costs have been documented in both laboratory and free-living animals (for examples see, Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Reneerkens *et al.,* 2002; Thompson and Hamer, 2000). Although no information has been collected on the physiological responses of marine mammals to anthropogenic sound exposure, studies of other marine animals and terrestrial animals would lead us to expect some marine mammals to experience physiological stress responses and, perhaps, physiological responses that would be classified as ''distress'' upon exposure to anthropogenic sounds.

For example, Jansen (1998) reported on the relationship between acoustic exposures and physiological responses that are indicative of stress responses in humans (*e.g.,* elevated respiration and increased heart rates). Jones (1998) reported on reductions in human performance when faced with acute, repetitive exposures to acoustic disturbance. Trimper *et al.* (1998) reported on the physiological stress responses of osprey to low-level aircraft noise while Krausman *et al.* (2004) reported on the auditory and physiology stress responses of endangered Sonoran pronghorn to military overflights. Smith *et al.* (2004a, 2004b) identified noise-induced physiological transient stress responses in hearing-specialist fish (*i.e.,* goldfish) that accompanied short- and long-term hearing losses. Welch and Welch (1970) reported physiological

and behavioral stress responses that accompanied damage to the inner ears of fish and several mammals.

Hearing is one of the primary senses marine mammals use to gather information about their environment and communicate with conspecifics. Although empirical information on the relationship between sensory impairment (TTS, PTS, and acoustic masking) on marine mammals remains limited, we assume that reducing a marine mammal's ability to gather information about its environment and communicate with other members of its species would induce stress, based on data that terrestrial animals exhibit those responses under similar conditions (NRC, 2003) and because marine mammals use hearing as their primary sensory mechanism. Therefore, NMFS assumes that acoustic exposures sufficient to trigger onset PTS or TTS would be accompanied by physiological stress responses. More importantly, marine mammals might experience stress responses at received levels lower than those necessary to trigger onset TTS. Based on empirical studies of the time required to recover from stress responses (Moberg, 2000), NMFS also assumes that stress responses could persist beyond the time interval required for animals to recover from TTS and might result in pathological and pre-pathological states that would be as significant as behavioral responses to TTS.

Resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.,* 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, there are few data about the potential for strong, anthropogenic underwater sounds to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. There is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns. In addition, marine mammals that show behavioral avoidance of seismic vessels, including some pinnipeds, are unlikely to incur non-auditory impairment or other physical effects. The low volume of the airgun proposed for this activity combined with the limited scope of use proposed makes non-auditory physical effects from airgun use, including stress, unlikely. Therefore, we do not anticipate such effects would occur given the brief duration of exposure during the proposed survey.

Stranding and Mortality

When a living or dead marine mammal swims or floats onto shore and becomes ''beached'' or incapable of returning to sea, the event is a ''stranding'' (Geraci *et al.,* 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding under the MMPA is that ''(A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance''.

Marine mammals strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.,* 1976; Eaton, 1979; Odell *et al.,* 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.,* 2003; Fair and Becker, 2000; Foley *et al.,* 2001; Moberg, 2000; Relyea, 2005a; 2005b, Romero, 2004; Sih *et al.,* 2004). Given the low volume and source level of the proposed airgun, standing and mortality are not anticipated due to use of the airgun proposed for this activity.

2. Potential Effects of Other Acoustic Devices

Sub-Bottom Profiler

AK LNG would also operate a sub-bottom profiler chirp and boomer from the source vessel during the proposed survey. The chirp's sounds are very short pulses, occurring for one ms, six times per second. Most of the energy in the sound pulses emitted by the profiler is at 2–6 kHz, and the beam is directed downward. The chirp has a maximum source level of 202 dB re: 1 µPa, with a tilt angle of 90 degrees below horizontal and a beam width of 24 degrees. The sub-bottom profiler boomer will shoot approximately every 3.125m, with shots lasting 1.5 to 2 seconds. Most of the energy in the sound pulses emitted by the boomer is concentrated between 0.5 and 6 kHz, with a source level of 205dB re: 1µPa.The tilt of the boomer is 90 degrees below horizontal, but the emission is omnidirectional. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a bottom profiler emits a pulse is small—because if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause temporary threshold shift and would likely exhibit avoidance behavior to the area near the transducer rather than swim through at such a close range.

Masking: Both the chirper and boomer sub-bottom profilers produce impulsive sound exceeding 160 dB re 1 µPa-m (rms). The louder boomer operates at a source value of 205 dB re 1 µPa-m (rms), but with a frequency between 0.5 and 6 kHz, which is lower than the maximum sensitivity hearing range of any the local species (belugas—40–130 kHz;, killer whales—7–30 kHz; harbor porpoise—100–140 kHz; and harbor seals—10–30 kHz; Wartzok and Ketten 1999, Southall et al. 2007, Kastelein et al. 2002). While the chirper is not as loud (202 dB re 1 µPa-m [rms]), it does operate at a higher frequency range (2–16 kHz), and within the maximum sensitive range of all of the local species except beluga whales.

Marine mammal communications would not likely be masked appreciably by the profiler's signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam. Furthermore, despite the fact that the profiler overlaps with hearing ranges of

many marine mammal species in the area, the profiler's signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Behavioral Responses: Responses to the profiler are likely to be similar to the other pulsed sources discussed earlier if received at the same levels. The behavioral response of local marine mammals to the operation of the sub-bottom profilers is expected to be similar to that of the small airgun. The odontocetes are likely to avoid the sub-bottom profiler activity, especially the naturally shy harbor porpoise, while the harbor seals might be attracted to them out of curiosity. However, because the sub-bottom profilers operate from a moving vessel, and the maximum radius to the 160 dB harassment threshold is only 263 m (863 ft), the area and time that this equipment would be affecting a given location is very small.

Hearing Impairment and Other Physical Effects: It is unlikely that the sub-bottom profilers produce sound levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source (Wood et al. 2012). The likelihood of marine mammals moving away from the source make if further unlikely that a marine mammal would be able to approach close to the transducers.

Animals may avoid the area around the survey vessels, thereby reducing exposure. Any disturbance to marine mammals is likely to be in the form of temporary avoidance or alteration of opportunistic foraging behavior near the survey location.

Vibracore

AK LNG would conduct vibracoring in a corridor across a northern portion of Cook Inlet. While duration is dependent on sediment type, the driving mechanism, which emits sound at a source level of 187dB re: 1µPa, will only bore for 1 to 2 minutes. The sound is emitted at a frequency of 10Hz to 20kHz. Cores will be bored at approximately every 4 km along the pipeline corridor, for about 22 cores in that area. Approximately 33 cores will be taken in the Marine Terminal area.

Masking: It is unlikely that masking will occur due to vibracore operations. Chorney et al. (2011) conducted sound measurements on an operating vibracorer in Alaska and found that it emitted a sound pressure level at 1-m source of 188 dB re 1 µPa-m (rms), with a frequency range of between 10 Hz and 20 kHz. While the frequency range overlaps the lower ends of the maximum sensitivity hearing ranges of harbor porpoises, killer whales, and harbor seals, and the continuous sound extends 2.54 km (1.6 mi) to the 120 dB threshold, the vibracorer will operate about the one or two minutes it takes to drive the core pipe 7 m (20 ft) into the sediment, and approximately twice per day. Therefore, there is very little opportunity for this activity to mask the communication of local marine mammals.

Behavioral Response: It is unlikely that vibracoring will elicit behavioral responses from marine mammal species in the area. An analysis of similar survey activity in New Zealand classified the likely effects from vibracore and similar activity to be some habitat degradation and prey species effects, but primarily behavioral responses, although the species in the analyzed area were different to those found in Cook Inlet (Thompson, 2012).

There are no data on the behavioral response to vibracore activity of marine mammals in Cook Inlet. The closest analog to vibracoring might be exploratory drilling, although there is a notable difference in magnitude between an oil and gas drilling operation and collecting sediment samples with a vibracorer. Thomas et al. (1990) played back drilling sound to four captive beluga whales and found no statistical difference in swim patterns, social groups, respiration and dive rates, or stress hormone levels before and during playbacks. There is no reason to believe that beluga whales or any other marine mammal exposed to vibracoring sound would behave any differently, especially since vibracoring occurs for only one or two minutes.

Hearing Impairment and Other Physical Effects: The vibracorer operates for only one or two minutes at a time with a 1-m source of 187.4 dB re 1 µPa-m (rms). It is neither loud enough nor does it operate for a long enough duration to induce either TTS or PTS.

Stranding and Mortality

Stress, Stranding, and Mortality Safety zones will be established to prevent acoustical injury to local marine mammals, especially injury that could indirectly lead to mortality. Also, G&G sound is not expected to cause resonate effects to gas-filled spaces or airspaces in marine mammals based on the research of Finneran (2003) on beluga whales showing that the tissue and other body masses dampen any potential effects of resonance on ear cavities, lungs, and intestines. Chronic exposure to sound could lead to physiological stress eventually causing hormonal imbalances (NRC 2005). If survival demands are already high, and/or additional stressors are present, the ability of the animal to cope decreases, leading to pathological conditions or death (NRC 2005). Potential effects may be greatest where sound disturbance can disrupt feeding patterns including displacement from critical feeding grounds. However, all G&G exposure to marine mammals would be of duration measured in minutes.

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include (1) swimming in avoidance of a sound into shallow water; (2) a change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage, or other forms of trauma; (3) a physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and, (4) tissue damage directly from sound exposure, such as through acoustically mediated bubble formation and growth or acoustic resonance of tissues (Wood et al. 2012). Some of these mechanisms are unlikely to apply in the case of impulse G&G sounds, especially since airguns and sub-bottom profilers produce broadband sound with low pressure rise. Strandings to date which have been attributed to sound exposure related to date from military exercises using narrowband mid-frequency sonar with a much greater likelihood to cause physical damage (Balcomb and Claridge 2001, NOAA and USN, 2001, Hildebrand 2005).

The low intensity, low frequency, broadband sound associated with airguns and sub-bottom profilers, combined with the shutdown safety zone mitigation measure for the airgun would prevent physical damage to marine mammals. The vibracoring would also be unlikely to have the capability of causing physical damage to marine mammals because of its low intensity and short duration.

3. Potential Effects of Vessel Movement and Collisions

Vessel movement in the vicinity of marine mammals has the potential to result in either a behavioral response or a direct physical interaction. We discuss both scenarios here.

Behavioral Responses to Vessel Movement: There are limited data concerning marine mammal behavioral responses to vessel traffic and vessel noise, and a lack of consensus among scientists with respect to what these responses mean or whether they result in short-term or long-term adverse

effects. In those cases where there is a busy shipping lane or where there is a large amount of vessel traffic, marine mammals may experience acoustic masking (Hildebrand, 2005) if they are present in the area (*e.g.,* killer whales in Puget Sound; Foote et al., 2004; Holt et al., 2008). In cases where vessels actively approach marine mammals (*e.g.,* whale watching or dolphin watching boats), scientists have documented that animals exhibit altered behavior such as increased swimming speed, erratic movement, and active avoidance behavior (Bursk, 1983; Acevedo, 1991; Baker and MacGibbon, 1991; Trites and Bain, 2000; Williams et al., 2002; Constantine et al., 2003), reduced blow interval (Ritcher et al., 2003), disruption of normal social behaviors (Lusseau, 2003; 2006), and the shift of behavioral activities which may increase energetic costs (Constantine et al., 2003; 2004). A detailed review of marine mammal reactions to ships and boats is available in Richardson et al. (1995). For each of the marine mammal taxonomy groups, Richardson et al. (1995) provides the following assessment regarding reactions to vessel traffic:

Pinnipeds: Reactions by pinnipeds to vessel disturbance largely involve relocation. Harbor seals hauled out on mud flats have been documented returning to the water in response to nearing boat traffic. Vessels that approach haulouts slowly may also elicit alert reactions without flushing from the haulout. Small boats with slow, constant speed elicit the least noticeable reactions. However, in Alaska specifically, harbor seals are documented to tolerate fishing vessels with no discernable reactions, and habituation is common (Burns, 1989).

Porpoises: Harbor porpoises are often seen changing direction in the presence of vessel traffic. Avoidance has been documented up to 1km away from an approaching vessel, but the avoidance response is strengthened in closer proximity to vessels (Barlow, 1998; Palka, 1993). This avoidance behavior is not consistent across all porpoises, as Dall's porpoises have been observed approaching boats.

Toothed whales: In summary, toothed whales sometimes show no avoidance reaction to vessels, or even approach them. However, avoidance can occur, especially in response to vessels of types used to chase or hunt the animals. This may cause temporary displacement, but we know of no clear evidence that toothed whales have abandoned significant parts of their range because of vessel traffic.

Behavioral responses to stimuli are complex and influenced to varying degrees by a number of factors, such as species, behavioral contexts, geographical regions, source characteristics (moving or stationary, speed, direction, etc.), prior experience of the animal and physical status of the animal. For example, studies have shown that beluga whales' reactions varied when exposed to vessel noise and traffic. In some cases, naive beluga whales exhibited rapid swimming from ice-breaking vessels up to 80 km (49.7 mi) away, and showed changes in surfacing, breathing, diving, and group composition in the Canadian high Arctic where vessel traffic is rare (Finley et al., 1990). In other cases, beluga whales were more tolerant of vessels, but responded differentially to certain vessels and operating characteristics by reducing their calling rates (especially older animals) in the St. Lawrence River where vessel traffic is common (Blane and Jaakson, 1994). In Bristol Bay, Alaska, beluga whales continued to feed when surrounded by fishing vessels and resisted dispersal even when purposefully harassed (Fish and Vania, 1971).

In reviewing more than 25 years of whale observation data, Watkins (1986) concluded that whale reactions to vessel traffic were ''modified by their previous experience and current activity: Habituation often occurred rapidly, attention to other stimuli or preoccupation with other activities sometimes overcame their interest or wariness of stimuli.'' Watkins noticed that over the years of exposure to ships in the Cape Cod area, minke whales changed from frequent positive interest (*e.g.,* approaching vessels) to generally uninterested reactions; fin whales changed from mostly negative (*e.g.,* avoidance) to uninterested reactions; right whales apparently continued the same variety of responses (negative, uninterested, and positive responses) with little change; and humpbacks dramatically changed from mixed responses that were often negative to reactions that were often strongly positive. Watkins (1986) summarized that ''whales near shore, even in regions with low vessel traffic, generally have become less wary of boats and their noises, and they have appeared to be less easily disturbed than previously. In particular locations with intense shipping and repeated approaches by boats (such as the whale-watching areas of Stellwagen Bank), more and more whales had positive reactions to familiar vessels, and they also occasionally approached other boats and yachts in the same ways.''

Vessel Strike

Ship strikes of cetaceans can cause major wounds, which may lead to the death of the animal. An animal at the surface could be struck directly by a vessel, a surfacing animal could hit the bottom of a vessel, or a vessel's propeller could injure an animal just below the surface. The severity of injuries typically depends on the size and speed of the vessel (Knowlton and Kraus, 2001; Laist et al., 2001; Vanderlaan and Taggart, 2007).

The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (*e.g.,* the sperm whale). In addition, some baleen whales, such as the North Atlantic right whale, seem generally unresponsive to vessel sound, making them more susceptible to vessel collisions (Nowacek et al., 2004). These species are primarily large, slow moving whales. Smaller marine mammals (*e.g.,* bottlenose dolphin) move quickly through the water column and are often seen riding the bow wave of large ships. Marine mammal responses to vessels may include avoidance and changes in dive pattern (NRC, 2003).

An examination of all known ship strikes from all shipping sources (civilian and military) indicates vessel speed is a principal factor in whether a vessel strike results in death (Knowlton and Kraus, 2001; Laist et al., 2001; Jensen and Silber, 2003; Vanderlaan and Taggart, 2007). In assessing records with known vessel speeds, Laist et al. (2001) found a direct relationship between the occurrence of a whale strike and the speed of the vessel involved in the collision. The authors concluded that most deaths occurred when a vessel was traveling in excess of 24.1 km/h (14.9 mph; 13 kts).

Entanglement

Entanglement can occur if wildlife becomes immobilized in survey lines, cables, nets, or other equipment that is moving through the water column. The proposed seismic survey would require towing approximately 8.0 km (4.9 mi) of equipment and cables. This size of the array generally carries a lower risk of entanglement for marine mammals. Wildlife, especially slow moving individuals, such as large whales, have a low probability of entanglement due to the low amount of slack in the lines, slow speed of the survey vessel, and onboard monitoring. Pinnipeds and porpoises are the least likely to entangle in equipment, as most documented

cases of entanglement involve fishing gear and prey species. There are no reported cases of entanglement from geophysical equipment in the Cook Inlet area.

Anticipated Effects on Marine Mammal Habitat

The G&G Program survey areas are primarily within upper Cook Inlet, although the Marine Terminal survey area is located near Nikiski just south of the East Foreland (technically in Lower Cook Inlet), which includes habitat for prey species of marine mammals, including fish as well as invertebrates eaten by Cook Inlet belugas. This area contains Critical Habitat for Cook Inlet belugas, is near the breeding grounds for the local harbor seal population, and serves as an occasional feeding ground for killer whales and harbor porpoises. Cook Inlet is a large subarctic estuary roughly 299 km (186 mi) in length and averaging 96 km (60 mi) in width. It extends from the city of Anchorage at its northern end and flows into the Gulf of Alaska at its southernmost end. For descriptive purposes, Cook Inlet is separated into unique upper and lower sections, divided at the East and West Forelands, where the opposing peninsulas create a natural waistline in the length of the waterway, measuring approximately 16 km (10 mi) across (Mulherin et al. 2001).

Potential effects on beluga habitat would be limited to noise effects on prey; direct impact to benthic habitat from jack-up platform leg placement, and sampling with grabs, coring, and boring; and small discharges of drill cuttings and drilling mud associated with the borings. Portions of the survey areas include waters of Cook Inlet that are <9.1 m (30 ft) in depth and within 8.0 km (5.0 mi) of anadromous streams. Several anadromous streams (Three-mile Creek, Indian Creek, and two unnamed streams) enter the Cook Inlet within the survey areas. Other anadromous streams are located within 8.0 km (5.0 mi) of the survey areas. The survey program will not prevent beluga access to the mouths of these streams and will result in no short-term or long-term loss of intertidal or subtidal waters that are <9.1 m (30 ft) in depth and within 8.0 km (5.0 mi) of anadromous streams. Minor seafloor impacts will occur in these areas from grab samples, PCPTs, vibracores, or geotechnical borings but will have no effect on the area as beluga habitat once the vessel or jack-up platform has left. The survey program will have no effect on this Primary Constituent Element.

Belugas may avoid areas ensonified by the geophysical or geotechnical activities that generate sound with frequencies within the beluga hearing range and at levels above threshold values. This includes the chirp sub-bottom profiler with a radius of 184 m (604 ft), the boomer sub-bottom profiler with a radius of 263 m (863 ft), the airgun with a radius of 300 m (984 ft) and the vibracores with a radius of 2.54 km (1.58 mi). The sub-bottom profilers and the airgun will be operated from a vessel moving at speeds of about 4 kt. The operation of a vibracore has a duration of approximately 1–2 minutes. All of these activities will be conducted in relatively open areas of the Cook Inlet within Critical Habitat Area 2. Given the size and openness of the Cook Inlet in the survey areas, and the relatively small area and mobile/temporary nature of the zones of ensonification, the generation of sound by the G&G activities is not expected to result in any restriction of passage of belugas within or between critical habitat areas. The jack-up platform from which the geotechnical borings will be conducted will be attached to the seafloor with legs, and will be in place at a given location for up to 4–5 days, but given its small size (Table 4 in the application) would not result in any obstruction of passage by belugas. The program will have no effect on this Primary Constituent Element.

Upper Cook Inlet comprises the area between Point Campbell (Anchorage) down to the Forelands, and is roughly 95 km (59 mi) in length and 24.9 km (15.5 mi) in width (Mulherin et al. 2001). Five major rivers (Knik, Matanuska, Susitna, Little Susitna, and Beluga) deliver freshwater to upper Cook Inlet, carrying a heavy annual sediment load of over 40 million tons of eroded materials and glacial silt (Brabets 1999). As a result, upper Cook Inlet is relatively shallow, averaging 18.3 m (60 ft) in depth. It is characterized by shoals, mudflats, and a wide coastal shelf, less than 17.9 m (59 ft) deep, extending from the eastern shore. A deep trough exists between Trading Bay and the Middle Ground Shoal, ranging from 35 to 77 m (114–253 ft) deep (NOAA Nautical Chart 16660). The substrate consists of a mixture of coarse gravels, cobbles, pebbles, sand, clay, and silt (Bouma et al. 1978, Rappeport 1982).

Upper Cook Inlet experiences some of the most extreme tides in the world, demonstrated by a mean tidal range from 4.0 m (13 ft) at the Gulf of Alaska end to 8.8 m (29 ft) near Anchorage (U.S. Army Corps of Engineers 2013). Tidal currents reach 3.9 kts per second (Mulherin et al. 2001) in upper Cook Inlet, increasing to 5.7–7.7 kts per second near the Forelands where the inlet is constricted. Each tidal cycle creates significant turbulence and vertical mixing of the water column in the upper inlet (U.S. Army Corps of Engineers 2013), and are reversing, meaning that they are marked by a period of slack tide followed an acceleration in the opposite direction (Mulherin et al. 2001).

Because of scouring, mixing, and sediment transport from these currents, the marine invertebrate community is very limited (Pentec 2005). Of the 50 stations sampled by Saupe et al. 2005 for marine invertebrates in Southcentral Alaska, their upper Cook Inlet station had by far the lowest abundance and diversity. Further, the fish community of upper Cook Inlet is characterized largely by migratory fish—eulachon and Pacific salmon—returning to spawning rivers, or outmigrating salmon smolts. Moulton (1997) documented only 18 fish species in upper Cook Inlet compared to at least 50 species found in lower Cook Inlet (Robards et al. 1999).

Lower Cook Inlet extends from the Forelands southwest to the inlet mouth demarked by an approximate line between Cape Douglas and English Bay. Water circulation in lower Cook Inlet is dominated by the Alaska Coastal Current (ACC) that flows northward along the shores of the Kenai Peninsula until it turns westward and is mixed by the combined influences of freshwater input from upper Cook Inlet, wind, topography, tidal surges, and the coriolis effect (Field and Walker 2003, MMS 1996). Upwelling by the ACC brings nutrient-rich waters to lower Cook Inlet and contributes to a biologically rich and productive ecology (Sambrotto and Lorenzen 1986). Tidal currents average 2–3 kt per second and are rotary in that they do not completely go slack before rotating around into an opposite direction (Gatto 1976, Mulherin et al. 2001). Depths in the central portion of lower Cook Inlet are 60–80 m (197–262 ft) and decrease steadily toward the shores (Muench 1981). Bottom sediments in the lower inlet are coarse gravel and sand that grade to finer sand and mud toward the south (Bouma 1978).

Coarser substrate support a wide variety of invertebrates and fish including Pacific halibut, Dungeness crab (Metacarcinus magister), tanner crab (Chionoecetes bairdi), pandalid shrimp (Pandalus spp.), Pacific cod, and rock sole (Lepidopsetta bilineata), while the soft-bottom sand and silt communities are dominated by polychaetes, bivalves and other flatfish (Field and Walker 2003). These species constitute prey species for several

marine mammals in Cook Inlet, including pinnipeds and Cook Inlet belugas. Sea urchins (Strongylocentrotus spp.) and sea cucumbers are important otter prey and are found in shell debris communities. Razor clams (Siliqua patula) are found all along the beaches of the Kenai Peninsula. In general, the lower Cook Inlet marine invertebrate community is of low abundance, dominated by polychaetes, until reaching the mouth of the inlet (Saupe et al. 2005). Overall, the lower Cook Inlet marine ecosystem is fed by midwater communities of phytoplankton and zooplankton, with the latter composed mostly of copepods and barnacle and crab larvae (Damkaer 1977, English 1980).

G&G Program activities that could potentially impact marine mammal habitats include sediment sampling (vibracore, boring, grab sampling) on the sea bottom, placement of the jack-up platform spud cans, and acoustical injury of prey resources. However, there are few benthic resources in the survey area that could be impacted by collection of the small samples (Saupe et al. 2005).

Acoustical effects to marine mammal prey resources are also limited. Christian et al. (2004) studied seismic energy impacts on male snow crabs (Chionoecetes sp.) and found no significant increases in physiological stress due to exposure to high sound pressure levels. No acoustical impact studies have been conducted to date on the above fish species, but studies have been conducted on Atlantic cod (Gadus morhua) and sardine (Clupea sp). Davis et al. (1998) cited various studies that found no effects to Atlantic cod eggs, larvae, and fry when received levels were 222 dB. Effects found were to larval fish within about 5.0 m (16 ft), and from air guns with volumes between 49,661 and 65,548 cm^3 (3,000 and 4,000 in^3). Similarly, effects to sardine were greatest on eggs and 2-day larvae, but these effects were greatest at 0.5 m (1.6 ft), and again confined to 5.0 m (16 ft). Further, Greenlaw et al. (1988) found no evidence of gross histological damage to eggs and larvae of northern anchovy (Engraulis mordax) exposed to seismic air guns, and concluded that noticeable effects would result only from multiple, close exposures. Based on these results, much lower energy impulsive geophysical equipment planned for this program would not damage larval fish or any other marine mammal prey resource.

Potential damage to the Cook Inlet benthic community will be limited to the actual surface area of the four spud cans that form the ''foot'' of each 0.762-m (30-in) diameter leg, the 42 0.1524-m (6-in) diameter borings, and the 55 0.0762-m (3-in) diameter vibracore samplings (plus several grab and PCPT samples). Collectively, these samples would temporarily damage about a hundred square meters of benthic habitat relative to the size (nearly 21,000 km^2/8,108 mi^2) of Cook Inlet. Overall, sediment sampling and acoustical effects on prey resources will have a negligible effect at most on the marine mammal habitat within the G&G Program survey area. Some prey resources might be temporarily displaced, but no long-term effects are expected.

The Cook Inlet 2015 G&G Program will result in a number of minor discharges to the waters of Cook Inlet. Discharges associated with the geotechnical borings will include: (1) The discharge of drill cuttings and drilling fluids and (2) the discharge of deck drainage (runoff of precipitation and deck wash water) from the geotechnical drilling platform. Other vessels associated with the G&G surveys will discharge wastewaters that are normally associated with the operation of vessels in transit including deck drainage, ballast water, bilge water, non-contact cooling water, and gray water.

The discharges of drill cuttings, drilling fluids, and deck drainage associated with the geotechnical borings will be within limitations authorized by the Alaska Department of Environmental Conservation (ADEC) under the Alaska Pollutant Discharge Elimination System (APDES). The drill cuttings consist of natural geologic materials of the seafloor sediments brought to the surface via the drill bit/drill stem of the rotary drilling operation, will be relatively minor in volume, and deposit over a very small area of Cook Inlet seafloor. The drilling fluids which are used to lubricate the bit, stabilize the hole, and viscosify the slurry for transport of the solids to the surface will consist of seawater and guar gum. Guar gum is a high-molecular weight polysaccharide (galactose and mannose units) derived from the ground seeds of the plant Cyampsis gonolobus. It is a non-toxic fluid also used as a food additive in soups, drinks, breads, and meat products.

Vessel discharges will be authorized under the U.S. Environmental Protection Agency's (EPA's) National Pollutant Discharge Elimination System (NPDES) Vessel General Permit (VGP) for Discharges Incidental to the Normal Operation of Vessels. Each vessel will have obtained authorization under the VGP and will discharge according to the conditions and limitations mandated by the permit. As required by statute and regulation, the EPA has made a determination that such discharges will not result in any unreasonable degradation of the marine environment, including:

- Significant adverse changes in ecosystem diversity, productivity and stability of the biological community within the area of discharge and surrounding biological communities,
- threat to human health through direct exposure to pollutants or through consumption of exposed aquatic organisms, or
- loss of aesthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

Proposed Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

To mitigate potential acoustical impacts to local marine mammals, Protected Species Observers (PSOs) will operate aboard the vessels from which the chirper, boomer, airgun, and vibracorer will be deployed. The PSOs will implement the mitigation measures described in the Marine Mammal Monitoring and Mitigation Plan (Appendix A). These mitigations include: (1) Establishing safety zones to ensure marine mammals are not injured by sound pressure levels exceeding Level A injury thresholds; (2) shutting down the airgun when required to avoid harassment of beluga whales; and (3) timing survey activity to avoid concentrations of beluga whales on a seasonal basis.

Before chirper, boomer, airgun, or vibracoring operations begin, the PSOs will ''clear'' both the Level A and Level B Zones of Influence (ZOIs—area from the source to the 160dB or 180/190dB isopleths) of marine mammals by intensively surveying these ZOIs prior to activity to confirm that marine mammals are not seen in the applicable area. All three geophysical activities will be shut down in mid-operation at the approach to any marine mammal to the Level A safety zone, and at the approach of an ESA-listed beluga whale to the Level B harassment zone for the airgun. (The geotechnical vibracoring

lasts only one or two minutes; shut down would likely be unnecessary.) Finally, the G&G Program will be planned to avoid high beluga whale density areas. This would be achieved by conducting surveys at the Marine Terminal and the southern end of the pipeline survey area when beluga whales are farther north, feeding near the Susitna Delta, and completing activities in the northern portion of the pipeline survey area when the beluga whales have begun to disperse from the Susitna Delta and other summer concentration areas.

Vessel-Based Visual Mitigation Monitoring

AK LNG will hire qualified and NMFS-approved PSOs. These PSOs will be stationed aboard the geophysical survey source or support vessels during sub-bottom profiling, air gun, and vibracoring operations. A single senior PSO will be assigned to oversee all Marine Mammal Mitigation and Monitoring Program mandates and function as the on-site person-in-charge (PIC) implementing the 4MP.

Generally, two PSOs will work on a rotational basis during daylight hours with shifts of 4 to 6 hours, and one PSO on duty on each source vessel at all times. Work days for an individual PSO will not exceed 12 hours in duration. Sufficient numbers of PSOs will be available and provided to meet requirements.

Roles and responsibilities of all PSOs include the following:

- Accurately observe and record sensitive marine mammal species;
- Follow monitoring and data collection procedures; and
- Ensure mitigation measures are followed.

PSOs will be stationed at the best available vantage point on the source vessels. PSOs will scan systematically with the unaided eye and 7x50 reticle binoculars. As necessary, new PSOs will be paired with experienced PSOs to ensure that the quality of marine mammal observations and data recording are consistent.

All field data collected will be entered by the end of the day into a custom database using a notebook computer. Weather data relative to viewing conditions will be collected hourly, on rotation, and when sightings occur and include the following:

- Sea state;
- Wind speed and direction;
- Sun position; and
- Percent glare.
- The following data will be collected for all marine mammal sightings:
- Bearing and distance to the sighting;
- Species identification;
- Behavior at the time of sighting (*e.g.,* travel, spy-hop, breach, etc.);
- Direction and speed relative to vessel;
- Reaction to activities—changes in behavior (*e.g.,* none, avoidance, approach, paralleling, etc.);
- Group size;
- Orientation when sighted (*e.g.,* toward, away, parallel, etc.);
- Closest point of approach;
- Sighting cue (*e.g.,* animal, splash, birds, etc.);
- Physical description of features that were observed or determined not to be present in the case of unknown or unidentified animals;
- Time of sighting;
- Location, speed, and activity of the source and mitigation vessels, sea state, ice cover, visibility, and sun glare; and positions of other vessel(s) in the vicinity, and
- Mitigation measure taken—if any.

All observations and shut downs will be recorded in a standardized format and data entered into a custom database using a notebook computer. Accuracy of all data will be verified daily by the PIC or designated PSO by a manual verification. These procedures will reduce errors, allow the preparation of short-term data summaries, and facilitate transfer of the data to statistical, graphical, or other programs for further processing and archiving. PSOs will conduct monitoring during daylight periods (weather permitting) during G&G activities, and during most daylight periods when G&G activities are temporarily suspended.

Shutdown Procedures

If ESA-listed marine mammals (*e.g.,* beluga whales) are observed approaching the Level B harassment zone for the air gun, the air gun will be shut down. The PSOs will ensure that the harassment zone is clear of marine mammal activity before vibracoring will occur. Given that vibracoring lasts only about a minute or two, shutdown actions are not practicable.

Resuming Airgun Operations After a Shutdown

A full ramp-up after a shutdown will not begin until there has been a minimum of 30 minutes of observation of the applicable exclusion zone by PSOs to assure that no marine mammals are present. The entire exclusion zone must be visible during the 30-minute lead-in to a full ramp up. If the entire exclusion zone is not visible, then ramp-up from a cold start cannot begin. If a marine mammal(s) is sighted within the injury exclusion zone during the 30-minute watch prior to ramp-up, ramp-up will be delayed until the marine mammal(s) is sighted outside of the zone or the animal(s) is not sighted for at least 15–30 minutes: 15 minutes for small odontocetes and pinnipeds (*e.g.* harbor porpoises, harbor seals), or 30 minutes for large odontocetes (*e.g.,* killer whales and beluga whales).

Speed and Course Alterations

If a marine mammal is detected outside the Level A injury exclusion zone and, based on its position and the relative motion, is likely to enter that zone, the vessel's speed and/or direct course may, when practical and safe, be changed to also minimize the effect on the seismic program. This can be used in coordination with a power down procedure. The marine mammal activities and movements relative to the seismic and support vessels will be closely monitored to ensure that the marine mammal does not approach within the applicable exclusion radius. If the mammal appears likely to enter the exclusion radius, further mitigative actions will be taken, *i.e.,* either further course alterations, power down, or shut down of the airgun(s).

Mitigation Proposed by NMFS

Special Procedures for Situations or Species of Concern

The following additional protective measures for beluga whales and groups of five or more killer whales and harbor porpoises are proposed. Specifically, a 160-dB vessel monitoring zone would be established and monitored in Cook Inlet during all seismic surveys. If a beluga whale or groups of five or more killer whales and/or harbor porpoises are visually sighted approaching or within the 160-dB disturbance zone, survey activity would not commence until the animals are no longer present within the 160-dB disturbance zone. Whenever beluga whales or groups of five or more killer whales and/or harbor porpoises are detected approaching or within the 160-dB disturbance zone, the airguns may be powered down before the animal is within the 160-dB disturbance zone, as an alternative to a complete shutdown. If a power down is not sufficient, the sound source(s) shall be shut-down until the animals are no longer present within the 160-dB zone.

Proposed Mitigation Exclusion Zones

NMFS proposes that AK LNG will not operate within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the

Little Susitna River) between April 15 and October 15. The purpose of this mitigation measure is to protect beluga whales in the designated critical habitat in this area that is important for beluga whale feeding and calving during the spring and fall months. The range of the setback required by NMFS was designated to protect this important habitat area and also to create an effective buffer where sound does not encroach on this habitat. This seasonal exclusion is proposed to be in effect from April 15–October 15. Activities can occur within this area from October 16–April 14.

Mitigation Conclusions

NMFS has carefully evaluated AK LNG's proposed mitigation measures in the context of ensuring that we prescribe the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed here:

- Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
- A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to airgun operations that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
- A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to airgun operations that we expect to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
- A reduction in the intensity of exposures (either total number or number at biologically important time or location) to airgun operations that we expect to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).
- Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on the evaluation of AK LNG's proposed measures, as well as other measures proposed by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. Proposed measures to ensure availability of such species or stock for taking for certain subsistence uses are discussed later in this document (see ''Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses'' section).

Proposed Monitoring and Reporting

Weekly Field Reports

Weekly reports will be submitted to NMFS no later than the close of business (Alaska Time) each Thursday during the weeks when in-water G&G activities take place. The reports will cover information collected from Wednesday of the previous week through Tuesday of the current week. The field reports will summarize species detected, in-water activity occurring at the time of the sighting, behavioral reactions to in-water activities, and the number of marine mammals exposed to harassment level noise.

Monthly Field Reports

Monthly reports will be submitted to NMFS for all months during which in-water G&G activities take place. The reports will be submitted to NMFS no later than five business days after the end of the month. The monthly report will contain and summarize the following information:

- Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort Sea state and wind force), and associated activities during the G&G Program and marine mammal sightings.
- Species, number, location, distance from the vessel, and behavior of any sighted marine mammals, as well as associated G&G activity (number of shut downs), observed throughout all monitoring activities.
- An estimate of the number (by species) of: (i) Pinnipeds that have been exposed to the geophysical activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 190 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited; and (ii) cetaceans that have been exposed to the geophysical activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 180 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited.
- An estimate of the number (by species) of pinnipeds and cetaceans that have been exposed to the geotechnical activity (based on visual observation) at received levels greater than or equal to 120 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited.
- A description of the implementation and effectiveness of the: (i) Terms and conditions of the Biological Opinion's Incidental Take Statement; and (ii) mitigation measures of the IHA. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness, for minimizing the adverse effects of the action on ESA-listed marine mammals.

90-Day Technical Report

A report will be submitted to NMFS within 90 days after the end of the project or at least 60 days before the request for another Incidental Harassment Authorization for the next open water season to enable NMFS to incorporate observation data into the next Authorization. The report will summarize all activities and monitoring results (*i.e.,* vessel-based visual monitoring) conducted during in-water G&G surveys. The Technical Report will include the following:

- Summaries of monitoring effort (*e.g.,* total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals).
- Analyses of the effects of various factors influencing detectability of

marine mammals (*e.g.,* sea state, number of observers, and fog/glare).

- Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover.
- Analyses of the effects of survey operations.
- Sighting rates of marine mammals during periods with and without G&G survey activities (and other variables that could affect detectability), such as: (i) Initial sighting distances versus survey activity state; (ii) closest point of approach versus survey activity state; (iii) observed behaviors and types of movements versus survey activity state; (iv) numbers of sightings/individuals seen versus survey activity state; (v) distribution around the source vessels versus survey activity state; and (vi) estimates of Level B harassment based on presence in the 120 or 160 dB harassment zone.

Notification of Injured or Dead Marine Mammals

In the unanticipated event that the specified activity leads to an injury of a marine mammal (Level A harassment) or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), the Applicant would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinators. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the event. The Applicant would work with NMFS to minimize reoccurrence of such an event in the future. The G&G Program would not resume activities until formally notified by NMFS via letter, email, or telephone.

In the event that the G&G Program discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), the Applicant would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with the Applicant to determine if modifications in the activities are appropriate.

In the event that the G&G Program discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Applicant would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators, within 24 hours of the discovery. The Applicant would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the airgun or the sub-bottom profiler may have the potential to result in the behavioral disturbance of some marine mammals. Thus, NMFS proposes to authorize take by Level B harassment resulting from the operation of the sound sources for the proposed seismic survey based upon the current acoustic exposure criteria shown in Table 3.

TABLE 3—NMFS' CURRENT ACOUSTIC EXPOSURE CRITERIA

Criterion	Criterion definition	Threshold
Level A Harassment (Injury)	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 microPa-m (cetaceans)/190 dB re 1 microPa-m (pinnipeds) root mean square (rms).
Level B Harassment	Behavioral Disruption (for impulse noises)	160 dB re 1 microPa-m (rms).
	Behavioral Disruption (for continuous noises)	120 dB re 1 microPa-m (rms).

NMFS' practice is to apply the 120 or 160 dB re: 1 μPa received level threshold (whichever is appropriate) for underwater impulse sound levels to determine whether take by Level B harassment occurs.

All four types of survey equipment addressed in the application will be operated from the geophysical source vessels that will either be moving steadily across the ocean surface (chirper, boomer, airgun), or from station to station (vibracoring). Thus, it is assumed that any given area will be not ensonified by any specific equipment more than one day, and that a given area will not be repeatedly ensonified, or ensonified for an extended period. The numbers of marine mammals that might be exposed to sound pressure levels exceeding NMFS Level B harassment threshold levels due to G&G surveys, without mitigation, were determined by multiplying the average raw density for each species by the daily ensonified area, and then multiplying that figure by

the number of days each sound source is estimated to be in use. The chirp and boomer activities were separated out to calculate exposure from days of activities in the Upper Inlet area and the Lower Inlet area to better estimate the density of belugas. The exposure estimates for each activity were then summed to provide total exposures for the duration of the project. The exposure estimates for the activity are detailed below. Although vibracoring is not expected to result in take, we have included the analysis here for consideration.

Ensonified Area

The ZOI is the area ensonified by a particular sound source greater than threshold levels (120 dB for continuous and 160 dB for impulsive). The radius of the ZOI for a particular equipment was determined by applying the source sound pressure levels described in Table 6 of the application to Collins et al.'s (2007) attenuation model of 18.4 Log(r) −0.00188 derived from Cook Inlet. For those equipment generating loud underwater sound within the audible hearing range of marine mammals (<200 kHz), the distance to threshold ranges between 184 m (604 ft) and 2.54 km (1.58 mi), with ZOIs ranging between 0.106 and 20.26 km^2 (0.041–7.82 mi^2) (Table 4).

TABLE 4—SUMMARY OF DISTANCES TO THE NMFS THRESHOLDS AND ASSOCIATED ZOIS

Survey equipment	Distance to 160 dB isopleth [1] m (ft)	Distance to 120 dB isopleth [1] km (mi)	160 dB ZOI km^2 (mi^2)	120 dB ZOI km^2 (mi^2)
Sub-bottom Profiler (Chirp)	184 (604)	N/A	0.106 (0.041)	N/A
Sub-bottom Profiler (Boomer)	263 (863)	N/A	0.217 (0.084)	N/A
Airgun	300 (984)	N/A	0.283 (0.109)	N/A
Vibracore	N/A	2.54 (1.58)	N/A	20.26 (7.82)

[1] Calculated by applying Collins et al. (2007) spreading formula to source levels in Table 2.

Marine Mammal Densities

Density estimates were derived for harbor porpoises, killer whales, and harbor seals from NMFS 2002–2012 Cook Inlet survey data as described below in Section 6.1.2.1 and shown in Table 8. The beluga whale exposure estimates were calculated using density estimates from Goetz et al. (2012) as described in Section 6.1.2.2.

Harbor Porpoise, Killer Whale, Harbor Seal

Density estimates were calculated for all marine mammals (except beluga whales) by using aerial survey data collected by NMFS in Cook Inlet between 2002 and 2012 (Rugh et al. 2002, 2003, 2004a, 2004b, 2005a, 2005b, 2005c, 2006, 2007; Shelden et al. 2008, 2009, 2010; Hobbs et al. 2011, Shelden et al. 2012) and compiled by Apache, Inc. (Apache IHA application 2014). To estimate the average raw densities of marine mammals, the total number of animals for each species observed over the 11-year survey period was divided by the total area of 65,889 km^2 (25,540 mi^2) surveyed over the 11 years. The aerial survey marine mammal sightings, survey effort (area), and derived average raw densities are provided in Table 5.

TABLE 5—RAW DENSITY ESTIMATES FOR COOK INLET MARINE MAMMALS BASED ON NMFS AERIAL SURVEYS

Species	Number of animals	NMFS Survey area km^2 (mi^2)	Mean raw density animals/km^2 (animals/mi^2)
Harbor Porpoise	249	65,889 (25,440)	0.0038 (0.0098)
Killer Whale [1]	42	65,889 (25,440)	0.0006 (0.0017)
Harbor Seal	16,117	65,889 (25,440)	0.2446 (0.6335)

[1] Density is for all killer whales regardless of the stock although all killer whales in the upper Cook Inlet are thought to be transient.

These raw densities were not corrected for animals missed during the aerial surveys as no accurate correction factors are currently available for these species; however, observer error may be limited as the NMFS surveyors often circled marine mammal groups to get an accurate count of group size. The harbor seal densities are probably biased upwards given that a large number of the animals recorded were of large groups hauled out at river mouths, and do not represent the distribution in the waters where the G&G activity will actually occur.

Beluga Whale

Goetz et al. (2012) modeled aerial survey data collected by the NMFS between 1993 and 2008 and developed specific beluga summer densities for each 1-km^2 cell of Cook Inlet. The results provide a more precise estimate of beluga density at a given location than simply multiplying all aerial observations by the total survey effort given the clumped distribution of beluga whales during the summer months. To develop a density estimate associated with planned action areas (*i.e.,* Marine Terminal and pipeline survey areas), the ensonified area associated with each activity was overlain a map of the 1-km density cells, the cells falling within each ensonified area were quantified, and an average cell density was calculated. The summary of the density results is found in Table 9 in the application. The associated ensonified areas and beluga density contours relative to the action areas are shown in Table 6.

TABLE 6—MEAN RAW DENSITIES OF BELUGA WHALES WITHIN THE ACTION AREAS BASED ON GOETZ ET AL. (2012) COOK INLET BELUGA WHALE DISTRIBUTION MODELING

Action area	Number of cells	Mean density (animals/km^2)	Density range (animals/km^2)
Marine Terminal Survey Area	386	0.000166	0.000021–0.001512
Pipeline Survey Area	571	0.011552	0.000275–0.156718

Activity Duration

The Cook Inlet 2015 G&G Program is expected to require approximately 12 weeks (84 days) to complete. During approximately 63 of these days, the chirp and boomer sub-bottom profiler will produce the loudest sound levels. Airgun use will occur during approximately 7 days and will occur only near the proposed Marine Terminal. The airgun activity will occur during the summer when beluga whale use of Cook Inlet is primarily concentrated near the Susitna Delta, approximately 65 km (40 mi) north of the airgun survey area. Vibracoring, with its large ZOI, will occur intermittently over approximately 14 days. The applicant provided an estimate of 50km per day that the survey vessel could travel.

Exposure Calculations

The numbers of marine mammals that might be exposed to sound pressure levels exceeding NMFS Level B harassment threshold levels due to G&G surveys, without mitigation, were determined by multiplying the average raw density for each species by the daily ensonified area, then multiplying by the number of days each sound source is estimated to be in use. The chirp and boomer activities were separated out to calculate exposure from days of activities in the Upper Inlet area and the Lower Inlet area to better estimate the density of belugas. The exposure estimates for each activity were then summed to provide total exposures for the duration of the project. The exposure estimates for the activity are detailed below.

TABLE 7—EXPOSURE ESTIMATES FOR PROPOSED ACTIVITY

Species	Density	Exposure estimates						Total	Proposed authorization *
		Chirp—upper	Chirp—lower	Boomer—upper	Boomer—lower	Airgun	Vibracore		
Beluga	0.0012 .00017	1.37	0.14	2.06	0.20	0.056	1.25	5.09	14
Killer whale	0.00082	0.98	0.69	1.46	1.03	0.28	0.89	5.31	5
Harbor seal	0.28	336.3	236.31	504.44	354.47	95.43	304.87	1831.8	1527
Harbor porpoise	0.0033	3.91	2.75	5.88	4.13	1.11	3.55	21.34	18

* Vibracore totals are not included in the Proposed Authorization column because NMFS has determined take due to vibracoring is unlikely to occur.

NMFS recognizes that these exposure estimates are likely overestimates, particularly in light of the fact that many of these technologies will be operating simultaneously, and not exposing animals in separate instances for the duration of the survey period. Additionally, the beamwidth and tilt angle of the sub-bottom profiler are not factored into the characterization of the sound field, making it conservative and large, creating additional overestimates in take estimation.

The possibility of Level A exposure was analyzed, however the distances to 180 dB/190 dB isopleths are incredibly small, ranging from 0 to 26 meters. The number of exposures, without accounting for mitigation or likely avoidance of louder sounds, is small for these zones, and with mitigation and the likelihood of detecting marine mammals within this small area combined with the likelihood of avoidance, it is likely these takes can be avoided. The only technology that would not shutdown is the vibracore, which has a distance to Level A isopleth (180 dB) of 3 meters. Therefore, authorization of Level A take is not necessary.

NMFS proposes to authorize the following takes by Level B harassment:

TABLE 8—PROPOSED AUTHORIZATIONS

Species	Exposure estimate	Take proposed to be authorized	Percent of stock or population	Population trend
Beluga	3.63	14	1.07	Decreasing.
Killer whale	3.64	5	0.14	Resident—Increasing. Transient—Stable.
Harbor seal	1253.67	1527	5.47	Stable.
Harbor porpoise	14.6	18	0.048	No reliable info.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact' is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). The lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population level effects) forms the basis of a negligible impact finding. Thus, an estimate of the number of takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

To avoid repetition, except where otherwise identified, the discussion of our analyses applies to all the species listed in Table 8, given that the anticipated effects of this project on marine mammals are expected to be relatively similar in nature. Where there is information either about impacts, or about the size, status, or structure of any species or stock that would lead to a different analysis for this activity, species-specific factors are identified and analyzed.

In making a negligible impact determination, NMFS considers:

- The number of anticipated injuries, serious injuries, or mortalities;
- The number, nature, and intensity, and duration of Level B harassment; and
- The context in which the takes occur (*e.g.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
- The status of stock or species of marine mammals (*i.e.,* depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- Impacts on habitat affecting rates of recruitment/survival; and
- The effectiveness of monitoring and mitigation measures to reduce the number or severity of incidental take.

Given the proposed mitigation and related monitoring, no injuries or mortalities are anticipated to occur to any species as a result of AK LNG's proposed survey in Cook Inlet, and none are proposed to be authorized. Additionally, animals in the area are not expected to incur hearing impairment (*i.e.,* TTS or PTS) or non-auditory physiological effects due to low source levels and the fact that most marine mammals would avoid a loud sound source than swim in such close proximity as to result in TTS or PTS. The most likely effect from the proposed action is localized, short-term behavioral disturbance. The number of takes that are anticipated and proposed to be authorized are expected to be limited to short-term Level B behavioral harassment for all stocks for which take is proposed to be authorized. This is largely due to the short time scale of the proposed activity, the low source levels for many of the technologies proposed to be used, as well as the mitigation proposed earlier in the proposed Authorization. The technologies do not operate continuously over a 24-hour period. Rather airguns are operational for a few hours at a time for 7 days, with the sub-bottom profiler chirp and boomer operating for 63 days.

The addition of five vessels, and noise due to vessel operations associated with the survey, would not be outside the present experience of marine mammals in Cook Inlet, although levels may increase locally. Potential impacts to marine mammal habitat were discussed previously in this document (see the ''Anticipated Effects on Habitat'' section). Although some disturbance is possible to food sources of marine mammals, the impacts are anticipated to be minor enough as to not affect annual rates of recruitment or survival of marine mammals in the area. Based on the size of Cook Inlet where feeding by marine mammals occurs versus the localized area of the marine survey activities, any missed feeding opportunities in the direct project area would be minor based on the fact that other feeding areas exist elsewhere.

Taking into account the mitigation measures that are planned, effects on cetaceans are generally expected to be restricted to avoidance of a limited area around the survey operation and short-term changes in behavior, falling within the MMPA definition of ''Level B harassment''. Shut-downs are proposed for belugas and groups of killer whales or harbor porpoises when they approach the 160dB disturbance zone, to further reduce potential impacts to these populations. Visual observation by trained PSOs is also implemented to reduce the impact of the proposed activity. Animals are not expected to permanently abandon any area that is surveyed, and any behaviors that are interrupted during the activity are expected to resume once the activity ceases. Only a small portion of marine mammal habitat will be affected at any time, and other areas within Cook Inlet will be available for necessary biological functions.

Beluga Whales

Cook Inlet beluga whales are listed as endangered under the ESA. These stocks are also considered depleted under the MMPA. The estimated annual rate of decline for Cook Inlet beluga whales was 0.6 percent between 2002 and 2012.

Belugas in the Canadian Beaufort Sea in summer appear to be fairly responsive to seismic energy, with few being sighted within 10–20 km (6–12 mi) of seismic vessels during aerial surveys (Miller *et al.,* 2005). However, as noted above, Cook Inlet belugas are more accustomed to anthropogenic sound than beluga whales in the Beaufort Sea. Therefore, the results from the Beaufort Sea surveys do not directly translate to potential reactions of Cook Inlet beluga whales. Also, due to the dispersed distribution of beluga whales in Cook Inlet during winter and the concentration of beluga whales in upper Cook Inlet from late April through early fall, belugas would likely occur in small numbers in the majority of AK LNG's proposed survey area during the majority of AK LNG's annual operational timeframe of August through December. For the same reason, as well as the mitigation measure that requires shutting down for belugas seen approaching the 160dB disturbance zone, and the likelihood of avoidance at high levels, it is unlikely that animals would be exposed to received levels capable of causing injury.

Given the large number of vessels in Cook Inlet and the apparent habituation to vessels by Cook Inlet beluga whales and the other marine mammals that may occur in the area, vessel activity and noise is not expected to have effects that could cause significant or long-term consequences for individual marine mammals or their populations.

In addition, NMFS proposes to seasonally restrict survey operations in the area known to be important for beluga whale feeding, calving, or nursing. The primary location for these biological life functions occurs in the Susitna Delta region of upper Cook Inlet. NMFS proposes to implement a 16 km (10 mi) seasonal exclusion from seismic survey operations in this region from April 15–October 15. The highest concentrations of belugas are typically

found in this area from early May through September each year. NMFS has incorporated a 2-week buffer on each end of this seasonal use timeframe to account for any anomalies in distribution and marine mammal usage.

Odontocete (including Cook Inlet beluga whales, killer whales, and harbor porpoises) reactions to seismic energy pulses are usually assumed to be limited to shorter distances from the airgun(s) than are those of mysticetes, in part because odontocete low-frequency hearing is assumed to be less sensitive than that of mysticetes.

Killer Whales

Killer whales are not encountered as frequently in Cook Inlet as some of the other species in this analysis, however when sighted they are usually in groups. The addition of a mitigation measure to shutdown if a group of 5 or more killer whales is seen approaching the 160 dB zone is intended to minimize any impact to an aggregation of killer whales if encountered. The killer whales in the survey area are also thought to be transient killer whales and therefore rely on the habitat in the AK LNG survey area less than other resident species.

Harbor Porpoise

Harbor porpoises are among the most sensitive marine mammal species with regard to behavioral response and anthropogenic noise. They are known to exhibit behavioral responses to operation of seismic airguns, pingers, and other technologies at low thresholds. However, they are abundant in Cook Inlet and therefore the authorized take is unlikely to affect recruitment or status of the population in any way. In addition, mitigation measures include shutdowns for groups of more than 5 harbor porpoises that will minimize the amount of take to the local harbor porpoise population. This mitigation as well as the short duration and low source levels of the proposed activity will reduce the impact to the harbor porpoises found in Cook Inlet.

Harbor Seal

Observations during other anthropogenic activities in Cook Inlet have reported large congregations of harbor seals have been observed hauling out in upper Cook Inlet. However, mitigation measures, such as vessel speed, course alteration, and visual monitoring, and restrictions will be implemented to help reduce impacts to the animals. Additionally, this activity does not encompass a large number of known harbor seal haulouts, particularly as this activity proposes operations traversing across the Inlet, as opposed to entirely nearshore activities. While some harbor seals will likely be exposed, the proposed mitigation along with their smaller aggregations in water than on shore should minimize impacts to the harbor seal population. The level of take of harbor seals may be further minimized by the preference of harbor seals to haul out for greater quantities of time in the summer, when much of this work is proposed to occur. Additionally, the short duration of the survey, and the use of visual observers should further reduce the potential for take by behavioral harassment to Cook Inlet harbor seals. Therefore, the exposure of pinnipeds to sounds produced by this phase of AK LNG's proposed survey is not anticipated to have an effect on annual rates of recruitment or survival on those species or stocks.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total annual marine mammal take from AK LNG's proposed seismic survey will have a negligible impact on the affected marine mammal species or stocks.

Although NMFS does not believe that the operation of the vibracore would result in the take of marine mammals, we note here that even if the vibracore did result in take of marine mammals, the numbers and scope of vibracore take predicted in the applicant's application and analysis would not have changed this finding. The vibracoring activity is proposed to occur at 33 locations across the Inlet from the Forelands, north to the upper end of Cook Inlet. However, the actual noise-producing activity will only occur for 90 seconds at a time, during which PSOs will be observing for marine mammals. The limited scope and duration of vibracoring makes it extremely unlikely that take by Level B harassment would occur during the vibracore portion of the operation.

Small Numbers Analysis

The requested takes proposed to be authorized annually represent 1.06 percent of the Cook Inlet beluga whale population of approximately 340 animals (Allen and Angliss, 2014), 0.135 percent of the Gulf of Alaska, Aleutian Island and Bering Sea stock of killer whales (345 transients), and 0.047 percent of the Gulf of Alaska stock of approximately 31,046 harbor porpoises. The take requests presented for harbor seals represent 5.47 percent of the Cook Inlet/Shelikof stock of approximately 22,900 animals. These take estimates represent the percentage of each species or stock that could be taken by Level B behavioral harassment.

NMFS finds that any incidental take reasonably likely to result from the effects of the proposed activity, as proposed to be mitigated through this IHA, will be limited to small numbers relative to the affected species or stocks. In addition to the quantitative methods used to estimate take, NMFS also considered qualitative factors that further support the ''small numbers'' determination, including: (1) The seasonal distribution and habitat use patterns of Cook Inlet beluga whales, which suggest that for much of the time only a small portion of the population would be accessible to impacts from AK LNG's activity, as most animals are found in the Susitna Delta region of Upper Cook Inlet from early May through September; (2) other cetacean species are not common in the survey area; (3) the proposed mitigation requirements, which provide spatio-temporal limitations that avoid impacts to large numbers of belugas feeding and calving in the Susitna Delta; (4) the proposed monitoring requirements and mitigation measures described earlier in this document for all marine mammal species that will further reduce the amount of takes; and (5) monitoring results from previous activities that indicated low numbers of beluga whale sightings within the Level B disturbance exclusion zone and low levels of Level B harassment takes of other marine mammals. Therefore, NMFS determined that the numbers of animals likely to be taken are small.

Although NMFS does not believe that the operation of the vibracore would result in the take of marine mammals, we note here that even if the vibracore did result in take of marine mammals, the amount of total take predicted in the applicant's analysis including the vibracore take would still be small compared to the population sizes of the affected species and stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

Relevant Subsistence Uses

The subsistence harvest of marine mammals transcends the nutritional and economic values attributed to the animal and is an integral part of the cultural identity of the region's Alaska Native communities. Inedible parts of the whale provide Native artisans with materials for cultural handicrafts, and the hunting itself perpetuates Native traditions by transmitting traditional

skills and knowledge to younger generations (NOAA, 2007).

The Cook Inlet beluga whale has traditionally been hunted by Alaska Natives for subsistence purposes. For several decades prior to the 1980s, the Native Village of Tyonek residents were the primary subsistence hunters of Cook Inlet beluga whales. During the 1980s and 1990s, Alaska Natives from villages in the western, northwestern, and North Slope regions of Alaska either moved to or visited the south central region and participated in the yearly subsistence harvest (Stanek, 1994). From 1994 to 1998, NMFS estimated 65 whales per year (range 21–123) were taken in this harvest, including those successfully taken for food and those struck and lost. NMFS concluded that this number was high enough to account for the estimated 14 percent annual decline in the population during this time (Hobbs et al., 2008). Actual mortality may have been higher, given the difficulty of estimating the number of whales struck and lost during the hunts. In 1999, a moratorium was enacted (Pub. L. 106–31) prohibiting the subsistence take of Cook Inlet beluga whales except through a cooperative agreement between NMFS and the affected Alaska Native organizations. Since the Cook Inlet beluga whale harvest was regulated in 1999 requiring cooperative agreements, five beluga whales have been struck and harvested. Those beluga whales were harvested in 2001 (one animal), 2002 (one animal), 2003 (one animal), and 2005 (two animals). The Native Village of Tyonek agreed not to hunt or request a hunt in 2007, when no co-management agreement was to be signed (NMFS, 2008a).

On October 15, 2008, NMFS published a final rule that established long-term harvest limits on Cook Inlet beluga whales that may be taken by Alaska Natives for subsistence purposes (73 FR 60976). That rule prohibits harvest for a 5-year interval period if the average stock abundance of Cook Inlet beluga whales over the prior five-year interval is below 350 whales. Harvest levels for the current 5-year planning interval (2013–2017) are zero because the average stock abundance for the previous five-year period (2008–2012) was below 350 whales. Based on the average abundance over the 2002–2007 period, no hunt occurred between 2008 and 2012 (NMFS, 2008a). The Cook Inlet Marine Mammal Council, which managed the Alaska Native Subsistence fishery with NMFS, was disbanded by a unanimous vote of the Tribes' representatives on June 20, 2012. At this time, no harvest is expected in 2015 or, likely, in 2016.

Data on the harvest of other marine mammals in Cook Inlet are lacking. Some data are available on the subsistence harvest of harbor seals, harbor porpoises, and killer whales in Alaska in the marine mammal stock assessments. However, these numbers are for the Gulf of Alaska including Cook Inlet, and they are not indicative of the harvest in Cook Inlet.

There is a low level of subsistence hunting for harbor seals in Cook Inlet. Seal hunting occurs opportunistically among Alaska Natives who may be fishing or travelling in the upper Inlet near the mouths of the Susitna River, Beluga River, and Little Susitna. Some detailed information on the subsistence harvest of harbor seals is available from past studies conducted by the Alaska Department of Fish & Game (Wolfe et al., 2009). In 2008, 33 harbor seals were taken for harvest in the Upper Kenai-Cook Inlet area. In the same study, reports from hunters stated that harbor seal populations in the area were increasing (28.6%) or remaining stable (71.4%). The specific hunting regions identified were Anchorage, Homer, Kenai, and Tyonek, and hunting generally peaks in March, September, and November (Wolfe et al., 2009).

Potential Impacts on Availability for Subsistence Uses

Section 101(a)(5)(D) also requires NMFS to determine that the taking will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The primary concern is the disturbance of marine mammals through the introduction of anthropogenic sound into the marine environment during the proposed seismic survey. Marine mammals could be behaviorally harassed and either become more difficult to hunt or temporarily abandon traditional hunting grounds. However, the proposed seismic survey will not have any impacts to beluga harvests as none currently occur in Cook Inlet. Additionally, subsistence harvests of other marine mammal species are limited in Cook Inlet.

Plan of Cooperation or Measures To Minimize Impacts to Subsistence Hunts

The entire upper Cook unit and a portion of the lower Cook unit falls north of 60° N' or within the region NMFS has designated as an Arctic subsistence use area. AK LNG provided detailed information in Section 8 of their application regarding their plan to cooperate with local subsistence users and stakeholders regarding the potential effects of their proposed activity. There are several villages in AK LNG's proposed project area that have traditionally hunted marine mammals, primarily harbor seals. Tyonek is the only tribal village in upper Cook Inlet with a tradition of hunting marine mammals, in this case harbor seals and beluga whales. However, for either species the annual recorded harvest since the 1980s has averaged about one or fewer of either species (Fall et al. 1984, Wolfe et al. 2009, SRBA and HC 2011), and there is currently a moratorium on subsistence harvest of belugas. Further, many of the seals that are harvested are done incidentally to salmon fishing or moose hunting (Fall et al. 1984, Merrill and Orpheim 2013), often near the mouths of the Susitna Delta rivers (Fall et al. 1984) north of AK LNG's proposed seismic survey area.

Villages in lower Cook Inlet adjacent to AK LNG's proposed survey area (Kenai, Salamatof, and Nikiski) have either not traditionally hunted beluga whales, or at least not in recent years, and rarely do they harvest sea lions. These villages more commonly harvest harbor seals, with Kenai reporting an average of about 13 per year between 1992 and 2008 (Wolfe et al. 2009). According to Fall et al. (1984), many of the seals harvested by hunters from these villages were taken on the west side of the inlet during hunting excursions for moose and black bears.

Although marine mammals remain an important subsistence resource in Cook Inlet, the number of animals annually harvested is low, and are primarily harbor seals. Much of the harbor seal harvest occurs incidental to other fishing and hunting activities, and at areas outside of the AK LNG's proposed seismic areas such as the Susitna Delta or the west side of lower Cook Inlet. Also, AK LNG is unlikely to conduct activity in the vicinity of any of the river mouths where large numbers of seals haul out.

AK LNG and NMFS recognize the importance of ensuring that ANOs and federally recognized tribes are informed, engaged, and involved during the

permitting process and will continue to work with the ANOs and tribes to discuss operations and activities.

Prior to offshore activities AK LNG will consult with nearby communities such as Tyonek, Salamatof, and the Kenaitze Indian Tribe to attend and present the program description prior to operations within those areas. During these meetings discussions will include a project description, maps of project area and resolutions of potential conflicts. These meetings will allow AK LNG to understand community concerns, and requests for communication or mitigation. Additional communications will continue throughout the project. A specific meeting schedule has not been finalized, but meetings with the entities identified will occur before an Authorization is issued.

If a conflict does occur with project activities involving subsistence or fishing, the project manager will immediately contact the affected party to resolve the conflict.

Unmitigable Adverse Impact Analysis and Preliminary Determination

The project will not have any effect on beluga whale harvests because no beluga harvest will take place in 2015. Additionally, the proposed seismic survey area is not an important native subsistence site for other subsistence species of marine mammals thus, the number harvested is expected to be extremely low. The timing and location of subsistence harvest of Cook Inlet harbor seals may coincide with AK LNG's project, but because this subsistence hunt is conducted opportunistically and at such a low level (NMFS, 2013c), AK LNG's program is not expected to have an impact on the subsistence use of harbor seals. Moreover, the proposed survey would result in only temporary disturbances. Accordingly, the specified activity would not impact the availability of these other marine mammal species for subsistence uses.

NMFS anticipates that any effects from AK LNG's proposed survey on marine mammals, especially harbor seals and Cook Inlet beluga whales, which are or have been taken for subsistence uses, would be short-term, site specific, and limited to inconsequential changes in behavior and mild stress responses. NMFS does not anticipate that the authorized taking of affected species or stocks will reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (1) Causing the marine mammals to abandon or avoid hunting areas; (2) directly displacing subsistence users; or (3) placing physical barriers between the marine mammals and the subsistence hunters; and that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met. Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from AK LNG's proposed activities.

Endangered Species Act (ESA)

There is one marine mammal species listed as endangered under the ESA with confirmed or possible occurrence in the proposed project area: The Cook Inlet beluga whale. In addition, the proposed action could occur within 10 miles of designated critical habitat for the Cook Inlet beluga whale. NMFS's Permits and Conservation Division has initiated consultation with NMFS' Alaska Region Protected Resources Division under section 7 of the ESA. This consultation will be concluded prior to issuing any final authorization.

National Environmental Policy Act (NEPA)

NMFS has prepared a Draft Environmental Assessment (EA) for the issuance of an IHA to AK LNG for the proposed oil and gas exploration seismic survey program in Cook Inlet. The Draft EA has been made available for public comment concurrently with this proposed authorization (see **ADDRESSES**). NMFS will finalize the EA and either conclude with a finding of no significant impact (FONSI) or prepare an Environmental Impact Statement prior to issuance of the final authorization (if issued).

Proposed Authorization

As a result of these preliminary determinations, we propose to issue an IHA to Alaska LNG for taking marine mammals incidental to a geophysical and geotechnical survey in Cook Inlet, Alaska, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

Request for Public Comments

We request comment on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for Alaska LNG. Please include with your comments any supporting data or literature citations to help inform our final decision on AK LNG's request for an MMPA authorization.

Incidental Harassment Authorization

Exxon Mobil Alaska LNG LLC (AK LNG), 3201 C Street; Suite 506, Anchorage, Alaska 99501, is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)), to harass small numbers of marine mammals incidental to specified activities associated with a marine geophysical and geotechnical survey in Cook Inlet, Alaska, contingent upon the following conditions:

1. This Authorization is valid from August 7, 2015, through August 6, 2016.

2. This Authorization is valid only for AK LNG's activities associated with survey operations that shall occur within the areas denoted as Marine Terminal Survey Area and Pipeline Survey Area as depicted in the attached Figures 1 of AK LNG's April 2015 application to the National Marine Fisheries Service.

3. Species Authorized and Level of Take

(a) The incidental taking of marine mammals, by Level B harassment only, is limited to the following species in the waters of Cook Inlet:

(i) Odontocetes: see Table 1 (attached) for authorized species and take numbers.

(ii) Pinnipeds: see Table 1 (attached) for authorized species and take numbers.

(iii) If any marine mammal species are encountered during activities that are not listed in Table 1 (attached) for authorized taking and are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 160 dB re 1 μPa (rms) for impulsive sound of 120 dB re 1μPa (rms), then the Holder of this Authorization must alter speed or course or shut-down the sound source to avoid take.

(b) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in Table 1 or the taking of any other species of marine mammal is prohibited and may result in the modification, suspension or revocation of this Authorization.

(c) If the number of detected takes of any marine mammal species listed in Table 1 is met or exceeded, AK LNG shall immediately cease survey

operations involving the use of active sound sources (*e.g.,* airguns, profilers etc.) and notify NMFS.

4. The authorization for taking by harassment is limited to the following acoustic sources (or sources with comparable frequency and intensity) absent an amendment to this Authorization:

(a) EdgeTech 3200 Sub-bottom profiler chirp;

(b) Applied Acoustics AA301 Sub-bottom profiler boomer;

(c) A 60 in^3 airgun;

5. The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS or her designee at (301) 427–8401.

6. The holder of this Authorization must notify the Chief of the Permits and Conservation Division, Office of Protected Resources, or her designee at least 48 hours prior to the start of survey activities (unless constrained by the date of issuance of this Authorization in which case notification shall be made as soon as possible) at 301–427–8484 or to *Sara.Young@noaa.gov.*

7. *Mitigation and Monitoring Requirements:* The Holder of this Authorization is required to implement the following mitigation and monitoring requirements when conducting the specified activities to achieve the least practicable impact on affected marine mammal species or stocks:

(a) Utilize a minimum of two NMFS-qualified PSOs per source vessel (one on duty and one off-duty) to visually watch for and monitor marine mammals near the seismic source vessels during daytime operations (from nautical twilight-dawn to nautical twilight-dusk) and before and during start-ups of sound sources day or night. Two PSVOs will be on each source vessel, and two PSVOs will be on a support vessel to observe the exclusion and disturbance zones. PSVOs shall have access to reticle binoculars (7x50) and long-range binoculars (40x80). PSVO shifts shall last no longer than 4 hours at a time. PSVOs shall also make observations during daytime periods when the sound sources are not operating for comparison of animal abundance and behavior, when feasible. When practicable, as an additional means of visual observation, AK LNG's vessel crew may also assist in detecting marine mammals.

(b) Record the following information when a marine mammal is sighted:

(i) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.,* none, avoidance, approach, paralleling, etc.), and behavioral pace;

(ii) Time, location, heading, speed, activity of the vessel (including type of equipment operating), Beaufort sea state and wind force, visibility, and sun glare; and

(iii) The data listed under Condition 7(d)(ii) shall also be recorded at the start and end of each observation watch and during a watch whenever there is a change in one or more of the variables.

(c) Establish a 160 dB re 1 µPa (rms) ''disturbance zone'' for belugas, and groups of five or more harbor porpoises and killer whales as well as a 180 dB re 1 µPa (rms) and 190 dB re 1 µPa (rms) ''exclusion zone'' (EZ) for cetaceans and pinnipeds respectively before equipment is in operation.

(d) Visually observe the entire extent of the EZ (180 dB re 1 µPa [rms] for cetaceans and 190 dB re 1 µPa [rms] for pinnipeds) using NMFS-qualified PSVOs, for at least 30 minutes (min) prior to starting the survey (day or night). If the PSVO finds a marine mammal within the EZ, AK LNG must delay the seismic survey until the marine mammal(s) has left the area. If the PSVO sees a marine mammal that surfaces, then dives below the surface, the PSVO shall wait 30 min. If the PSVO sees no marine mammals during that time, they should assume that the animal has moved beyond the EZ. If for any reason the entire radius cannot be seen for the entire 30 min (*i.e.,* rough seas, fog, darkness), or if marine mammals are near, approaching, or in the EZ, the sound sources may not be started.

(e) Alter speed or course during survey operations if a marine mammal, based on its position and relative motion, appears likely to enter the relevant EZ. If speed or course alteration is not safe or practicable, or if after alteration the marine mammal still appears likely to enter the EZ, further mitigation measures, such as a shutdown, shall be taken.

(f) Shutdown the sound source(s) if a marine mammal is detected within, approaches, or enters the relevant EZ. A shutdown means all operating sound sources are shut down (*i.e.,* turned off).

(g) Survey activity shall not resume until the PSVO has visually observed the marine mammal(s) exiting the EZ and is not likely to return, or has not been seen within the EZ for 15 min for species with shorter dive durations (small odontocetes and pinnipeds) or 30 min for species with longer dive durations (large odontocetes, including killer whales and beluga whales).

(h) Marine geophysical surveys may continue into night and low-light hours if such segment(s) of the survey is initiated when the entire relevant EZs can be effectively monitored visually (*i.e.,* PSVO(s) must be able to see the extent of the entire relevant EZ).

(i) No initiation of survey operations involving the use of sound sources is permitted from a shutdown position at night or during low-light hours (such as in dense fog or heavy rain).

(j) If a beluga whale is visually sighted approaching or within the relevant160dB disturbance zone, survey activity will not commence or the sound source(s) shall be shut down until the animals are no longer present within the 160-dB zone.

(h) Whenever aggregations or groups of killer whales and/or harbor porpoises are detected approaching or within the 160-dB disturbance zone, survey activity will not commence or the sound source(s) shall be shut-down until the animals are no longer present within the 160-dB zone. An aggregation or group of whales/porpoises shall consist of five or more individuals of any age/sex class.

(i) AK LNG must not operate within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the Little Susitna River) between April 15 and October 15 (to avoid any effects to belugas in an important feeding and breeding area).

(j) Survey operations involving the use of airguns, sub-bottom profiler, or vibracore must cease if takes of any marine mammal are met or exceeded.

8. *Reporting Requirements:* The Holder of this Authorization is required to:

(a) Submit a weekly field report, no later than close of business (Alaska time) each Thursday during the weeks when in-water survey activities take place. The field reports will summarize species detected, in-water activity occurring at the time of the sighting, behavioral reactions to in-water activities, and the number of marine mammals taken.

(b) Submit a monthly report, no later than the 15th of each month, to NMFS' Permits and Conservation Division for all months during which in-water seismic survey activities occur. These reports must contain and summarize the following information:

(i) Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort sea state and wind force), and associated activities during all operations and marine mammal sightings;

(ii) Species, number, location, distance from the vessel, and behavior of any marine mammals, as well as associated activity (type of equipment in use and number of shutdowns), observed throughout all monitoring activities;

(iii) An estimate of the number (by species) of: (A) pinnipeds that have been exposed to the activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 µPa (rms) and/or 190 dB re 1 µPa (rms) with a discussion of any specific behaviors those individuals exhibited; and (B) cetaceans that have been exposed to the activity (based on visual observation) at received levels greater than or equal to 120 dB or 160 dB re 1 µPa (rms) and/or 180 dB re 1 µPa (rms) with a discussion of any specific behaviors those individuals exhibited.

(iv) A description of the implementation and effectiveness of the: (A) terms and conditions of the Biological Opinion's Incidental Take Statement (ITS); and (B) mitigation measures of this Authorization. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness, for minimizing the adverse effects of the action on Endangered Species Act-listed marine mammals.

(c) Submit a draft Technical Report on all activities and monitoring results to NMFS' Permits and Conservation Division within 90 days of the completion of the seismic survey. The Technical Report will include the following information:

(i) Summaries of monitoring effort (*e.g.,* total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);

(ii) Analyses of the effects of various factors influencing detectability of marine mammals (*e.g.,* sea state, number of observers, and fog/glare);

(iii) Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover;

(iv) Analyses of the effects of survey operations; and

(v) Sighting rates of marine mammals during periods with and without survey activities (and other variables that could affect detectability), such as: (A) initial sighting distances versus survey activity state; (B) closest point of approach versus survey activity state; (C) observed behaviors and types of movements versus survey activity state; (D) numbers of sightings/individuals seen versus survey activity state; (E) distribution around the source vessels versus survey activity state; and (F) estimates of take by Level B harassment based on presence in the relevant120 dB or 160 dB harassment zone.

(d) Submit a final report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft report. If NMFS decides that the draft report needs no comments, the draft report shall be considered to be the final report.

(e) AK LNG must immediately report to NMFS if 10 belugas are detected within the relevant 120 dB or 160 dB re 1 µPa (rms) disturbance zone during survey operations to allow NMFS to consider making necessary adjustments to monitoring and mitigation.

9. (a) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this Authorization, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), AK LNG shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, or her designees by phone or email (telephone: 301–427–8401 or *Sara.Young@noaa.gov*), the Alaska Regional Office (telephone: 907–271–1332 or *Barbara.Mahoney@noaa.gov*), and the Alaska Regional Stranding Coordinators (telephone: 907–586–7248 or *Aleria.Jensen@noaa.gov* or *Barbara.Mahoney@noaa.gov*). The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) The name and type of vessel involved;

(iii) The vessel's speed during and leading up to the incident;

(iv) Description of the incident;

(v) Status of all sound source use in the 24 hours preceding the incident;

(vi) Water depth;

(vii) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(viii) Description of marine mammal observations in the 24 hours preceding the incident;

(ix) Species identification or description of the animal(s) involved;

(x) The fate of the animal(s); and

(xi) Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with AK LNG to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. AK LNG may not resume their activities until notified by NMFS via letter or email, or telephone.

(b) In the event that AK LNG discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), AK LNG will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, and the NMFS Alaska Stranding Hotline (see contact information in Condition 9(a)). The report must include the same information identified in the Condition 9(a) above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with AK LNG to determine whether modifications in the activities are appropriate.

(c) In the event that AK LNG discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in Condition 2 of this Authorization (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), AK LNG shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, the NMFS Alaska Stranding Hotline (1–877–925–7773), and the Alaska Regional Stranding Coordinators within 24 hours of the discovery (see contact information in Condition 9(a)). AK LNG shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

10. AK LNG is required to comply with the Reasonable and Prudent Measures and Terms and Conditions of the ITS corresponding to NMFS' Biological Opinion issued to both U.S. Army Corps of Engineers and NMFS' Office of Protected Resources.

11. A copy of this Authorization and the ITS must be in the possession of all contractors and PSOs operating under the authority of this Incidental Harassment Authorization.

12. Penalties and Permit Sanctions: Any person who violates any provision of this Incidental Harassment Authorization is subject to civil and criminal penalties, permit sanctions, and forfeiture as authorized under the MMPA.

13. This Authorization may be modified, suspended or withdrawn if the Holder fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

Donna S. Wieting,

Director, Office of Protected Resources
National Marine Fisheries Service

Date

TABLE 1—AUTHORIZED TAKE NUMBERS FOR EACH MARINE MAMMAL SPECIES IN COOK INLET

Species	Authorized take in the cook inlet action area
Odontocetes:	
Beluga whale (*Delphinapterus leucas*)	14
Killer whale (*Orcinus orca*) ...	5
Harbor porpoise (*Phocoena phocoena*)	18
Pinnipeds:	
Harbor seal (*Phoca vitulina richardsi*)	1527

Dated: June 25, 2015.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

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Part VI

Bureau of Consumer Financial Protection

12 CFR Parts 1001 and 1090

Defining Larger Participants of the Automobile Financing Market and Defining Certain Automobile Leasing Activity as a Financial Product or Service; Final Rule

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Parts 1001 and 1090

[Docket No. CFPB–2014–0024]

RIN 3170–AA46

Defining Larger Participants of the Automobile Financing Market and Defining Certain Automobile Leasing Activity as a Financial Product or Service

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau or CFPB) amends the regulation defining larger participants of certain consumer financial product and service markets by adding a new section to define larger participants of a market for automobile financing. The new section defines a market that includes: grants of credit for the purchase of an automobile; refinancings of such obligations (and subsequent refinancings thereof) that are secured by an automobile; automobile leases; and purchases or acquisitions of any of the foregoing obligations. The Bureau issues this rule pursuant to its authority, under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), to supervise certain nonbank covered persons for compliance with Federal consumer financial law and for other purposes. The Bureau has the authority to supervise nonbank covered persons of all sizes in the residential mortgage, private education lending, and payday lending markets. In addition, the Bureau has the authority to supervise nonbank ''larger participant[s]'' of markets for other consumer financial products or services, as the Bureau defines by rule. This final rule identifies a market for automobile financing and defines as larger participants of this market certain nonbank covered persons that will be subject to the Bureau's supervisory authority. It also defines certain automobile leases as a ''financial product or service'' under section 1002(15)(A)(xi)(II) of the Dodd-Frank Act. Finally, this final rule makes certain technical corrections to existing larger-participant rules.

DATES: Effective August 31, 2015.

FOR FURTHER INFORMATION CONTACT: Dania Ayoubi or Jolina Cuaresma, Counsels; or Amanda Quester, Senior Counsel, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street, NW., Washington, DC 20552, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

The Dodd-Frank Act authorizes the Bureau to define by regulation larger participants of certain markets for financial products or services.[1] On September 17, 2014, the Bureau proposed a rule to define larger participants of a market for automobile financing and to make certain technical amendments to its rules defining larger participants of other consumer financial product and service markets (Proposed Rule).[2] Pursuant to authority granted by the Dodd-Frank Act, the Proposed Rule also defines the term ''financial product or service'' for purposes of title X of the Dodd-Frank Act to include certain automobile leases that are not currently defined as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. The Bureau is now issuing this final rule (Final Rule) largely as proposed.

The Final Rule defines a market for automobile financing that covers specific activities and sets forth a test to determine whether a nonbank covered person is a larger participant of that market. The Final Rule defines ''automobile'' to mean any self-propelled vehicle primarily used for personal, family, or household purposes for on-road transportation, with certain exclusions (motor homes, recreational vehicles (RVs), golf carts, and motor scooters). The Final Rule defines ''annual originations'' to mean the sum of the following transactions for the preceding calendar year:

- credit granted for the purchase of an automobile;
- refinancings of such obligations (and any subsequent refinancings thereof) that are secured by an automobile;
- automobile leases; and
- purchases or acquisitions of any of the foregoing obligations.

For purposes of the Final Rule, refinancing has the same meaning as it does in Regulation Z, except that, for a refinancing to be considered an annual origination under this Final Rule, the nonbank covered person need not be the original creditor or a holder or servicer of the original obligation. The term ''automobile lease'' means a lease that is for the use of an automobile and that meets the requirements of section 1002(15)(A)(ii) of the Dodd-Frank Act or of new § 1001.2(a), which is discussed below.

As in the Proposed Rule, the term ''annual originations'' in the Final Rule does not include investments in asset-backed securities. The Final Rule also excludes certain purchases or acquisitions by special purpose entities that are established for the purpose of facilitating asset-backed securities transactions.

Under the Final Rule, a nonbank covered person that engages in automobile financing [3] is a larger participant of the automobile financing market if it has at least 10,000 aggregate annual originations. To determine a nonbank covered person's aggregate annual originations, the Final Rule provides that the annual originations of a nonbank covered person must be aggregated with the annual originations of any person (other than a dealer that is excluded from larger-participant status under the Final Rule [4]) that was an affiliated company of the nonbank covered person at any time during the preceding calendar year.

As noted above, the Bureau is including automobile leases in the criterion it uses to define larger participants in the market for automobile financing. Certain consumer leases are identified as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act, and therefore count toward the aggregate annual originations threshold for the larger-participant test in this Final Rule. For the reasons explained below, the Bureau believes that the purpose of the Final Rule and the Bureau's overall mission are best served by covering automobile leasing more broadly. Accordingly, under its authority granted by section 1002(15)(A)(xi)(II) of the Dodd-Frank Act, the Bureau is adding §§ 1001.1 and 1001.2 in new part 1001 to title 12 of the Code of Federal Regulations. Section 1001.1 states the authority and purpose of part 1001, which is to implement the Bureau's authority, granted by section 1002(15)(A)(xi) of the Dodd-Frank Act, to define the term ''financial product or service'' for purposes of title X of the

[1] Public Law 111–203, section 1024, 124 Stat. 1376, 1987 (2010) (codified at 12 U.S.C. 5514).

[2] 79 FR 60762 (Oct. 8, 2014).

[3] For purposes of the Final Rule, ''automobile financing'' means providing or engaging in any annual originations as defined in the rule. The terms ''automobile'' and ''automobile financing'' are used in this Supplementary Information in a manner consistent with how they are defined in the Final Rule. The terms ''auto'' and ''auto financing'' are used more generically.

[4] The Final Rule provides that certain auto dealers do not qualify as larger participants. Under section 1029 of the Dodd-Frank Act, the Bureau may not exercise its authority over certain auto dealers, as outlined in that section. As explained below, the final larger-participant rule also excludes certain dealers that extend retail credit or retail leases directly to consumers without routinely assigning them to unaffiliated third party finance or leasing sources, even though such dealers are not subject to the statutory exclusion of section 1029.

Dodd-Frank Act to include certain financial products or services in addition to those defined in section 1002(15)(A)(i)–(x). Section 1001.2(a) defines the term ''financial product or service'' under that same authority to include certain automobile leases that national banks are authorized to offer and that do not fall under the definition in section 1002(15)(A)(ii).

The Final Rule also makes certain technical corrections to existing larger-participant rules. Specifically, the Final Rule inserts the word ''financial'' before the term ''product or service'' in the definition of ''nonbank covered person'' in § 1090.101. The Final Rule also amends §§ 1090.104(a) and 1090.105(a) to clarify that if a company ceases to be an affiliated company of a nonbank covered person during the relevant measurement period, its annual receipts must be aggregated for the entire period of measurement for purposes of the consumer reporting and consumer debt collection larger-participant rules.

II. Background

Section 1024 of the Dodd-Frank Act gives the Bureau supervisory authority over all nonbank covered persons [5] offering or providing three enumerated types of consumer financial products or services: (1) origination, brokerage, or servicing of consumer loans secured by real estate, and related mortgage loan modification or foreclosure relief services; (2) private education loans; and (3) payday loans.[6] The Bureau also has supervisory authority over ''larger participant[s] of a market for other consumer financial products or services,'' as the Bureau defines by rule.[7]

Subpart A of the Bureau's existing larger-participant rule, 12 CFR part 1090, prescribes various procedures, definitions, standards, and protocols that apply to all markets in which the Bureau defines larger participants.[8] Those generally applicable provisions also apply to the automobile financing market described by this Final Rule.

As prescribed by existing § 1090.102, any nonbank covered person that qualifies as a larger participant remains a larger participant until two years after the first day of the tax year in which the person last met the applicable test. Pursuant to existing § 1090.103, a person will be able to dispute whether it qualifies as a larger participant in the automobile financing market. The Bureau will notify an entity when the Bureau intends to undertake supervisory activity; the entity will then have an opportunity to submit documentary evidence and written arguments in support of its claim that it is not a larger participant.[9] Section 1090.103(d) provides that the Bureau may require submission of certain records, documents, and other information for purposes of assessing whether a person is a larger participant of a covered market; this authority will be available to the Bureau to facilitate its identification of larger participants of the automobile financing market, just as in other markets.

The Bureau includes relevant market descriptions and larger-participant tests, as it develops them, in subpart B. The Final Rule is the fifth in a series of rulemakings to define larger participants of markets for other consumer financial products or services within subpart B. The first four rules define larger participants of markets for consumer reporting, consumer debt collection, student loan servicing, and international money transfers.[10]

This Final Rule describes a market for consumer financial products or services, which the Final Rule labels ''automobile financing.'' The definition does not encompass all activities that could be considered auto financing. Any reference herein to the ''automobile financing market'' means only the particular market for automobile financing identified by the Final Rule.

The Final Rule defining larger participants of a market for automobile financing does not impose new substantive consumer protection requirements. Nonbank covered persons generally are subject to the Bureau's regulatory and enforcement authority, and any applicable Federal consumer financial law, regardless of whether they are subject to the Bureau's supervisory authority.

The Bureau is authorized to supervise nonbank covered persons subject to section 1024 of the Dodd-Frank Act for purposes of: (1) assessing compliance with Federal consumer financial law; (2) obtaining information about such persons' activities and compliance systems or procedures; and (3) detecting and assessing risks to consumers and consumer financial markets.[11] The Bureau conducts examinations, of various scopes, of supervised entities. In addition, the Bureau may, as appropriate, request information from supervised entities without conducting examinations.[12]

The Bureau prioritizes supervisory activity among nonbank covered persons on the basis of risk, taking into account, among other factors, the size of each entity, the volume of its transactions involving consumer financial products or services, the size and risk presented by the market in which it is a participant, the extent of relevant State oversight, and any field and market information that the Bureau has on the entity. Such field and market information might include, for example, information from complaints and any other information the Bureau has about risks to consumers posed by a particular entity.

The specifics of how an examination takes place vary by market and entity. However, the examination process generally proceeds as follows. Bureau examiners contact the entity for an initial conference with management and often request records and other information. Bureau examiners will ordinarily also review the components of the supervised entity's compliance management system. Based on these discussions and a preliminary review of the information received, examiners determine the scope of an on-site

[5] The provisions of 12 U.S.C. 5514 apply to certain categories of nondepository (nonbank) covered persons, described in subsection (a)(1), and expressly exclude from coverage persons described in 12 U.S.C. 5515(a) or 5516(a). ''Covered persons'' include: ''(A) any person that engages in offering or providing a consumer financial product or service; and (B) any affiliate of a person described [in (A)] if such affiliate acts as a service provider to such person.'' 12 U.S.C. 5481(6).

[6] 12 U.S.C. 5514(a)(1)(A), (D), (E). The Bureau also has the authority to supervise any nonbank covered person that it ''has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity . . . to respond . . . is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services.'' 12 U.S.C. 5514(a)(1)(C); *see also* 12 CFR part 1091 (prescribing procedures for making determinations under 12 U.S.C. 5514(a)(1)(C)). In addition, the Bureau has supervisory authority over very large depository institutions and credit unions and their affiliates. 12 U.S.C. 5515(a). Furthermore, the Bureau has certain authorities relating to the supervision of other depository institutions and credit unions. 12 U.S.C. 5516(c)(1), (e). One of the Bureau's mandates under the Dodd-Frank Act is to ensure that ''Federal consumer financial law is enforced consistently without regard to the status of a person as a depository institution, in order to promote fair competition.'' 12 U.S.C. 5511(b)(4).

[7] 12 U.S.C. 5514(a)(1)(B), (a)(2); *see also* 12 U.S.C. 5481(5) (defining ''consumer financial product or service''). The Bureau's supervisory authority also extends to service providers of those covered persons that are subject to supervision under 12 U.S.C. 5514(a)(1). 12 U.S.C. 5514(e); *see also* 12 U.S.C. 5481(26) (defining ''service provider'').

[8] 12 CFR 1090.100–.103.

[9] 12 CFR 1090.103(a).

[10] 77 FR 42874 (July 20, 2012) (Consumer Reporting Rule) (codified at 12 CFR 1090.104); 77 FR 65775 (Oct. 31, 2012) (Consumer Debt Collection Rule) (codified at 12 CFR 1090.105); 78 FR 73383 (Dec. 6, 2013) (Student Loan Servicing Rule) (codified at 12 CFR 1090.106); 79 FR 56631 (Sept. 23, 2014) (International Money Transfer Rule) (codified at 12 CFR 1090.107).

[11] 12 U.S.C. 5514(b)(1).

[12] *See* 12 U.S.C. 5514(b) (authorizing the Bureau both to conduct examinations and to require reports from entities subject to supervision).

examination and then coordinate with the entity to initiate the on-site portion of the examination. While on-site, examiners spend a period of time discussing with management the entity's policies, processes, and procedures; reviewing documents and records; testing transactions and accounts for compliance; and evaluating the entity's compliance management system. Examinations may involve issuing confidential examination reports, supervisory letters, and compliance ratings. In addition to the process described above, the Bureau may also conduct off-site examinations.

The Bureau has published a general examination manual describing the Bureau's supervisory approach and procedures.[13] As explained in the manual, the Bureau will structure examinations to address various factors related to a supervised entity's compliance with Federal consumer financial law and other relevant considerations. In connection with this Final Rule, the Bureau is releasing examination procedures related to automobile finance originations and servicing.[14] These procedures are a component of the CFPB's general Supervision and Examination Manual and provide guidance on how the Bureau will be conducting its monitoring in the automobile financing market.

III. Summary of Rulemaking Process

On September 17, 2014, the Bureau issued a notice of proposed rulemaking[15] and requested public comment. The Bureau received approximately 30 comments from consumer advocates, civil rights groups, industry participants, trade associations, individual consumers, members of Congress, and others. The Bureau has considered these comments in adopting this Final Rule.

IV. Legal Authority and Procedural Matters

A. Rulemaking Authority

The Bureau is issuing this Final Rule pursuant to its authority under the following provisions of the Dodd-Frank Act: (1) Sections 1024(a)(1)(B) and (a)(2), which authorize the Bureau to supervise nonbanks that are larger participants of markets for consumer financial products or services, as defined by rule;[16] (2) section 1024(b)(7), which, among other things, authorizes the Bureau to prescribe rules to facilitate the supervision of covered persons under section 1024;[17] (3) section 1022(b)(1), which grants the Bureau the authority to prescribe rules as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial law, and to prevent evasions of such law;[18] and (4) section 1002(15)(A)(xi), which authorizes the Bureau to prescribe rules to define ''other financial product[s] or service[s],'' if the Bureau finds that such financial products or services are: (i) entered into or conducted as a subterfuge or with a purpose to evade any Federal consumer financial law; or (ii) permissible for a bank or a financial holding company to offer or provide under any applicable Federal law or regulation, and have, or likely will have, a material impact on consumers.[19]

B. Effective Date of Final Rule

The Administrative Procedure Act generally requires that rules be published not less than 30 days before their effective dates.[20] The Bureau proposed that the Final Rule would be effective 60 days after publication and received no comments relating to the effective date. The Bureau has decided that the Final Rule will be effective 60 days after publication in the **Federal Register**.

V. Section-by-Section Analysis

A. 12 CFR Part 1001—Financial Product or Service

Section 1001.1 Authority and Purpose

Proposed § 1001.1 stated the authority and purpose for proposed new part 1001. It explained that under section 1002(15)(A)(xi) of the Dodd-Frank Act, the Bureau is authorized to define certain financial products or services for purposes of title X of the Dodd-Frank Act, in addition to those defined in section 1002(15)(A)(i)–(x). Proposed § 1001.1 explained that the purpose of proposed part 1001 was to implement that authority.

The Bureau received no comments on proposed § 1001.1. Section 1001.1 is finalized as proposed.

Section 1001.2 Definitions

Proposed § 1001.2(a) defined the term ''financial product or service'' under section 1002(15)(A)(xi)(II) of the Dodd-Frank Act to include extending or brokering certain leases of an automobile that (1) meet the requirements of leases authorized under section 108 of the Competitive Equality Banking Act of 1987 (CEBA),[21] as implemented by 12 CFR part 23, and are thus permissible for banks to offer or provide; and (2) are not currently defined as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. The proposal explained that under section 1002(15)(A)(xi), for purposes of title X of the Dodd-Frank Act, the Bureau may define as a financial product or service, by regulation:

> such other financial product or service . . . if the Bureau finds that such financial product or service is— . . . (II) permissible for a bank or for a financial holding company to offer or to provide under any provision of a Federal law or regulation applicable to a bank or a financial holding company, and has, or likely will have, a material impact on consumers.

The Bureau proposed § 1001.2 pursuant to this authority. For the reasons discussed below, the Bureau adopts § 1001.2 as proposed with one technical change that has no substantive effect.[22]

The Bureau proposed to include automobile leasing in the consumer financial product or service market for automobile financing for purposes of a rule defining larger participants in that market. Section 1002(15)(A)(ii) of the Dodd-Frank Act defines the term ''financial product or service'' to include certain leases that, among other things, are the functional equivalent of purchase finance arrangements.

The proposal set forth the Bureau's belief that the phrase ''functional equivalent of purchase finance arrangements''—which is not defined in the Dodd-Frank Act[23]—is reasonably interpreted to encompass most automobile leases. Specifically, the Bureau explained that in light of the Bureau's purpose and mandate, the phrase ''functional equivalent of purchase finance arrangements'' is best interpreted from the perspective of the consumer.

The proposal explained that, for consumers, the leasing process functions in ways that are equivalent to a financed purchase. For example, leasing a vehicle requires an application process and an ongoing contractual obligation that are both financial in

[13] *CFPB Supervision and Examination Manual* (Oct. 1, 2012), *available at http://files.consumerfinance.gov/f/201210_cfpb_supervision-and-examination-manual-v2.pdf.*

[14] *CFPB Automobile Finance Examination Procedures* (June 10, 2015), *available at http://www.consumerfinance.gov/guidance/supervision/manual/.*

[15] 79 FR 60762 (Oct. 8, 2014).

[16] 12 U.S.C. 5514(a)(1)(B), (a)(2).

[17] 12 U.S.C. 5514(b)(7).

[18] 12 U.S.C. 5512(b)(1).

[19] 12 U.S.C. 5481(15)(A)(xi).

[20] 5 U.S.C. 553(d).

[21] Public Law 100–86, section 108, 101 Stat. 552, 579 (1987) (codified at 12 U.S.C. 24(Tenth)).

[22] The Final Rule includes a minor clarifying change in the wording of § 1001.2(a).

[23] The Bureau is not aware of any Federal or State statute or regulation that defines the term.

nature and similar to entering into a financial arrangement to purchase a vehicle. Like a consumer seeking to qualify for a loan to purchase a vehicle, a consumer seeking to lease a vehicle must provide basic financial information such as income and credit history.[24] Though a consumer who leases an automobile need not finance the entire cost of the vehicle, the consumer still undertakes a major financial obligation in the form of a commitment to make a stream of payments over a significant period of time.[25] The consumer must consider how much cash to use, if any, for a capitalized cost reduction (similar to a down payment),[26] the preferred lease term, and the affordability of monthly payments and other costs including maintenance, insurance, and State registration fees.

The proposal further noted that automobile leasing shares many other features with automobile lending. A consumer must demonstrate an ability to pay the monthly payments in order to qualify for a lease, and a consumer's creditworthiness impacts the terms of the lease. An automobile finance company may furnish information about a lessee, such as payment history, to credit bureaus in the same manner that the company does for a borrower. Also, similar to a consumer who finances an automobile with a loan, a consumer who leases an automobile bears the responsibility for the vehicle's upkeep and must maintain, repair, and service the vehicle during the lease term.[27] The consumer must also insure the vehicle and bears the risk should the vehicle become damaged or totaled.[28] Similarly, if a consumer fails to make loan or lease payments, the vehicle must be returned to the automobile finance company, and fees or penalties may apply.[29] Also, regardless of whether consumers seek to purchase or lease a vehicle, they must negotiate the price and terms. For all the foregoing reasons, the Bureau reasoned in the proposal that automobile leases carry similar obligations and risks to consumers as automobile loans.

As the Bureau further observed in the proposal, in an automobile leasing arrangement, the consumer can typically purchase the vehicle at the end of the lease term for a pre-determined amount, which is generally based on the residual value of the vehicle.[30] Accordingly, from the perspective of a consumer, leasing presents an alternative method to a loan for acquiring a vehicle through a series of installment payments.

Moreover, the proposal explained that automobiles are important to the financial well-being of consumers regardless of whether the consumer obtains the use of a vehicle through a lease or a loan. Consumers rely on automobiles for their transportation needs. From a consumer's standpoint, whether a vehicle is leased or financed through a loan, any act or practice that impedes access to a vehicle or otherwise creates problems related to the loan or leasing arrangement can have a critical impact on the consumer. Based on these factors, the Bureau reasoned in the proposal that, from the perspective of the consumer, most automobile leases are the functional equivalent of purchase finance arrangements.

The Bureau also noted in the proposal that typical automobile leases meet the remaining two requirements of section 1002(15)(A)(ii) of the Dodd-Frank Act. First, automobile leases are generally ''non-operating.'' Consistent with the definition in Regulation Y, which governs bank holding companies and changes in bank control, ''non-operating,'' as interpreted by the Bureau in the proposal, means that the lease provider is not, directly or indirectly, engaged in operating, servicing, maintaining, or repairing the leased property during the lease term.[31] Under most automobile leases, the consumer, rather than the lessor, is responsible for ensuring the care and maintenance of the vehicle.[32] Second, most leases have terms well beyond 90 days. Lease terms for automobiles typically range from 12 to 48 months, with the majority of leases ranging from 25 to 48 months.[33] Thus, the Bureau observed that the extending or brokering of most automobile leases readily falls under section 1002(15)(A)(ii) as a financial product or service.

However, as the Bureau explained in the proposal, the requirement that leases that fall under section 1002(15)(A)(ii) (''category (ii) leases'') be the functional equivalent of purchase finance arrangements means that coverage of leases under that section will necessarily depend on a number of factors and circumstances that may vary among particular leases and institutions. Given this potential variance, the Bureau expressed concern in the proposal that not all automobile leases that materially impact consumers will necessarily qualify for coverage under section 1002(15)(A)(ii) and that market participants may have a difficult time discerning which leases meet the definition and which do not. Such a result would make the automobile financing larger-participant rule difficult to administer with respect to leasing and would not provide optimal protection to consumers. Accordingly, to further the mandate of protecting consumers and for ease of administering the automobile financing larger-participant rule, the Bureau proposed to exercise its authority under section 1002(15)(A)(xi)(II) of the Dodd-Frank Act to define certain automobile leases not covered under section 1002(15)(A)(ii) as financial products or services within the meaning of section 1002(15)(A).

As discussed above, under section 1002(15)(A)(xi)(II), for purposes of title X of the Dodd-Frank Act, the Bureau may define as a covered financial product or service other financial products or services that are permissible

[24] *See* Fed. Trade Comm'n, *Consumer Information: Understanding Vehicle Financing* (Jan. 2014), *available at http://www.consumer.ftc.gov/articles/0056-understanding-vehicle-financing.*

[25] Like consumers who borrow money to purchase a vehicle, consumers who lease are contractually obligated to make monthly lease payments during the lease term. *See* Fed. Reserve Bd., *Key to Vehicle Leasing Consumer Guide* (Mar. 13, 2013), *available at http://www.federalreserve.gov/pubs/leasing/.*

[26] *See id.*

[27] *See id.*

[28] *See id.*

[29] *See id.* Also, if a consumer terminates a lease early, early termination fees may apply. *See id.*

[30] CFPB, *Ask CFPB: What Is Residual Value?* (June 24, 2012), *available at http://www.consumerfinance.gov/askcfpb/737/what-residual-value.html.* The residual value is the projected market value of the vehicle at the end of the lease, which is used in calculating the amount the consumer would have to pay to purchase the vehicle at the end of the lease term. Additionally, the consumer may be responsible for any applicable taxes or fees.

[31] 12 CFR 225.28(b)(3)(i) n.6 (''The requirement that the lease be on a non-operating basis means that the bank holding company may not, directly or indirectly, engage in operating, servicing, maintaining, or repairing leased property during the lease term. For purposes of the leasing of automobiles, the requirement that the lease be on a non-operating basis means that the bank holding company may not, directly or indirectly: (1) Provide servicing, repair, or maintenance of the leased vehicle during the lease term; (2) purchase parts and accessories in bulk or for an individual vehicle after the lessee has taken delivery of the vehicle; (3) provide the loan of an automobile during servicing of the leased vehicle; (4) purchase insurance for the lessee; or (5) provide for the renewal of the vehicle's license merely as a service to the lessee where the lessee could renew the license without authorization from the lessor.'').

[32] *See* Fed. Reserve Bd., *Key to Vehicle Leasing Consumer Guide* (Mar. 13, 2013), *available at http://www.federalreserve.gov/pubs/leasing/.*

[33] *See* Melinda Zabritski, Experian Automotive, *State of the Automotive Finance Market Fourth Quarter 2014,* at 20 (Feb. 19, 2015), *available at http://www.experian.com/assets/automotive/white-papers/experian-auto-2014-q4-presentation.pdf?WT.srch=Auto_Q42014FinanceTrends_PDF; see also* Fed. Reserve Bd., *supra* note 32.

for a bank or for a financial holding company to offer, and have, or likely will have, a material impact on consumers. To implement this provision, the Bureau proposed to define the term ''financial product or service'' under section 1002(15)(A)(xi)(II) to include automobile leases that: (1) meet the requirements of leases authorized under section 108 of CEBA, as implemented by 12 CFR part 23, and therefore are permissible for national banks to offer or provide; and (2) are not the functional equivalent of purchase finance arrangements under section 1002(15)(A)(ii).

As explained in the proposal, banks and financial holding companies are broadly authorized to engage in automobile leasing. With respect to national banks, CEBA amended the National Bank Act, to add, among other things, 12 U.S.C. 24(Tenth), which authorizes national banks to ''invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis,'' as long as such investment does not exceed 10 percent of its assets.[34] Neither CEBA nor its implementing regulations require that such leases be the functional equivalent of loans, credit, or purchase finance arrangements.[35] Similarly, under Regulation Y, banks and financial holding companies may engage in leasing of personal property irrespective of whether the leases are the functional equivalent of loans, credit, or purchase finance arrangements.[36]

Additionally, in the proposal, the Bureau expressed its belief that, whether or not a particular automobile lease qualifies as a category (ii) lease, all leasing covered by the proposed definition has a material impact on consumers. The Bureau noted that access to a vehicle is critical for consumers, automobile leasing is a significant financial obligation, and consumers are increasingly turning to leasing as a means to obtain a vehicle. The Bureau further stated in the proposal that the impact of automobile leasing on consumers and their financial well-being does not turn on whether a lease is the functional equivalent of a purchase finance arrangement.

Accordingly, as authorized under section 1002(15)(A)(xi)(II) of the Dodd-Frank Act, the Bureau proposed to define the term ''financial product or service'' to include extending or brokering leases for automobiles, where the lease: (1) qualifies as a full-payout lease [37] and a net lease, as provided by 12 CFR 23.3(a), and has an initial term of not less than 90 days, as provided by 12 CFR 23.11; and (2) is not a financial product or service under section 1002(15)(A)(ii).[38] The Bureau asserted that the proposed definition met the requirements of section 1002(15)(A)(xi)(II) of the Dodd-Frank Act because banks and financial holding companies are permitted to engage in automobile leasing described under this definition, and such automobile leasing has a material impact on consumers.

The Bureau explained that the proposed definition would also ensure that leases falling under the definition are subject to the range of protections applicable to ''financial product[s] or service[s]'' under the Dodd-Frank Act. For example, it would ensure that the offering or providing of the defined leases is subject to the prohibition against unfair, deceptive, or abusive acts or practices in section 1031 of the Dodd-Frank Act.[39] The Bureau further expressed its belief that because leases that are not the functional equivalent of purchase finance arrangements can raise the same consumer protection concerns as category (ii) leases, it was appropriate to subject these additional leases to the Dodd-Frank Act provisions that apply to ''financial product[s] or service[s].'' The Bureau also noted that comprehensive coverage of automobile leasing would make the larger-participant rule easier to administer by eliminating uncertainty about which types of leasing activities are counted towards the larger-participant threshold.

The Bureau received a number of comments relating to its interpretation of leases that fall within section 1002(15)(A)(ii) of the Dodd-Frank Act and to the proposed new definition under section 1002(15)(A)(xi)(II). A consumer group agreed with the Bureau's interpretation that, from the perspective of the consumer, certain leases are the ''functional equivalent of purchase finance arrangements'' under section 1002(15)(A)(ii). The commenter reasoned that whether or not the transaction results in owning a car, consumers likely experience leases much in the same way as they do purchase loans. The commenter also noted that both are financial transactions paid by the consumer over a certain period of time, and both grant the consumer exclusive use and possession of an automobile. The commenter also supported the Bureau's inclusion under section 1002(15)(A)(xi)(II) of certain other leases because those leases also have a material impact on consumers.

Other commenters including several trade associations suggested that the Bureau erred in interpreting the phrase ''functional equivalent of purchase finance arrangements'' from the perspective of the consumer. These commenters argued that: (1) the Bureau's interpretation is inconsistent with prior judicial and prudential regulator interpretations that leases are only functionally equivalent to loans and/or credit where the residual value of the leased asset falls below a specified threshold; (2) contrary to the Bureau's interpretation, the term ''functional equivalent of purchase

[34] Under the implementing regulations, net lease is defined as:

a lease under which the national bank will not, directly or indirectly, provide or be obligated to provide for:

(1) Servicing, repair, or maintenance of the leased property during the lease term;

(2) Parts or accessories for the leased property;

(3) Loan of replacement or substitute property while the leased property is being serviced;

(4) Payment of insurance for the lessee, except where the lessee has failed in its contractual obligation to purchase or maintain required insurance; or

(5) Renewal of any license or registration for the property unless renewal by the bank is necessary to protect its interest as owner or financier of the property.

12 CFR 23.2(f).

[35] 12 U.S.C. 24(Tenth); 12 CFR 23.2, 23.3.

[36] 12 CFR 225.28(b)(3). Bank holding companies are limited to leases that are non-operating, as described above, and have an initial term of at least 90 days. *Id.*

[37] Under the implementing regulations, ''full-payout lease'' is defined as:

a lease in which the national bank reasonably expects to realize the return of its full investment in the leased property, plus the estimated cost of financing the property over the term of the lease, from:

(1) Rentals;

(2) Estimated tax benefits; and

(3) The estimated residual value of the property at the expiration of the lease term.

12 CFR 23.2(e).

[38] For purposes of this definition, ''automobile'' is defined as proposed in § 1090.108(a).

[39] 12 U.S.C. 5531. The proposed definition also would affect the scope of certain other Bureau authorities under title X of the Dodd-Frank Act. For example, the proposed definition would have an impact on: (1) the Bureau's rulemaking authority under section 1032 of the Dodd-Frank Act, which authorizes the Bureau to prescribe rules to ensure that the features of any consumer financial product or service are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service; (2) the Bureau's authority under section 1022(c) of the Dodd-Frank Act to ''monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services;'' and (3) the scope of the Bureau's authority under section 1033 of the Dodd-Frank Act to prescribe rules for covered persons with respect to consumer rights to access information concerning consumer financial products or services that the consumer received from such person.

finance arrangements'' requires that the lease result in the transfer of ownership; (3) the Bureau's interpretation is inconsistent with lease recharacterization provisions under the Truth in Lending Act (TILA), the Uniform Commercial Code (UCC), and certain State laws; and (4) the Bureau's interpretation would confuse consumers. According to these commenters, under a correct interpretation of the term, most automobile leases would not qualify as functionally equivalent to purchase finance arrangements under section 1002(15)(A)(ii). The Bureau has considered each of these arguments and concludes that its interpretation of category (ii) leases, as laid out in the proposal, is reasonable and best fulfills the relevant purposes of the Dodd-Frank Act. The Bureau therefore adheres to that interpretation. Under that interpretation, most automobile leases qualify as section 1002(15)(A)(ii) financial products or services.

Commenters are correct in pointing out that the prudential regulators, as well as at least one court decision, have interpreted regulatory requirements that a lease offered by a financial institution be the ''functional equivalent'' of a loan and/or credit to impose limits on the residual value [40] that the lessor may rely on for the return of its full investment.[41] Notwithstanding this regulatory history, the Bureau does not believe that the phrase ''functional equivalent of purchase financing arrangements'' in section 1002(15)(A)(ii) must be interpreted to impose a limit on the residual value of leased assets for category (ii) leases, and, thus (assuming most leases would exceed such limit), to exclude most automobile leases.[42] It is not clear that Congress intended the interpretation of the phrase ''functional equivalent of purchase finance arrangements'' in section 1002(15)(A)(ii) to be controlled by the prudential regulators' and judicial interpretations raised by commenters and discussed above.[43] Instead, the Bureau believes that the phrase ''functional equivalent of purchase finance arrangements'' is ambiguous and—in light of the Bureau's unique mission—is reasonably interpreted, from the perspective of the consumer, not to incorporate a limitation on the residual value of the leased item.

First, the phrase used in section 1002(15)(A)(ii)—''functional equivalent of purchase financing arrangements''—does not appear in any of the other statutes or regulations pertaining to the leasing activities of financial institutions. The prudential regulators and courts have consequently never addressed the meaning of that specific language. That Congress chose a phrase different from the language utilized by other regulators (*e.g.,* the Office of the Comptroller of the Currency's ''functional equivalent of a loan'' [44] or the Federal Reserve Board's ''functional equivalent of an extension of credit'' [45]) weighs against the contention that Congress intended for those specific interpretations to control the meaning of the term ''functional equivalent of finance purchase arrangements'' in section 1002(15)(A)(ii).

Even if the ''functional equivalent'' language in section 1002(15)(A)(ii) were identical to the language interpreted by the prudential regulators and judicial precedent to impose a residual value limit, the Bureau believes that the difference in the roles of the prudential regulators and the Bureau, and the different purposes of the provisions at issue, would make it reasonable for the Bureau to interpret the same language differently from those prior interpretations. In interpreting what leases might be the ''functional equivalent'' of a purchase finance arrangement, a key question is how the leases function and with respect to whom. The prudential regulators' primary role is to ensure safety and soundness of financial institutions by, among other things, serving as the gatekeepers of permissible banking activity. In light of this role, it made sense for prudential regulators to focus on how leases function vis-a-vis the financial institution and thus to consider primarily the risk posed to the financial stability of the institution when delineating permissible leasing activity. Accordingly, the prudential regulators deemed leases ''functionally equivalent'' to credit transactions only when the lease and the loan created a similar level of risk to the institution, such as in the case of low residual value leasing.

By contrast, Congress charged the Bureau with a different mission than the prudential regulators, and, accordingly, the Bureau believes that the ''functional equivalent'' language in section 1002(15)(A)(ii) of the Dodd-Frank Act should play a different role from the language governing the prudential regulators' leasing provisions. As set forth in the Dodd-Frank Act, the Bureau's purpose is to ''ensur[e] that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.'' [46] The Bureau's objectives, moreover, include working to ensure that consumers are

[40] As noted above, the residual value is the projected market value of the vehicle at the end of the lease. *See* CFPB, *Ask CFPB: What Is Residual Value?* (June 24, 2012), *available at http://www.consumerfinance.gov/askcfpb/737/what-residual-value.html.*

[41] *See M &M Leasing Corp.* v. *Seattle First Nat'l Bank,* 563 F.2d 1377, 1382 (9th Cir. 1977) (holding that, for a lease to be ''functionally interchangeable'' with a loan, and thus permissible for a national bank to engage in as the ''business of banking'' under 12 U.S.C. 24(Seventh), the residual value of the item must ''contribute[] insubstantially to the bank's recovery''); *see also* Fed. Reserve Bd., Revision of Regulation Y, 49 FR 794, 827 (Jan. 5, 1984) (permitting bank holding companies to engage in leases that are the ''functional equivalent of an extension of credit'' and setting a residual value limit of 20 percent for those leases); Office of the Comptroller of the Currency (OCC), Lease Financing Transactions, 56 FR 28314 (June 20, 1991) (adopting provision that permits national banks to engage in leasing with a residual value of 25 percent or less as ''consistent with the parameters set forth in *M & M Leasing''*); 12 CFR 160.41 (OCC regulation for Federal savings associations setting a 25 percent residual value limit for leasing that is ''the functional equivalent of a loan''); Nat'l Credit Union Admin. Interpretive Rule and Policy Statement 83–3, 48 FR 52568 (Nov. 21, 1983) (indicating that leases that, among other requirements, meet a 25 percent residual value limit are ''the functional equivalent of secured lending''); *cf.* Fed. Reserve Bd., Final Rule-Amendment to Regulation Y, 78 Fed. Reserve Bull. 548–49 (July 1992) (permitting bank holding companies to invest up to 10 percent of their assets in certain ''high residual value leasing,'' in which the residual value could be up to 100 percent and increasing the residual value limit for other leases to 25 percent); Fed. Reserve Bd., Amendment to Regulation Y, 62 FR 9290 (Feb. 28, 1997) (eliminating functional equivalence and residual value requirements and noting that ''permissible high residual value leasing may not be the functional equivalent of an extension of credit'').

[42] Commenters assert that most auto leases would not be considered functionally equivalent to purchase finance arrangements if that term were interpreted to incorporate the residual value limits set by prudential regulators as discussed above. They also assert that vehicle residual values are typically in the range of 30 to 50 percent of the Manufacturer's Suggested Retail Price, which they describe as close to the adjusted capitalized cost in the lease.

[43] To support their argument that the Bureau should model its interpretation on that of the Federal banking regulators, commenters pointed to the Senate Report for the Senate bill that was the precursor to the Dodd-Frank Act. Commenters note that the report states that the definition of the phrase ''financial product or service'' in the Senate bill was ''modeled on the activities that are permissible for a bank or a bank holding company, such as under section 4(k) of the Bank Holding Company Act and implementing regulations.'' S. Rept. 111–176, at 159–60 (2010). Notably, the current regulation authorizing leasing activities for bank holding companies does not have a residual value requirement. *See* Fed. Reserve Bd., Amendment to Regulation Y, 62 FR 9290 (Feb. 28, 1997) (eliminating functional equivalence and residual value requirements).

[44] 12 CFR 160.41.

[45] As noted above, the Federal Reserve Board's leasing regulations included this language until 1997. *See* 62 FR 9290, 9306 (1997).

[46] 12 U.S.C. 5511(a).

provided with timely and understandable information to make responsible decisions about financial transactions and that they are protected from unfair, deceptive, or abusive acts and practices and from discrimination.[47] Given the Bureau's responsibility to protect consumers in markets for financial products and services, the Bureau believes that its interpretation of section 1002(15)(A)(ii) of the Dodd-Frank Act should focus on the similar ways in which leases and loans function for consumers. Placing limits on the interpretation of leasing activity that qualifies as a consumer financial product or service unrelated to the impact of that activity on consumers would create artificial barriers to consumer protection and would hinder the Bureau's ability to accomplish its purpose and objectives. The Bureau does not interpret the plain text of section 1002(15)(A)(ii) to impose such limits. For these reasons, the Bureau believes that analyzing whether leases are the ''functional equivalent of purchase finance arrangements'' from the perspective of the consumer, as set forth in the proposal, remains an appropriate inquiry and is a reasonable approach to interpreting an ambiguous statutory provision, as well as the approach best suited to the Bureau's purpose and objectives.

Commenters also asserted that, even from the perspective of the consumer, a lease cannot be the ''functional equivalent of [a] purchase finance arrangement'' unless the lease agreement actually results in the acquisition or ownership of the leased item by the lessee at the end of the lease term. They argued that for a product to be functionally equivalent to a ''purchase finance arrangement'' it must necessarily result in a ''purchase.'' They further stated that the core function of a purchase finance arrangement is to finance the acquisition of ownership, and that any product or service that lacks this specific function, cannot be said to be functionally equivalent to such an arrangement. Along similar lines, commenters maintained that the Bureau's approach is in fundamental conflict with provisions under the UCC[48] and TILA[49] that respectively provide that a lease creates a security interest or is a credit sale where the lessee has the option to become the owner of the property for nominal or no consideration upon compliance with the contract.[50] Commenters maintained that, for consistency with these analogous standards, most automobile leases should not be treated as the functional equivalent of purchase finance arrangements.

The Bureau does not disagree with commenters that the phrase ''purchase finance arrangement'' suggests financing used for a purchase. However, the touchstone of the relevant requirement of section 1002(15)(A)(ii) is not whether a lease is a ''purchase finance arrangement,'' but rather whether the two are functionally equivalent. The Bureau does not believe that transfer of ownership or the option to acquire a vehicle for nominal or no consideration is a necessary hallmark of functional equivalence under section 1002(15)(A)(ii) or that most automobile leases therefore do not qualify as functionally equivalent to purchase finance arrangements.[51] With respect to real property leases, section 1002(15)(A)(ii)(III) imposes an additional condition necessary to qualify as a financial product or service on top of the functional equivalence test applicable to all leases: That such leases be intended to result in ownership of the leased property to be transferred to the lessee. If the functional equivalence standard were only met where a lease resulted in a transfer of ownership at the end of the lease term, there would have been no reason for Congress to impose this separate requirement with respect to real property leases. Likewise, that Congress chose to impose such a requirement only with respect to real property leases suggests that Congress did not intend to impose a similar ownership requirement on other leases.

Nor are the UCC, TILA, and other similar provisions invoked by commenters instructive. These provisions seek to identify financial arrangements that are labeled as leases but are in fact disguised security interests or credit sales.[52] Section 1002(15)(A)(ii) by contrast is appropriately understood to encompass leases that are ''functional[ly] equivalent'' to, though in fact distinct from, purchase finance arrangements. As noted in the proposal, the Bureau believes that one feature of most leases that makes them functionally equivalent to purchase finance arrangements is that the consumer can typically purchase the vehicle at the end of the lease term for a pre-determined amount, which is generally based on the residual value of the vehicle. This feature provides the opportunity for ownership, which from the consumer's perspective contributes to making a lease ''functionally equivalent'' to a purchase finance arrangement even if the consumer chooses not to acquire the vehicle (and a transfer of ownership therefore does not result) and even though more than nominal consideration must be paid for the purchase.[53]

Commenters further suggested that interpreting an automobile lease to be functionally equivalent to a purchase finance arrangement may cause consumer confusion about the difference between an automobile lease and an automobile loan. The Bureau does not think that these concerns are warranted. Consumers are unlikely to rely on this rule as a source of information on automobile leases. However, even if consumers do so, the Bureau does not take the position here that automobile leases and purchase finance arrangements are identical. Rather, the discussion above specifically explains that the two are ''functionally equivalent'' for the reasons identified, though they remain distinct products.[54]

[47] 12 U.S.C. 5511(b).

[48] *See* UCC § 1–203 (stating that ''[a] transaction in the form of a lease creates a security interest'' if, among other things, ''the lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement'').

[49] *See* 15 U.S.C. 1602(h) (defining ''credit sale'' to include a lease if, among other things, ''it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the property upon full compliance with his obligations under the contract'').

[50] Commenters also invoked similar provisions under State laws. *See* California Automobile Sales Finance Act, Cal. Civ. Code § 2981(a) (defining ''conditional sale'' to include ''[a] contract for the bailment of a motor vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract''); New York Motor Vehicle Retail Instalment Sales Act, N.Y. Pers. Prop. Law § 301(5); Texas Motor Vehicle Installment Sales Provisions, Tex. Fin. Code § 348.002.

[51] Notably, none of the prudential regulators' provisions discussed above pertaining to leases that are the functional equivalent of credit require that the lease result in the transfer of ownership.

[52] Commenters relying on these provisions pointed to legislative history characterizing the TILA provision as intended to ''include leases, only if they are, in essence, disguised sale arrangements.'' *See* H. Rept. No. 90–1040, at 23 (1967).

[53] Commenters point out that, under the UCC provision, aspects of leases such as the option to purchase for market value or higher, the assumption of risk of loss, and the payment of maintenance and other costs, are not sufficient to create a security interest. *See* UCC § 1–203(c). They therefore argue that the Bureau's reliance on such similarities for its functional equivalence analysis is flawed. For the reasons discussed above, the Bureau does not find the UCC provision to be instructive of the correct interpretation of section 1002(15)(A)(ii).

[54] In the unlikely event that consumer confusion arises as a result of this rule, the Bureau believes

Having considered the comments discussed above, the Bureau adheres to its position in the proposal that it is reasonable, and best suited to the Bureau's purpose and objectives, to assess the functional equivalence requirement from the perspective of the consumer. For the reasons set forth in the proposal and relayed above, the Bureau believes that, from the consumer's perspective, most automobile leases are therefore functionally equivalent to purchase finance arrangements.[55] Accordingly, the Bureau believes that interpreting the phrase ''functional equivalent of purchase finance arrangements'' in section 1002(15)(A)(ii) from the perspective of the consumer to include most automobile leases is both a reasonable interpretation of the statutory language and the interpretation that best fulfills the relevant purposes of the Dodd-Frank Act.

The Bureau received no comments challenging its assertion that most automobile leases meet the other two requirements of section 1002(15)(A)(ii) for personal property leases—that is, that they have terms longer than 90 days and are non-operating. The Bureau adheres to its position that most automobile leases meet these requirements. For the foregoing reasons, the Bureau continues to believe that most automobile leases qualify as financial products or services under section 1002(15)(A)(ii).

The Bureau also received a number of comments regarding its decision to define certain leases as financial products or services under section 1002(15)(A)(xi)(II) of the Dodd-Frank Act. Commenters did not dispute the Bureau's assertion that national banks may offer or provide such leases under CEBA. Commenters also did not dispute the Bureau's assertion that invoking authority under section 1002(15)(A)(xi)(II) to define CEBA leases as financial products or services would make the larger-participant rule easier to administer.

However, the Bureau received comments stating that the Bureau may not or should not rely on its authority under section 1002(15)(A)(xi)(II) with respect to automobile leases that are not the functional equivalent of purchase finance arrangements. Those comments argued that: (1) The Bureau failed to provide a proper record for its definition of automobile leases as financial products or services under section 1002(15)(A)(xi)(II); (2) the Bureau underestimated the number of leases that would be covered by that definition; (3) the Bureau has not demonstrated that leases covered by the definition will have a material impact on consumers as a whole; (4) because Congress already defined some leases as financial products or services under section 1002(15)(A)(ii), the Bureau lacks authority under section 1002(15)(A)(xi)(II) to define additional leases as financial products or services; and (5) expansion of the Bureau's authority over automobile leasing is unnecessary because automobile leases are sufficiently regulated.[56] The Bureau has considered each of these arguments.

With regard to the comment that the Bureau has failed to provide a proper record to support its definition of certain automobile leases as financial products or services under section 1002(15)(A)(xi)(II), the Bureau believes that it has appropriately met the two-part showing required under section 1002(15)(A)(xi)(II): That the financial product or service may be offered by banks and has (or likely will have) a material impact on consumers.

For the reasons set forth in the proposal, the Bureau finds that the leases falling within proposed and final § 1001.2(a) may be offered by banks under Federal law. As noted above and in the proposal, CEBA allows banks to offer certain automobile leases even when they are not the functional equivalent of purchase finance arrangements.[57] Section 1001.2(a) defines as a financial product or service extending or offering only those leases that banks may offer under CEBA and that are not financial products or services under section 1002(15)(A)(ii).

The Bureau also finds that all CEBA automobile leases have a material impact on consumers even if they are not the functional equivalent of purchase finance arrangements. Access to a vehicle is critical for consumers, and consumers are increasingly turning to leasing as a means to obtain possession and use of a vehicle. For consumers who choose to lease an automobile, the lease is a significant financial obligation. The average monthly payment for new leases as of the fourth quarter of 2014 was $408, and the average lease term was 35 months (with nearly two-thirds of lease terms between 25 and 36 months).[58] Furthermore, an automobile lease can have significant consequences for a consumer's financial well-being. Because consumers rely on automobiles for their transportation needs and because—as explained above—automobile leases carry significant risks

that it can resolve this confusion through appropriate consumer-facing documents.

[55] The Federal Reserve Board noted similarities between auto leases and loans in its 1976 statement *Automobile Leasing as an Activity for Bank Holding Companies,* 62 Fed. Reserve Bull. 928 (Nov. 1976). The Board discussed advocates' arguments about the similarities:

> Those parties to the proceeding in favor of the performance of the activity by bank holding companies (generally hereafter ''proponents'') argued that leasing is essentially a financial transaction since it is an alternate method of financing the purchase of an automobile without the necessity of a large initial down payment. Thus, to the customer it is a means of obtaining the possession and use of an automobile through deferred payment. To the bank it is another in a spectrum of methods of new car financing that includes instalment credit transactions, floor planning and commercial lending to independent lessors.

Id. at 931–32. The Board also separately recognized ''many'' other similarities between leases and loans: In each case there is a sum certain in amount. This sum includes the acquisition cost of the vehicle and the cost of financing and is recovered through a schedule of noncancellable deferred payments. The term of the payment period in both cases is 24 to 36, or recently to 48 months. The vehicle serves as a type of collateral to guarantee payment on both the instalment loan and the lease. Both forms of financing are applied to a specific automobile that is chosen prior to preparation of the document . . . All attributes of ownership pass to the lessee who is responsible for servicing, insurance, and depreciation.

Id. at 932.

[56] One commenter also stated that the Bureau has not provided an accurate statement of its definition. As noted in the proposal and reiterated above, the Bureau is defining as financial products or services extending or brokering any automobile leases where the lease: (1) Qualifies as a full-payout lease and a net lease, as provided by 12 CFR 23.3(a), and has an initial term of not less than 90 days, as provided by 12 CFR 23.11; and (2) is not a financial product or service under section 1002(15)(A)(ii).

[57] The purpose of section 1002(15)(A)(xi)(II) is to help ensure that the Bureau has jurisdiction over consumer financial products or services that banks may offer (if they have or likely will have a material impact on consumers). It thus bears noting that banks have long had authority to offer automobile leases regardless of whether they are the functional equivalent of purchase finance arrangements. As discussed in the proposal, in 1987, Congress passed CEBA, which allows national banks to invest up to 10 percent of their assets in personal property leases, including vehicle leases, without regard to the residual value of the leased asset and without a functional equivalence requirement. Public Law 100–86, 101 Stat. 552 (1987); *see also* 12 CFR 23.2(c). For its part, the Federal Reserve Board (Board), in 1997, amended its leasing provisions under Regulation Y to eliminate the ''functional equivalent of an extension of credit'' requirement as well as any limitations on the residual value of the leased item for permissible leasing activities. 62 FR 9290 (Feb. 28, 1997). Even before this amendment, which eliminated the functional equivalence test, beginning in 1992, Board regulations permitted bank holding companies to invest up to 10 percent of their assets in certain ''high residual value leasing,'' in which the residual value could be up to 100 percent. Final Rule-Amendment to Regulation Y, 78 Fed. Reserve Bull. 548–49 (July 1992). Board regulations now allow bank holding companies to issue any non-operating leases of personal property with terms greater than 90 days. 12 CFR 225.28(b)(3). Accordingly, to the extent that certain automobile leases that may be offered by banks are not already covered by section 1002(15)(A)(ii), it nonetheless is appropriate for them to be covered by section 1002(15)(A)(xi)(II).

[58] Zabritski, *supra* note 33, at 20.

to and obligations of the consumer, any act or practice that impedes access to a vehicle or otherwise creates problems related to the leasing arrangement can have a critical impact on consumers.

Indeed, Congress, in enacting the Consumer Leasing Act of 1976 (CLA),[59] recognized the impact that automobile leases have on consumers. In issuing the statute nearly 30 years ago, Congress noted that ''there has been a recent trend toward leasing automobiles and other durable goods for consumer use as an alternative to installment credit sales and that these leases have been offered without adequate cost disclosures.'' [60] Given the recent growth of automobile leasing and the importance of automobile leases to a consumer's financial well-being, Congress' finding in the CLA that automobile leases can pose risks to consumers is even truer today. The CLA establishes, among other things, disclosure requirements pertaining to lease costs and terms, limitations on the size of penalties for delinquency or default and on the size of lessee's residual liabilities, and disclosure requirements for lease advertising.[61] These consumer protections further highlight Congress' recognition of the many ways in which leases can significantly impact consumers' financial well-being. For these reasons, the Bureau finds that all automobile leases under proposed and final § 1001.2(a) have a material impact on consumers irrespective of whether they are the functional equivalent of purchase finance arrangements.[62]

Commenters also suggested that the Bureau overestimated the number of leases that are financial products or services under section 1002(15)(A)(ii) and that, as a result, section 1002(15)(A)(xi)(II) would have to be the primary basis for defining automobile leases as financial products or services. The Bureau does not agree with the premise of this comment. As explained above, the Bureau believes that section 1002(15)(A)(ii) should be interpreted from the perspective of the consumer and would thus cover most consumer automobile leases. However, even if the commenter were correct that section 1002(15)(A)(ii) covered no or very few automobile leases, the Bureau believes that its definition under § 1001.2(a) would nevertheless be authorized under section 1002(15)(A)(xi)(II). As noted above, the Bureau has found that banks may offer automobile leases under CEBA even if they are not the functional equivalent of purchase finance arrangements. This is true irrespective of the number of leases that fall under section 1002(15)(A)(ii). The Bureau has also found that all CEBA automobile leases—regardless of whether they are the functional equivalent of purchase finance arrangements—have a material impact on consumers. The need for the Bureau's definition under section 1002(15)(A)(xi)(II) would only be magnified if the Bureau overestimated, as the commenter suggested, the number of leases that already qualify as financial products or services under section 1002(15)(A)(ii). Therefore, even if the Bureau's interpretation that section 1002(15)(A)(ii) covers most automobile leases were erroneous, the Bureau's findings and exercise of its authority under section 1002(15)(A)(xi)(II) in this rulemaking would be sufficient to define all automobile leases that banks may offer under CEBA, and that are not already covered under section 1002(15)(A)(ii), as financial products or services.

A commenter also suggested that because the Bureau's proposed definition under section 1002(15)(A)(xi)(II) would apply to a small number of automobile leases, the Bureau has not demonstrated that these leases will have a material impact on consumers as a whole. As the Bureau understands it, the premise of this comment is that section 1002(15)(A)(xi)(II) requires the Bureau to find that a financial product or service has a ''material impact'' on consumers in the aggregate rather than on individual consumers. The Bureau believes that it appropriately demonstrated material impact as required under section 1002(15)(A)(xi)(II). Nothing in section 1002(15)(A)(xi)(II) requires the Bureau, in defining a financial product or service, to find that it has a material impact on consumers in the aggregate.[63] The provision does not define the term ''material impact on consumers,'' nor does it state how the Bureau must assess a financial product or service's ''material impact on consumers.'' The ordinary meaning of the term ''material impact'' is also vague.[64] In light of these ambiguities, the Bureau believes that a product may have a ''material impact on consumers'' in the aggregate, individually, or both. In the Bureau's view, this interpretation of the applicable standard is essential to provide comprehensive coverage of financial products or services offered or provided by banks that could materially affect the financial well-being of consumers, either individually or in the aggregate.

A commenter suggested that because Congress already defined some leases as financial products or services under section 1002(15)(A)(ii), the Bureau lacks authority under section 1002(15)(A)(xi)(II) to define additional leases as financial products or services. However, there is no indication that Congress intended for the categories of financial products or services defined in section 1002(15)(A)(i)–(x) to serve as a limit on the types of other financial products or services that the Bureau may define under section 1002(15)(A)(xi)(II). Congress itself decided to define a number of specific financial products or services as areas of special interest to Congress for regulation and oversight by the Bureau, but it also vested the Bureau with broad discretionary rulemaking authority to define ''other'' financial products or services to fill any gaps left by Congress where the two conditions of section 1002(15)(A)(xi)(II) are met. The Bureau believes that, in order to best fulfill the purposes of the Dodd-Frank Act and to provide comprehensive protections for consumers, its authority in section 1002(15)(A)(xi)(II) should allow it to define a new financial product or service even if it is within the same category as a product or service defined in section 1002(15)(A)(i)–(x). In other words, although Congress defined certain leases as financial products or services in section 1002(15)(A)(ii), the Bureau is free to define ''other'' leases as financial products or services under

[59] Public Law 94–240, 90 Stat. 257 (codified as amended at 15 U.S.C. 1667–1667f).

[60] 15 U.S.C. 1601(b).

[61] 15 U.S.C. 1667a–1667c.

[62] Section 1002(A)(xi)(II) requires the Bureau to find that a financial product or service ''has, or likely will have, a material impact on consumers.'' For the same reasons that support the Bureau's finding above that all automobile leases under § 1001.2(a) have a material impact on consumers, the Bureau also finds that all automobile leases under § 1001.2(a) likely will have a material impact on consumers.

[63] At any rate, the Bureau notes that leasing is, as a general matter, an important and growing part of the automobile financing market for consumers. While the automobile financing market is largely comprised of purchase loans, in recent years consumers have begun to migrate more towards leasing agreements. As of the fourth quarter of 2014, leases comprised approximately 30 percent of new vehicle automotive financing transactions, which is up from about 20 percent at the end of 2009. *See* Zabritski, *supra* note 33, at 16. Furthermore, of all new and used automobile financing transactions recorded in the fourth quarter of 2014, approximately 14 percent occurred through leasing arrangements, while the remainder used purchase financing. *See id.*

[64] For instance, the Oxford English Dictionary includes several definitions of the word ''material,'' including ''of serious or substantial import; significant, important, of consequence.'' Oxford University Press, *OED Online* (2015), *available at http://www.oed.com.* It also defines ''impact'' as ''the effective action of one thing or person upon another; the effect of such action; influence; impression.'' *Id.*

section 1002(15)(A)(xi)(II), as long as it makes the requisite findings. The Bureau believes that a contrary interpretation would artificially limit the scope of section 1002(15)(A)(xi)(II) and would leave some financial activities that are important to consumers under-regulated for purposes of the Dodd-Frank Act.

As further discussed above, those conditions are met with respect to the automobile leasing activities described under § 1001.2(a). And the Bureau is not seeking to define under section 1002(15)(A)(xi)(II) activities that already qualify as financial products or services under section 1002(15)(A)(i)–(x) or to modify the definition of leasing activities described under section 1002(15)(A)(ii). To the contrary, the Bureau is defining ''other'' financial products or services and has expressly carved out from its definition in § 1001.2(a) financial products or services already covered under section 1002(15)(A)(ii).

Finally, one commenter generally suggested that expansion of the Bureau's authority over automobile leasing is unnecessary because, in the commenter's view, automobile leases are sufficiently regulated. This commenter noted that the Bureau administers and enforces the CLA and its implementing Regulation M, which cover automobile leases. The commenter also noted that automobile leases are subject to section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive acts or practices. The commenter further highlighted that the Federal prudential regulators may supervise banks for compliance with section 5 with respect to automobile leasing activities.

The Bureau agrees that the existing regulatory framework governing automobile leasing is important, but the Bureau believes this framework would best protect consumers when applied in conjunction with the Bureau's particular authorities under title X. Those authorities include authority to supervise nonbank ''larger participant[s]'' in markets for consumer financial products or services, 12 U.S.C. 5514(a)(1)(B); to prohibit unfair, deceptive, and abusive acts or practices; to monitor markets for a consumer financial product or service, 12 U.S.C. 5512(c)(1); to require disclosures regarding the features of a consumer financial product or service, 12 U.S.C. 5532(a); and to prescribe rules for consumers to seek information concerning a consumer financial product or service they have obtained, 12 U.S.C. 5533(a). The Bureau believes that these title X-specific authorities are necessary to ensure a fair, transparent, and competitive market for consumer automobile leasing. The Bureau further notes that the existence of the complementary regulatory framework noted by the commenter is not unique to automobile leasing. Numerous products that qualify as financial products or services under title X and are thus subject to the Bureau's title X authorities also fall under one or more ''enumerated consumer laws'' [65] and are subject to section 5 of the Federal Trade Commission Act. Title X requires the Bureau to coordinate with other Federal regulators to ''promote consistent regulatory treatment,'' [66] and sets forth specific procedures for coordination between the Bureau and the Federal Trade Commission.[67] The Bureau takes these coordination obligations seriously and believes that they will ensure optimal synergies between the Bureau's authorities and the existing regulatory structure. For all these reasons, the Bureau adopts § 1001.2(a) essentially as proposed with one minor clarificatory addition.[68]

B. 12 CFR Part 1090—Defining Larger Participants of Certain Consumer Financial Product and Service Markets

Section 1090.101—Definitions

The Bureau proposed to make a technical correction to the definition of ''nonbank covered person'' in § 1090.101 by substituting the term ''consumer financial product or service'' for ''consumer product or service'' where it appears. The Bureau did not receive any comments on this change and is finalizing § 1090.101 as proposed.

Section 1090.104 Consumer Reporting Market

104(a) Market-Related Definitions

104(a), Paragraph (iii)(D) of the Definition of ''Annual Receipts''—''Annual Receipts of Affiliated Companies''

The Bureau proposed to make a technical correction to paragraph (iii)(D) of the definition of ''annual receipts'' in § 1090.104(a), which governs how the affiliate aggregation rules apply to formerly affiliated companies for purposes of the Consumer Reporting Rule. The correction clarifies that if a company is an affiliated company of the nonbank covered person during the relevant measurement period but ceases to be an affiliated company during the same period, the annual receipts of the nonbank covered person and the formerly affiliated company must be aggregated for the entire period of measurement. As noted below, the Bureau proposed to make the same change to paragraph (iii)(D) of the definition of ''annual receipts'' in § 1090.105(a) in the Consumer Debt Collection Rule. For the reasons explained below, the Bureau is finalizing these changes as proposed.[69]

Under section 1024(a)(3)(B) of the Dodd-Frank Act, the activities of affiliated companies are to be aggregated for purposes of computing activity levels for the larger-participant rules. In the Consumer Reporting and Consumer Debt Collection Rules, the Bureau implemented the aggregation called for by section 1024(a)(3)(B) by prescribing the addition of all the receipts of a nonbank covered person and its affiliated companies to produce the nonbank covered person's annual receipts.[70] The Bureau prescribed similar calculations for account volume in the Student Loan Servicing Rule and for aggregate annual international money transfers in the International Money Transfer Rule.[71]

The affiliate aggregation provisions of each of the larger-participant rules address circumstances where a company becomes affiliated with a nonbank covered person or ceases to be affiliated with the nonbank covered person during the relevant measurement period.[72] The Bureau believes it is appropriate in both circumstances to aggregate the activity of the company with that of the nonbank covered person for the entire period of measurement, even though the company was an affiliated company of the nonbank covered person for only part of the measurement period.

This is the approach used in the Student Loan Servicing Rule's definition of ''account volume'' and the International Money Transfer Rule's definition of ''aggregate annual

[65] 12 U.S.C. 5481(12).

[66] 12 U.S.C. 5495.

[67] *See, e.g.,* 12 U.S.C. 5493(b)(3), 5512(c)(6)(C), 5514(a)(2), 5514(c)(3).

[68] The Final Rule also includes a clarifying change in the wording of § 1001.2(a). This change from the proposal does not have any substantive effect.

[69] The Final Rule also includes a clarifying change in the wording of the first sentence of paragraph (iii)(D) of the definition of ''annual receipts'' in § 1090.104(a). This change from the proposal does not have any substantive effect.

[70] 12 CFR 1090.104(a), .105(a).

[71] 12 CFR 1090.106(a), .107(a).

[72] This aspect is addressed in paragraphs (iii)(B) and (iii)(D) of the definition of ''annual receipts'' in § 1090.104(a), paragraphs (iii)(B) and (iii)(D) of the definition of ''annual receipts'' in § 1090.105(a), paragraphs (iii)(B) and (iii)(C) of the definition of ''account volume'' in § 1090.106(a), and paragraph (iii)(B) of the definition of ''aggregate annual international money transfers'' in § 1090.107(a).

international money transfers.'' [73] It is also the approach that the Bureau intended to adopt in the Consumer Reporting and Consumer Debt Collection Rules. However, the language addressing aggregation of formerly affiliated companies in the definition of ''annual receipts'' in those rules is unclear.[74] To clarify the operation of those paragraphs, the Bureau proposed to replace the final sentence of paragraph (iii)(D) of the definition of ''annual receipts'' in § 1090.104(a) and § 1090.105(a).

Only one commenter addressed this proposed technical correction. An industry trade association urged the Bureau not to use this rulemaking to make changes to the larger-participant rules for the consumer reporting and consumer debt collection markets. It stated that doing so would undermine transparency and public participation in the rulemaking process. This commenter acknowledged that the proposed change may be simpler for the Bureau but suggested that it may be difficult for companies to secure necessary financial records from entities with which they are no longer affiliated.

The Bureau believes that when companies have been affiliated at any time during the measurement period it is simplest and most appropriate to aggregate annual receipts corresponding to the entire measurement period. As explained above, doing so will promote consistency across the larger-participant rules and will make the handling of formerly affiliated companies more consistent with the approach taken for newly affiliated companies in the Consumer Reporting and Consumer Debt Collection Rules. It may also avoid administrative difficulties associated with part-year calculations of annual receipts in some instances.

The Bureau provided the public with notice of these proposed changes and an opportunity to comment in the proposal that was published in the **Federal Register** on October 8, 2014. The proposal described the changes in the summary and discussed them in full in the section-by-section analysis. In addition, the amended regulation was provided for commenters to review. In suggesting that this change will burden companies by requiring them to obtain information from their former affiliates, the commenter may have been assuming that companies will need to calculate whether they are larger participants. However, as the Bureau has explained in prior larger-participant rulemakings, the larger-participant rules do not require such a calculation. Generally, an entity will need to calculate its annual receipts only if it decides to dispute that it is a larger participant when the Bureau initiates supervision activity, such as an examination or a requirement that the company provide reports to the Bureau. Under rare circumstances such as this, the Bureau does not believe it would be difficult for a nonbank covered person to obtain information regarding the annual receipts of companies with which it was recently affiliated.[75]

Section 1090.105 Consumer Debt Collection Market

105(a) Market-Related Definitions

105(a), Paragraph (iii)(D) of the Definition of ''Annual Receipts''—''Annual Receipts of Affiliated Companies''

The Bureau proposed to amend the final sentence of paragraph (iii)(D) of § 1090.105(a)'s definition of ''annual receipts'' to clarify that if a company is an affiliated company of the nonbank covered person during the relevant measurement period but ceases to be an affiliated company during the same period, the annual receipts of the nonbank covered person and the formerly affiliated company must be aggregated for the entire period of measurement. For the same reasons described above with respect to § 1090.104(a), the Bureau is finalizing the changes to § 1090.105(a) as proposed.[76]

Section 1090.108 Automobile Financing Market

Section 1090.108 relates to automobile financing. Autos have become indispensable for most working individuals, with nearly 90 percent of the workforce commuting to work by car, truck, or van, and most driving alone.[77] Autos are also commonly used for other purposes that are important to consumers, such as transportation to school or healthcare providers, travel, and recreation. Consumers' reliance on vehicles is underscored by recent studies on repayment patterns, which show that consumers pay their auto loans before other secured and unsecured debt.[78] Auto loans are the third largest category of outstanding household debt, behind mortgage and student loans. In the fourth quarter of 2014, Experian Automotive estimated that consumers in the United States had auto loans valued at roughly $886 billion.[79]

While a significant number of consumers obtain credit to purchase

[73] Paragraph (iii)(C) of the definition of ''account volume'' in § 1090.106(a) provides: ''If two affiliated companies cease to be affiliated companies, the number of accounts of each continues to be included in the other's account volume until the succeeding December 31.'' Paragraph (iii)(B) of the definition of ''aggregate annual international money transfers'' in § 1090.107(a) provides:

> The annual international money transfers of a nonbank covered person must be aggregated with the annual international money transfers of any person that was an affiliated company of the nonbank covered person at any time during the preceding calendar year. The annual international money transfers of the nonbank covered person and its affiliated companies are aggregated for the entire preceding calendar year, even if the affiliation did not exist for the entire calendar year.

[74] Paragraph (iii)(D) of the definition of ''annual receipts'' in both § 1090.104(a) and § 1090.105(a) provides:

> The annual receipts of a formerly affiliated company are not included if affiliation ceased before the applicable period of measurement as set forth in paragraph (ii) of this definition. This exclusion of annual receipts of formerly affiliated companies applies during the entire period of measurement, rather than only for the period after which affiliation ceased.

[75] Participants seeking to self-assess could also arrange to obtain information relevant to the threshold in advance of ending such an affiliation.

[76] The Final Rule also includes a clarifying change in the wording of the first sentence of paragraph (iii)(D) of the definition of ''annual receipts'' in § 1090.105(a). This change from the proposal does not have any substantive effect.

[77] *See* Brian McKenzie & Melanie Rapino, U.S. Census Bureau, *Commuting in the United States: 2009,* at 2 (2011), *http://www.census.gov/prod/2011pubs/acs-15.pdf.*

[78] *See* TransUnion, *2014 Payment Hierarchy Study* (2014), *available at http://media.marketwire.com/attachments/201403/233081_PaymentHierarchyInfographic2014FINAL.jpg* & *http://www.transunioninsights.com/studies/behaviorstudy.*

[79] Zabritski, *supra* note 33, at 6. An Equifax report estimated that the total number of outstanding loans exceeded 65 million in 2014 and that the total balance of outstanding auto loans was $924.2 billion in August 2014. *See* Equifax, *Auto Market Revels in Record Vehicle Loan Totals: A Breakdown of the Recent National Consumer Credit Trends Report* (Nov. 10, 2014), *available at http://insight.equifax.com/auto-market-revels-in-record-vehicle-loan-totals-a-breakdown-of-the-recent-national-consumer-credit-trends-report/.* The Federal Reserve Bank of New York estimated that consumers in the United States had 87.4 million outstanding auto loans valued at nearly $900 billion as of the first quarter of 2014. Fed. Reserve Bank of N.Y., *Quarterly Report on Household Debt and Credit* (May 2014), *available at http://www.newyorkfed.org/householdcredit/2014-q1/data/pdf/HHDC_2014Q1.pdf* & *http://www.ny.frb.org/householdcredit/2014-q4/data/xls/HHD_C_Report_2014Q4.xlsx.* For purposes of these statistics, the Federal Reserve Bank of New York defines ''auto loans'' as ''loans taken out to purchase a car, including Auto Bank loans provided by banking institutions (banks, credit unions, savings and loan associations), and Auto Finance loans, provided by automobile dealers and automobile financing companies.'' In a technical comment, one industry trade association noted that the proposal's Supplementary Information refers to dealers giving ''loans'' and asserted that dealers in fact sell a vehicle through an installment contract rather than giving loans. Unless otherwise indicated, the term ''auto loan'' is used throughout this preamble to include credit extended through installment sales contracts as well as other types of financing.

their autos,[80] in recent years, consumers have begun to migrate more toward leasing agreements. Leasing is growing quickly as a proportion of new vehicle financing.[81]

Recognizing the significant impact that automobile financing has on consumers' lives, the Bureau proposed to identify a market for automobile financing. Commenters generally supported the Bureau's identification of an automobile financing market, although some raised specific concerns regarding the scope of the market that are discussed in the section-by-section analysis of § 1090.108(a) and (b) below. Because automobile financing is an important activity that affects millions of consumers, the Bureau believes that supervision will be beneficial to both consumers and the market as a whole. Supervision of larger participants in the automobile financing market will help the Bureau ensure that these market participants are complying with applicable Federal consumer financial law and thereby will further the Bureau's mission to ensure consumers' access to fair, transparent, and competitive markets for consumer financial products and services.

The automobile financing market identified by the Final Rule includes: (1) Specialty finance companies; (2) ''captive'' nonbanks (commonly referred to as ''captives''); and (3) Buy Here Pay Here (BHPH) finance companies.[82] Specialty financing companies serve consumers in specialized markets. Many of these companies focus on providing financing to subprime borrowers who tend to have past credit problems, lower income, or limited credit histories, which prevent them from being able to obtain financing elsewhere.

Generally, captives are subsidiary finance companies owned by auto manufacturers. They provide consumers with financing for the primary purpose of facilitating their parent companies' and associated franchised dealers' auto sales.

Some BHPH finance companies are similar to captives in that they are associated with certain dealers. BHPH dealers traditionally focus on subprime and deep subprime borrowers. While BHPH dealers are mostly independently-owned entities that serve as the primary lender and receive payments directly from consumers, some larger BHPH dealers will sell or assign their contracts to specific BHPH finance companies once the contract has been consummated with the consumer. Unlike captives, these BHPH finance companies do not focus on a particular auto manufacturer.[83]

According to the Bureau's estimates based on 2013 data from Experian Automotive's AutoCount® database,[84] the automobile financing market defined in this Final Rule includes over 500 nonbank automobile lenders.[85] The Bureau estimates that fewer than 40 entities comprise over 90 percent of the auto loan and lease transactions in the nonbank market, as measured by the number of transactions identified in the AutoCount Lender Report℠.[86] Large captives dominate the top tier of this market. The other large companies in the nonbank automobile financing market are either specialty finance companies or BHPH finance companies. The lower tiers of the nonbank market are comprised generally of smaller regional specialty finance companies.

Auto credit is provided both through direct and indirect channels creating different dynamics for consumers and industry participants. In the direct lending channel, a consumer seeks credit directly from the financing source, whereas in the indirect lending channel, the dealer typically enters into a retail installment sales contract that it then sells to a third-party finance company.[87] Depository institutions and credit unions have an advantage in the direct lending space because these entities often have a pre-existing relationship with consumers. Captives and other specialty finance companies are more active in the indirect channel. Most consumers who finance the purchase of an auto use the indirect channel.

With indirect lending, dealers rather than consumers typically select the lender that will provide the financing. Upon completion of the vehicle selection process, the dealer usually collects basic information regarding the applicant and uses an automated system to forward that information to prospective indirect auto lenders. After evaluating the applicant, indirect auto lenders may provide the dealer with purchase eligibility criteria or stipulations including, but not limited to, a risk-based ''buy rate'' that establishes a minimum interest rate at which the lender is willing to purchase a retail installment sales contract executed between the consumer and the dealer for the purchase of the vehicle.[88]

A franchised dealer often can choose from a selection of funding sources in arranging credit for a consumer. However, a franchised dealer that is affiliated with a manufacturer can be incentivized to use a captive through mechanisms such as promotional discounts or limited-time financing offers that can be used to attract consumers. An independent auto dealer, which is not associated with a specific manufacturer or brand, typically does not have access to captive finance sources but will have access to other indirect sources, including depository institutions engaged in indirect lending as well as specialty finance companies.

With the relevant eligibility criteria and stipulations, the dealer then selects the indirect lender that will provide the financing and extends the credit through a retail installment sales

[80] In addition to financing the initial acquisition of an auto, some consumers refinance their existing auto loans. Consumers typically refinance their auto loans to lower their interest rates in order to achieve lower monthly payments. The level of refinancing depends on trends in interest rate levels over the term for most auto loans, which ranges from three to seven years.

[81] As stated above, at the end of the fourth quarter of 2014, leases comprised approximately 30 percent of new vehicle automotive financing transactions, which is up from about 21 percent five years earlier. *See* Zabritski, *supra* note 33, at 16.

[82] Although dealers may also engage in some automobile financing activities, they are not included for purposes of this discussion of market participants.

[83] Typically, only after the BHPH dealer assesses a consumer's creditworthiness and determines the maximum monthly payment based on that creditworthiness does the dealer present auto options.

[84] Experian Automotive's AutoCount database is a vehicle database that collects monthly transaction data from State Departments of Motor Vehicles. *See also infra* notes 116–117 and accompanying text.

[85] To reach this estimate, the Bureau considered data on nonbanks from Experian Automotive's AutoCount database for calendar year 2013, with several adjustments. First, transactions with no lender listed were excluded from the sample. Second, entities with fewer than 360 loans and leases on an annual basis were excluded from the sample. Third, entities that were identified by Experian Automotive as ''Other'' in the lender type category were excluded from the sample. Fourth, the Bureau excluded entities that already fall within the Bureau's supervisory authority or that it identified as BHPH dealers and title lenders. In some cases, entities were also consolidated due to known affiliations.

[86] These estimates were derived using the same methodology described in note 85 above.

[87] Such sources include depository institutions, nonbank affiliates of a depository institution, independent nonbanks, and captives.

[88] An indirect auto lender may also have a policy that allows the dealer to mark up the interest rate above the indirect auto lender's buy rate. In the event that the dealer charges the consumer an interest rate that is higher than the lender's buy rate, the lender may pay the dealer what is typically referred to as ''reserve'' (or ''participation''), compensation based upon the difference in interest revenues between the buy rate and the actual note rate charged to the consumer in the retail installment sales contract executed with the dealer. Dealer reserve is one method lenders use to compensate dealers for the value they add by originating retail installment sales contracts and finding financing sources. The exact computation of compensation based on dealer markup varies across lenders and may vary between programs at the same lender.

contract that the indirect lender purchases or acquires. The dealer is typically compensated for arranging indirect financing. In the indirect model, the indirect auto lender typically becomes responsible for servicing the retail installment sales contract, and consumers will then make payments to the lender.

Leases can also be obtained through direct or indirect channels. To purchase an auto lease from a dealer, finance sources express their interest by providing the dealer with the relevant terms of a lease similar to those considered for a loan. These terms can include a ''money factor,'' which can be used to determine the rent charge portion of the monthly payment, and the length or term of the lease.[89] However, in a lease, a finance source will also quote a residual value, which is the projected market value of the vehicle at the end of the lease. As a practical matter, few auto dealers enter into a financing or leasing arrangement with a consumer unless there is an indirect lender or lessor that will purchase the retail installment sales contract or leasing contract.[90]

Refinancing of an existing credit obligation can enable a consumer to reduce his or her monthly auto payment. The refinancing market is highly dependent on interest rates and, thus, activity typically increases as rates decrease relative to the initial rate at origination. According to Experian Automotive, the average auto loan term as of the fourth quarter of 2014 was around 66 months for new vehicles and around 62 months for used vehicles.[91] Market rates during the loan repayment period typically do not differ much from the rates at origination. These dynamics explain why the Bureau believes that overall refinancing volumes comprise only a small niche of the broader auto financing market. Unfortunately, only limited data on refinancing volume are available because, among other things, publicly traded market participants generally tend to consolidate refinancing activity within origination activity for financial reporting purposes.

108(a) Market-Related Definitions

Unless otherwise specified, the definitions in § 1090.101 should be used when interpreting terms in this Final Rule.[92] The Proposed Rule defined additional terms relevant to the proposed automobile financing market. These terms include ''aggregate annual originations,'' which the Proposed Rule used as the criterion for assessing larger-participant status; ''annual originations''; ''automobile''; ''automobile financing''; ''automobile lease''; and ''refinancing.'' The Bureau is adopting the Proposed Rule's definitions largely as proposed, with certain modifications that are discussed below.

Aggregate Annual Originations

The Bureau proposed to use aggregate annual originations as the criterion to assess whether a nonbank covered person is a larger participant of the automobile financing market. Proposed § 1090.108(a) defined the term ''aggregate annual originations'' as the sum of the number of annual originations of a nonbank covered person and the number of annual originations of each of the nonbank covered person's affiliated companies, calculated according to instructions set forth in the Proposed Rule. The Bureau is finalizing this definition as proposed, except that the Final Rule: (1) Counts refinancings as ''annual originations'' only if they meet the requirements set forth in the Proposed Rule and are also secured by an automobile, and (2) excludes certain purchases or acquisitions by special purpose entities that are made for the purpose of facilitating asset-backed securitizations. The Bureau has also made some technical changes to proposed § 1090.108(a) for clarity.

Annual originations. Proposed § 1090.108(a) defined the term ''annual originations'' to mean the sum of the following transactions for the preceding calendar year: Credit granted for the purchase of an automobile, refinancings of such obligations and any subsequent refinancings thereof, automobile leases, and purchases or acquisitions of any of the foregoing obligations. The Bureau proposed to exclude from annual originations any investments in asset-backed securities. The Bureau received a number of comments relating to this proposed definition of ''annual originations,'' which are discussed below. For the reasons that follow, the Bureau is finalizing the definition of ''annual originations'' largely as proposed, with modifications related to refinancings and asset-backed securities and technical changes for clarity.[93]

Purchases of retail installment contracts. Two trade association commenters expressed concern that the proposed definition of ''annual originations'' may fail to adequately capture purchases of retail installment sales contracts by indirect automobile lenders from dealers. These commenters indicated that while the proposed definition includes, among other things, ''[c]redit granted for the purpose of purchasing an automobile,'' the indirect automobile lender is not itself granting credit. One of the commenters explained that it is the dealer that offers credit to consumers in this scenario rather than the indirect lender.

Purchases of retail installment contracts are included in paragraph (i)(A)(4) of the proposed definition of ''aggregate annual originations,'' which includes ''purchases or acquisitions'' of ''[c]redit granted for the purpose of purchasing an automobile.'' Therefore, originations that are made indirectly are captured by the proposed definition, and the Final Rule does not modify this aspect of the proposed definition.

Inclusion of refinancings. The Bureau proposed to include refinancings of credit granted for the purpose of purchasing an automobile and any subsequent refinancings thereof in the term ''annual originations.'' A number of consumer advocacy and civil rights organizations supported the Bureau's inclusion of refinancings in ''annual originations.'' However, two trade associations and an industry commenter suggested that covered persons would not have the information necessary to determine whether they are refinancing credit granted for the purpose of purchasing an automobile.[94]

The Bureau continues to believe that it is appropriate to include refinancing activity in the automobile financing market defined in this rule, and is therefore finalizing this element of the proposed definition of ''annual originations'' as proposed. Like purchase-money loans, the refinancings that are included in the proposed definition involve debt arising from the purchase of an automobile. The creditors that offer such refinancings are in competition with other creditors in the automobile financing market for the right to hold and service such debt. Although refinancing activity is limited

[89] Fed. Reserve Bd., *Glossary, Keys to Vehicle Leasing* (Mar. 13, 2013), *available at http://www.federalreserve.gov/pubs/leasing/glossary.htm.*

[90] This does not apply to those auto dealers, such as BHPH dealers, that serve as the primary lender.

[91] Zabritski, *supra* note 33, at 34.

[92] Some commenters suggested that the Bureau should provide a definition of ''affiliate.'' However, § 1090.101 already provides a definition of ''affiliated company,'' which should be used when interpreting terms in this Final Rule.

[93] The Bureau has adjusted the wording of paragraph (i)(A)(4) of the definition of ''aggregate annual originations'' for clarity. This change from the proposal does not have any substantive effect.

[94] These commenters also argued that the proposed definition of ''refinancing'' is too broad and suggested that the Bureau should not include refinancing activity conducted by third parties in the definition. Their comments relating to the definition of ''refinancing'' are discussed in the section-by-section analysis of that definition below.

at present, it could become more prevalent in the future should conditions change (for example, in a rapidly declining interest rate environment).

The Bureau considered the concern raised by some commenters that covered persons may not have the information necessary to determine whether they are refinancing an obligation subject to the proposed definition. As explained above, the Final Rule does not require automobile finance companies to calculate whether they are larger participants. In any event, most auto loans are purchase-money loans, and the Bureau believes that covered persons that refinance vehicle-secured loans generally know whether the debt they are refinancing was originally incurred for the purpose of purchasing the vehicle.[95]

The Bureau recognizes, however, that in rare cases a purchase-money loan could be refinanced without the refinancing creditor taking a security interest in the automobile, making the original purpose of the debt less obvious. To address such circumstances and for ease of administration, the Bureau has included language in paragraph (i)(A)(3) of the definition of ''aggregate annual originations'' to clarify that a refinancing must be secured by an automobile to be included in the definition. The Bureau is otherwise finalizing paragraph (i)(A)(3) of the definition of ''aggregate annual originations'' as proposed.

Exclusion related to asset-backed securities. Proposed paragraph (i)(B) of the definition of ''aggregate annual originations'' excluded investments in asset-backed securities. As the Bureau explained in the proposal, automobile asset-backed securities are investment vehicles in which the principal and interest payments from automobile loans serve as collateral for bonds sold to investors and do not generally alter the contractual obligation between the consumer and the entity that granted the credit or services the loan. The Bureau sought comment on whether the proposed exclusion for asset-backed securities was appropriate and whether the Bureau should define the term ''asset-backed securities'' in proposed § 1090.108(a).

The Bureau received comments from industry trade associations and an industry participant in support of the proposed exclusion and no comments opposing it. However, several of these commenters stated that the final rule should also exclude purchases or acquisitions of obligations by securitization trusts and other special purpose entities that are created to facilitate securitization transactions. They indicated that without this change, many securitization entities would be considered larger participants, which would negatively impact the securitization process. Some of these commenters stated that if the Bureau did not exclude these transactions, the rule would lead to double or triple counting of the same automobile loan or lease contract.

Raising similar concerns, an industry trade association requested that the Bureau clarify the exclusion to expressly exclude all securitization activities from the definition of annual originations. It stated that securitization activities are not a consumer financial product or service and have no impact on consumers.

Another trade association commented that the language does not clearly exclude the various transactions creating those securities, and requested that the Bureau clarify that any purchases or acquisitions of credit obligations for securitization purposes and transfers of credit obligations among affiliated entities do not fall within the scope of the rule. This commenter also requested that the Bureau not define the term ''asset-backed securities.'' No commenter urged the Bureau to define the term ''asset-backed securities.''

For the same reasons expressed in the proposal, the Bureau believes that it is appropriate to exclude investments in asset-backed securities from ''annual originations'' and is therefore finalizing that element of the proposal in paragraph (i)(B)(1) of the definition of ''aggregate annual originations.'' In addition, the Final Rule excludes certain purchases or acquisitions of obligations by special purpose entities established for the purpose of facilitating asset-backed securities in paragraph (i)(B)(2) of the definition of ''aggregate annual originations.'' In light of the limited role that these special purpose entities play, the Bureau does not believe that their purchases or acquisitions should be included in the definition of ''annual originations'' if they are made for the purpose of facilitating an asset-backed securities transaction.[96]

Title loans. The Bureau proposed to define a market for automobile financing that would not include title loans, in which a lender extends credit to a consumer that is secured by the title to an automobile that the consumer owns free and clear prior to the loan. The Bureau explained that title loans may be better analyzed separately from the automobile financing market as a part of a future larger-participant rulemaking because the Bureau believes that title loans are substantially different from the automobile financing activities included in the Proposed Rule. However, the Bureau solicited feedback on whether it should define the market for automobile financing and annual originations to include title loans and other types of loans secured by automobiles, and if so, whether it would be appropriate to use the same criterion and threshold as in the proposal. For the reasons stated below, the Bureau has decided not to include title lending in this larger-participant rulemaking.

Most commenters supported the Bureau's proposal to exclude title loans from the automobile financing market. Several trade associations and an industry commenter urged the Bureau not to expand the scope to include loans that are not made for the purpose of purchasing or refinancing an automobile.[97] One of these trade associations stated that title loans are a separate consumer financial product or service, and that the nature, purpose, and timing of title loans distinguish them from financing for the acquisition of an automobile. This commenter noted that title loans are given to consumers who already have an ownership interest in their car and wish to obtain money for a purpose other than acquiring the vehicle. By contrast, it noted that automobile financing occurs for the purpose of obtaining a vehicle, and refinancing occurs generally to secure better terms related to the acquisition of that vehicle.

A number of individuals and consumer advocacy groups also

[95] The Bureau recognizes that some loans secured by a vehicle such as title loans are not purchase-money loans or refinancings of purchase-money debt. However, such loans typically have very different terms, interest rates, and loan amounts than the automobile lending covered in this rule, making it unlikely that a company would be in the business of refinancing covered loans without knowing that it was doing so.

[96] The Final Rule does not, however, exclude all transfers among affiliated entities, as one commenter suggested. The Bureau believes that the types of purchases or acquisitions included in the definition of ''aggregate annual originations'' reflect participation in the automobile finance market, even if they are made or received from an affiliated entity, and has therefore limited the exclusion in paragraph (i)(B) of the definition to transactions relating to asset-backed securitizations.

[97] Some of these commenters also suggested that the Bureau use Delaware's definition of ''title loan'' as a basis for defining title lending. The Bureau has not, however, attempted to define title lending in this rulemaking and does not need to do so for purposes of the Final Rule.

supported the Bureau's decision to exclude title loans from the scope of this automobile financing market. Many of these commenters encouraged the Bureau to cover title lending as soon as possible in a future rulemaking.

On the other hand, a few commenters recommended that the Bureau include title loans in the market defined in this rulemaking. Citing the potential consumer harms stemming from title lending, one consumer group encouraged the Bureau to include title lenders that made more than 25 extensions of credit during the preceding calendar year.

A trade association representing title lenders also encouraged the Bureau to include title loans.[98] The commenter stated that title loans are more similar to automobile financing than they are to payday loans and asserted that the Proposed Rule presents a more appropriate framework of regulation than any rulemaking that the Bureau may issue for the payday lending industry. The commenter also noted that the proposed rule amending Regulation C, which implements the Home Mortgage Disclosure Act,[99] would impose reporting requirements on both closed-end mortgage loans and home equity lines of credit. The commenter suggested that it would be consistent with the proposed revisions to Regulation C for the Bureau to include both automobile purchase-money loans and title loans within the scope of this rule.

After considering all of these comments, the Bureau has decided to exclude title loans from the Final Rule. Loans provided by title lenders are not used for the same purposes as the types of financing included within the proposed market (*i.e.,* to purchase or lease an automobile or to adjust the terms of debt incurred to purchase an automobile). As the Bureau noted in the proposal, title loans are generally provided by companies that do not compete with lenders that finance the acquisition of a vehicle. Further, title loans are generally significantly shorter in term and smaller in size than loans used to purchase an automobile or to refinance an existing automobile loan.[100] These differences may warrant a different criterion and threshold than is appropriate for the automobile financing market defined in this rule. In light of all of these factors, the Bureau believes that title loans are best addressed through a future larger-participant rulemaking.

There is no need for the Bureau to address in this rulemaking the assertion by one commenter that title loans are more similar to automobile financing transactions than to payday loans because payday lending is not a part of this larger-participant rulemaking.[101] Regulation C's handling of dwelling-secured loans is also not relevant here because Regulation C and this larger-participant rule serve different purposes and involve different financial products or services.[102] For the reasons set forth above, the Bureau believes that title loans are sufficiently different from the automobile financing transactions covered by this rule that they should not be included in the market defined in this larger-participant rulemaking.

Aggregating the annual originations of affiliated companies. Under the Dodd-Frank Act, the activities of affiliated companies are to be aggregated for purposes of computing activity levels for rules—like this Final Rule—to determine larger participants in particular markets for consumer products or services under section 1024(a)(1).[103] The Proposed Rule therefore defined ''aggregate annual originations'' for each nonbank covered person as the sum of the number of annual originations of the covered entity and the number of annual originations of all its affiliated companies, and laid out specifics on how this aggregation should be done. For the reasons set forth below, the Bureau is finalizing this aggregation method as proposed.

For purposes of computing the covered person's aggregate annual originations, the Proposed Rule provided that the annual originations of each affiliated company were first to be calculated separately and then aggregated with the originations of the covered entity. Paragraph (ii) of the proposed definition of ''aggregate annual originations'' set forth the method of aggregating the annual originations of a nonbank covered person and its affiliated companies when affiliation has started or ended within the preceding calendar year. It provided that the annual originations of a nonbank covered person must be aggregated with the annual originations of any person that was an affiliated company of the nonbank covered person at any time during the preceding calendar year. The annual originations of a nonbank covered person and its affiliated companies were to be aggregated for the entire preceding calendar year, even if the affiliation did not exist for the entire calendar year. The aggregation provision would not apply, however, if the affiliated company was a dealer excluded by proposed § 1090.108(c), which is discussed below.

Several commenters supported the Bureau's proposal to aggregate annual originations of all affiliated companies in the previous calendar year for the purpose of calculating aggregate annual originations. One trade association objected to the Bureau's proposal to count ''annual originations'' in a manner that includes an affiliate's annual originations during a calendar year, regardless of whether an affiliation existed during the entire calendar year. This commenter suggested that it may be difficult for a company to secure necessary financial records from an unaffiliated company.

Because the criterion for the rule is aggregate *annual* originations, the Bureau believes that it is simplest and most appropriate to aggregate originations for the entire calendar year when companies have been affiliated at any time during that calendar year. This approach is similar to the approach taken with respect to other larger-participant rules, including in §§ 1090.104(a) and 1090.105(a) as described above, and will avoid the administrative difficulties associated with part-year calculations of annual originations. As noted above, the larger-participant rules do not impose a record-keeping requirement and do not require nonbank covered persons to keep track of their annual originations. Moreover, the Bureau does not believe it would be difficult to gather this type of information from current or former affiliates should a nonbank have

[98] While encouraging the Bureau to include title loans in this larger-participant rule, this commenter also challenged the Bureau's authority to regulate the title lending industry. The Bureau does not agree with the commenter's assertions regarding the scope of the Bureau's rulemaking authority but does not need to address them in this rulemaking because it has chosen, for the reasons stated below, to exclude title lending from the scope of the market defined in this larger-participant rule.

[99] 12 U.S.C. 2801–10.

[100] Title loans are also generally significantly shorter in term than leases used to finance an automobile.

[101] No larger-participant rulemaking is required to establish supervisory authority over payday lenders because the Bureau already has supervisory authority over the offering or providing of payday loans pursuant to section 1024(a)(1)(E) of the Dodd-Frank Act, 12 U.S.C. 5514(a)(1)(E).

[102] The purpose of Regulation C is to implement the Home Mortgage Disclosure Act, which provides the public with loan data that can be used for the purposes set forth in 12 CFR 1003.1(b).

[103] 12 U.S.C. 5514(a)(3)(B) (''For purposes of computing activity levels under [12 U.S.C. 5514(a)(1)] or rules issued thereunder, activities of affiliated companies (other than insured depository institutions or insured credit unions) shall be aggregated.'').

occasion to do so.[104] For the reasons described above and in the Proposed Rule, the Bureau adopts the aggregation method as proposed.

Automobile

The Bureau proposed to define ''automobile'' to mean any self-propelled vehicle primarily used for personal, family, or household purposes for on-road transportation.[105] The proposed definition of ''automobile'' expressly excluded motor homes, RVs, golf carts, and motor scooters. The Bureau has considered the comments on the definition of ''automobile'' and, for the reasons set forth below, is finalizing the definition as proposed.

The proposed definition of ''automobile'' was informed by the definition of ''motor vehicle'' in section 1029(f) of the Dodd-Frank Act,[106] but included modifications to limit its application to vehicles primarily used for personal, family, or household purposes for on-road transportation. In the proposal, the Bureau explained that the ''motor vehicle'' definition in the Dodd-Frank Act encompasses a wide range of vehicles, and that the use of such a broad definition in a larger-participant rulemaking would make the rule difficult to administer. Consistent with the definition of ''motor vehicle,'' the proposed definition of ''automobile'' covered vehicles such as cars, sports utility vehicles, light-duty trucks, and motorcycles. However, other vehicles such as heavy-duty trucks, buses, and ambulances were not included because the proposed definition was limited to vehicles primarily used for personal, family, or household purposes.

The Bureau also proposed expressly to exclude certain types of motor vehicles, such as motor homes, RVs, golf carts, and motor scooters, from the definition of ''automobile.'' The Bureau did not have extensive data on the financing activity associated with these types of vehicles, and indicated that the vehicles excluded from the definition might warrant different larger-participant criteria and thresholds if they were included in the market defined for the Proposed Rule. The Bureau sought comment and additional market data related to its assumptions. The Bureau also sought comment on its proposed definition of ''automobile,'' including whether the proposed definition should address other vehicles or types of vehicles and whether motorcycles should be a separately defined term.

Industry participants, two trade associations, and several members of Congress urged the Bureau to exclude motorcycles from the definition of ''automobile,'' maintaining that motorcycles are more akin to the types of recreational vehicles excluded from the proposed definition than to cars and light trucks. These commenters stated that motorcycles are largely discretionary purchases and are not commonly used for commuting. They also stated that motorcycles are significantly less expensive than cars and that the overall volume of motorcycle sales is equal to only a small fraction of car sales.

These commenters urged the Bureau to follow the approach taken by six other Federal regulators (the Agencies) that recently excluded motorcycle loans from the definition of ''automobile loan'' in the Credit Risk Retention Rule.[107] That rule implements the credit risk retention requirements for asset-backed securities under section 941 of the Dodd-Frank Act.[108] Pursuant to section 941, securitizers of asset-backed securities are generally required to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. In the Credit Risk Retention Rule, the Agencies exempted, among other things, securitizations consisting solely of ''automobile loans'' that meet specific underwriting standards, but did not include motorcycle loans in the definition of ''automobile loan.'' [109] The Agencies reasoned that motorcycle loans should not be exempt because the ''overall risk profile of motorcycles as a class remains distinct from that of automobiles and, like other recreational vehicles, [motorcycles] exhibit overall a higher risk profile.'' [110]

The Bureau has considered these comments but believes that similarities in the financing process, relevant compliance requirements, pricing, and how the vehicles may be used support inclusion in the same market for supervisory purposes. Similar to cars and light-duty trucks, motorcycles are often purchased at a dealership where the price is negotiated, add-ons may be sold, and financing is arranged through an application and credit check.[111] Compliance issues also appear to be very similar and would likely involve the same requirements of Federal consumer financial law, the same examination procedures, and the same potential consumer harms. While motorcycles are generally less expensive than cars, average prices of cars and motorcycles are not that far apart.[112]

Unlike many of the vehicles excluded from the proposal, motorcycles are commonly used for on-road transportation and can be used for many of the same purposes as automobiles, such as daily errands and long-distance trips. They can also be used for transportation to work, even if that is uncommon. Although the proposal noted that automobiles are important to many consumers as a means of transportation to work, the Bureau did not intend to suggest that the rule would only cover vehicles that are used for that purpose or that the financing of vehicles used for recreational purposes is unimportant. The proposed definition includes, for example, cars or light-duty trucks that are not used for commuting.

[104] Participants seeking to self-assess could also arrange to obtain information relevant to the threshold in advance of ending the affiliation.

[105] The proposed definition applies to both new and used vehicles.

[106] Under section 1029(f)(1) of the Dodd-Frank Act, the term ''motor vehicle'' means:

(A) Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;

(B) recreational boats and marine equipment;

(C) motorcycles;

(D) motor homes, recreational vehicle trailers, and slide-in campers, as those terms are defined in sections 571.3 and 575.103(d) of title 49, Code of Federal Regulations, or any successor thereto; and

(E) other vehicles that are titled and sold through dealers.

12 U.S.C. 5519(f)(1).

[107] Office of the Comptroller of the Currency, Fed. Reserve Bd., Fed. Deposit Ins. Corp., U.S. Sec. & Exch. Comm'n, Fed. Hous. Fin. Agency, & Dep't of Hous. & Urban Dev., Credit Risk Retention, 79 FR 77602 (Dec. 24, 2014).

[108] Section 941 of the Dodd-Frank Act amends the Securities Exchange Act of 1934 (the Exchange Act) and adds a new section 15G to the Exchange Act, 15 U.S.C. 78o–11. Specifically, section 941 of the Dodd-Frank Act requires the Securities Exchange Commission, the Federal banking agencies, and, with respect to residential mortgages, the Secretary of Housing and Urban Development and the Federal Housing Finance Agency to prescribe rules to require that a securitizer retain an economic interest in a portion of the credit risk for any asset that it transfers, sells, or conveys to a third party through the issuance of an asset-backed security.

[109] 79 FR 77602, 77683 (Dec. 24, 2014).

[110] *Id.*

[111] Indeed, some companies that offer motorcycle financing operate as captives for affiliated manufacturers in the same manner as described above.

[112] One industry commenter reported that the average Manufacturer's Suggested Retail Price of a new on-road motorcycle in 2013 was $15,366, according to data compiled by the Motorcycle Industry Council. This is similar to the average price of a used car in 2013, which was $15,900 according to one report. *See* Greg Gardner, *Average Used Car Price Hits Record High in 2014,* USA Today, Feb. 18, 2015, *available at http://www.usatoday.com/story/money/cars/2015/02/18/record-used-car-prices-in-2014/23637775/.* According to Kelley Blue Book, the average transaction price of a light vehicle as of December 2013 was roughly double that, $33,525. Kelley Blue Book, *New-Car Transaction Prices Reach New Record, Up Nearly 3 Percent in December 2014, According to Kelley Blue Book* (Jan. 5, 2015), *available at http://mediaroom.kbb.com/2015-01-05-New-Car-Transaction-Prices-Reach-New-Record-Up-Nearly-3-Percent-In-December-2014-According-To-Kelley-Blue-Book.*

Although some commenters suggested that the Bureau should follow the approach taken in the Credit Risk Retention Rule, the Agencies' exclusion of motorcycles from the exemption provided in that rule was based on their assessment that motorcycles—like other vehicles that are used for recreational purposes—as a class have a riskier profile than the vehicles that are included in the Agencies' definition of ''automobile loans.'' [113] The Agencies' decision to exclude motorcycle loans from ''automobile loans'' was for the purpose of determining whether a securitizer should be exempt from retaining any risk on vehicle loans. In this rule, the Bureau is defining larger participants of a market in order to carry out the Bureau's consumer protection mission through its supervisory function. In light of the different purposes of the two rulemakings, the Bureau continues to believe that including motorcycle loans in ''annual originations'' is appropriate.

One industry trade association expressed support for the Bureau's decision to exclude RVs from the definition of ''automobile'' in this rule, while emphasizing that RVs should still be considered motor vehicles as defined in the Dodd-Frank Act. This commenter believed that using the broad definition of ''motor vehicle'' found in the Dodd-Frank Act would make this rule difficult to administer. It also stated that there are no significant nonbank financial institutions in the RV industry and that including motor homes and RVs in the Final Rule would thus have little if any impact. No other commenters addressed the Proposed Rule's exclusions for specific categories of motor vehicles.

The Bureau is finalizing the specific exclusions to the definition of ''automobile'' as proposed. These exclusions will promote clarity and ease of administration by providing bright lines regarding which vehicles are covered. The Bureau also recognizes that the uses of the excluded vehicles are either different or more limited than those of the vehicles that are included in the definition. For example, motor scooters generally are not suitable for long-distance trips or highway driving, while RVs and motor homes generally cannot be used for commuting or daily errands due to parking limitations. On average, the categories of vehicles excluded in the Proposed Rule are also either substantially more or less expensive than the vehicles that qualify as automobiles under the proposed definition.[114] As noted in the proposal, including the financing of these vehicles in this market could warrant a different criterion or threshold given the differences in scale and nature of financing, and the Bureau has limited data about the financing of the excluded vehicles. As the Bureau gathers more information about financing for the types of vehicles that it is excluding from this Final Rule, it can evaluate whether it is appropriate to cover them in a future larger-participant rulemaking. Accordingly, the Bureau is finalizing the definition of ''automobile'' as proposed.

Automobile Financing

Proposed § 1090.108(a) defined the term ''automobile financing'' to mean providing the transactions identified under the term ''annual originations'' as defined in proposed § 1090.108(a). The Bureau intended this proposed definition to reflect the number of consumer loans and leases made or facilitated (through purchases of the loans and leases) regarding one of the most important assets of American households. The comments that the Bureau received relating to the definition of ''automobile financing'' were similar to those relating to the definition of ''annual originations.'' For the same reasons discussed above in the section-by-section analysis of the definition of ''aggregate annual originations,'' the Bureau is finalizing the definition of ''automobile financing'' as proposed, with one minor clarifying change that does not have any substantive effect.

Automobile Lease

Proposed § 1090.108(a) defined the term ''automobile lease'' to mean a lease for the use of an automobile, as defined in the Proposed Rule, that is a financial product or service under either section 1002(15)(A)(ii) of the Dodd-Frank Act or proposed § 1001.2(a). A number of consumer groups, civil rights groups, and individual commenters supported the proposal to include automobile leasing in the market for automobile financing. However, as discussed above, two industry trade associations and an industry commenter suggested that the Bureau should include only a narrower category of leases that meet certain residual value limits and, in their view, are the functional equivalent of a purchase finance arrangement. Because of the similarities between automobile leases and automobile loans described above and the importance of leases to consumers, the Bureau believes that it is important to maintain broad coverage of automobile leases in this larger-participant rule. The Bureau therefore is not narrowing the scope of leases included in the manner suggested by some commenters and is finalizing the definition of ''automobile lease'' as proposed.

Refinancing

The Proposed Rule defined ''refinancing'' by reference to the definition contained in Regulation Z § 1026.20(a), except that the Proposed Rule indicated that a refinancing need not be by the original creditor, holder, or servicer of the original obligation. Section 1026.20(a) provides that ''[a] refinancing occurs when an existing obligation that was subject to this subpart is satisfied and replaced by a new obligation undertaken by the same consumer'' and identifies certain transactions that are not treated as a refinancing. The Bureau sought comment on whether the Regulation Z definition of refinancing as modified is appropriate, and whether the Bureau should consider a new definition of refinancing for purposes of this larger-participant rulemaking. The Bureau also sought data on refinancing activity in the market and its participants.

Two trade associations and an industry commenter suggested that the Bureau should adopt a narrower definition of ''refinancing'' that is fully consistent with the definition in Regulation Z. These commenters stated that the proposed definition should be modified so as not to include refinancing activity conducted by third parties.

The definition of ''refinancing'' in Regulation Z § 1026.20(a) serves a different purpose than the concept of refinancing in this larger-participant rule. Section 1026.20(a) addresses when the *original* creditor, holder, or servicer of an existing consumer credit obligation must provide new cost disclosures and other protections that that same creditor already provided to the consumer before initial credit was extended. As comment 20(a)–5 to § 1026.20(a) explains, a third party that refinances an existing obligation must generally provide disclosures and protections to the consumer, and such

[113] *See* 79 FR 77602, 77683 (Dec. 24, 2014).

[114] For example, the Recreation Vehicle Industry Association indicates that type A, B, and C new motorhomes typically cost between $43,000 and $500,000. Recreation Vehicle Indus. Ass'n, *RV Types, Terms & Prices* (Aug. 28, 2013), *available at http://www.rvia.org/UniPop.cfm?v=2&OID=1004&CC=1120.* According to Consumer Reports, small motor scooters begin at about $1,000, while large scooters range up to about $10,000. Consumer Reports, *Motorcycle & Scooter Buying Guide* 2 (Apr. 2015), *available at http://www.consumerreports.org/cro/motorcycles-scooters/buying-guide.htm.*

transactions are thus excluded from the definition of a ''refinancing'' under section 1026.20(a).[115] In contrast, the term ''refinancing'' is used in this rulemaking to identify transactions that should be counted as ''annual originations,'' which in turn are used to determine whether a covered person is a larger participant in the automobile financing market.

Given the purpose of this rulemaking, it would not be appropriate to exclude third-party refinancings from the term ''refinancing.'' Refinancings by the original creditor and a third party are sufficiently similar so as to be considered part of the same market for automobile financing. Therefore, consistent with the proposal, the Bureau is finalizing the rule to include refinancings by nonbank covered persons that were not the original creditor, holder, or servicer of the obligation. In addition, as explained in the discussion of the definition of ''aggregate annual originations'' above, the Bureau has added a requirement in paragraph (i)(A)(3) of the definition of ''aggregate annual originations'' that a refinancing must be secured by a vehicle to be counted as an ''annual origination'' in order to facilitate application of the criterion.

108(b) Test To Define Larger Participants

Criterion

The Bureau proposed to use aggregate annual originations as the criterion that establishes which entities are larger participants of the automobile financing market. A discussion of the comments received relating to the definition of ''aggregate annual originations'' and the adjustments the Bureau has made to that proposed definition is set forth above. For the reasons stated there and below, the Bureau is finalizing ''aggregate annual originations'' as the criterion as proposed.

The Final Rule uses aggregate annual originations because, among other things, it is a meaningful measure of a nonbank covered person's level of participation in the automobile financing market and of its impact on consumers. A particular nonbank entity's annual number of originations reflects the number of loans and leases it makes or facilitates (through purchases of the loans and leases) regarding one of the most important assets of American households. Further, because the Final Rule defines the term ''aggregate annual originations,'' in part, in terms of how many loans or leases an entity granted or purchased, the Bureau expects that aggregate annual originations criterion will generally correlate to the size of the entity's loan and lease portfolios.

The Bureau anticipates that nonbank covered persons will be able to calculate aggregate annual originations without difficulty, should the occasion arise to do so. As a general matter, most market participants generally know the number of loans and leases they extend because they handle the servicing for these accounts and are presumably expecting a payment for each loan and lease. Further, they generally know the number of loans they make or purchase because they execute liens against the automobile titles.

In the proposal, the Bureau relied on Experian Automotive's AutoCount database for data on a significant portion of annual originations. AutoCount is a vehicle database that collects monthly transaction data from State Departments of Motor Vehicles (DMVs). In 46 States, DMV title and registration information includes the finance source on record.[116] These finance sources are listed either individually or categorized into lender type. The proposal invited comments on this data source as well as suggestions for other data sources that commenters believed might augment the Bureau's understanding and analysis of the market.

Two industry trade associations and an industry commenter urged the Bureau to provide more detail on why the Experian AutoCount database was chosen and how the data in the database was gathered. These commenters asked if the Bureau would be using the same definitions as Experian, and expressed concern that the use of the database could misidentify larger participants due to differences in the Experian dataset and the Bureau's criterion. No commenter suggested an alternative national source of data.

The Bureau recognizes that estimates of ''annual originations'' based on the AutoCount data may be either over- or under-inclusive due to differences between what is included in the AutoCount data and in the Bureau's definitions. For example, the term ''annual originations,'' as defined in this Final Rule, includes transactions not tracked in the AutoCount data. Specifically, the Final Rule defines ''annual originations'' to include the sum of a nonbank covered person's credit granted for the purchase of an automobile, refinancings of such obligations (and any subsequent refinancings thereof) that are secured by an automobile, automobile leases, and purchases or acquisitions of any of the foregoing obligations. In contrast, the AutoCount data track only loans and leases for which a title and registration is filed with the State DMV and are less inclusive than the Final Rule in a number of respects. For example, the AutoCount data may not include certain refinancings and purchases and acquisitions of credit obligations and leases that are included in the Final Rule definition of ''annual originations.'' [117] Similar to the Final Rule, AutoCount excludes vehicles that are designed for and used primarily for commercial purposes. However, the exact scope of which commercial transactions are excluded in AutoCount may be different than in the Final Rule.

Notwithstanding the differences between AutoCount and the Final Rule definitions, AutoCount data provide a reasonable proxy for the Bureau's definition of ''annual originations'' for rulemaking purposes. The dataset covers almost the entire United States and is relatively reliable because it is based on title and registration information filed with State DMVs. AutoCount is therefore the most comprehensive database that the Bureau could identify for this rulemaking, and commenters did not identify any other database that the Bureau should use. In light of these factors, the Bureau believes that the AutoCount data can adequately inform the decision of setting a threshold using the criterion of aggregate annual originations.

The Bureau's use of the AutoCount database in this rulemaking will not result in covered persons being misidentified as larger participants, as some commenters asserted. To the extent that the Final Rule's definitions differ from the types of transactions that

[115] 12 CFR 1026.20, comment 20(a)–5 (''Section 1026.20(a) applies only to refinancings undertaken by the original creditor or a holder or servicer of the original obligation. A 'refinancing' by any other person is a new transaction under the regulation, not a refinancing under this section.'').

[116] The AutoCount data cover transactions in every State, excluding Oklahoma, Wyoming, Rhode Island, and Delaware.

[117] The AutoCount data analyzed by the Bureau also do not include motorcycle transactions. However, given the relative size of the motorcycle segment as compared to the car and light-duty truck segments of the market, the Bureau does not believe that this limitation will substantially undermine the accuracy of its estimate of the number of larger participants. According to the U.S. Department of Transportation, there were approximately 234 million light-duty vehicles registered in the United States in 2012, as compared to only 8.45 million motorcycles. U.S. Department of Transportation Bureau of Transportation Statistics, *National Transportation Statistics* tbl. 1–11 (2015), *available at http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/national_transportation_statistics/html/table_01_11.html.*

are included in AutoCount, the Final Rule's definitions control for purposes of determining whether an entity is in fact a larger participant of the automobile financing market. The Bureau will consider a variety of data sources in determining whether a nonbank covered person qualifies as a larger participant before initiating any supervisory activity. In addition to AutoCount data, these sources may include, for example, filings with the U.S. Securities and Exchange Commission, public shareholder information, and industry surveys. In some instances, if sufficient information is not available to the Bureau to assess a person's larger-participant status, the Bureau may require submission of certain records, documents, and other information pursuant to existing § 1090.103. The Bureau will notify an entity if the Bureau decides to undertake supervisory activity.[118] Pursuant to § 1090.103, a person will then be able to dispute whether it qualifies as a larger participant in the automobile financing market, should it choose to do so.

While generally agreeing with the Bureau's proposal to consider aggregate annual originations, a number of consumer advocates and civil rights groups suggested that the Bureau include servicing activity within the criterion or otherwise ensure that the Final Rule will cover large servicers as well. These commenters noted that servicing may be done by entities that do not own the obligations that are being serviced and that it is important to ensure that consumer protection laws and regulations are being followed in servicing.

The Bureau agrees that oversight of servicing in the automobile financing market is important, but believes it can accomplish that goal without including servicing activity within the Final Rule's criterion. As the commenters recognize, the use of non-holder servicers is not as prevalent in the auto market as in the housing market. Instead, most of the entities that will be larger participants under this Final Rule service their own loans and leases, and the Bureau will be able to examine their servicing activity as part of its larger-participant examinations even if servicing activity is not part of the criterion used in this Final Rule.[119] Additionally, the Bureau has the authority to supervise service providers to larger participants.[120] Accordingly, where a third-party servicer acts as a service provider to a larger participant, the Bureau will have the authority to supervise the servicer's performance of services for the larger participant. In light of these considerations, the Bureau has decided not to include servicing activity within the criterion.

Two industry trade associations and an industry commenter also suggested that the Bureau should exclude all direct lending from the scope of the market defined in this rule. These commenters suggested that the Bureau's primary concerns are with practices that only occur in the purchase of motor vehicle sales finance contracts, such as pricing disparities that result when dealers are given pricing authority. The Bureau has considered these comments but believes that direct lending is an integral and important part of the automobile financing market defined in this rule. Like indirect lending and leasing, direct lending can affect a consumer's access to transportation. Supervision will allow the Bureau to ensure that market participants engaging in these activities are complying with applicable Federal consumer financial law. The Bureau therefore declines to carve direct lending out of the scope of this rule and is finalizing the criterion as proposed.

Threshold

The Proposed Rule defined a nonbank covered person as a larger participant of the automobile financing market if the person has at least 10,000 aggregate annual originations. The Bureau received comments supporting the Bureau's proposed approach, as well as comments advocating a higher or lower threshold. For the reasons that follow, the Bureau is finalizing the rule with a threshold of 10,000 aggregate annual originations as proposed.

Based on the Bureau's estimates, a threshold of 10,000 aggregate annual originations will bring within the Bureau's supervisory authority about 34 entities and their affiliated companies that engage in automobile financing.[121] The Bureau estimates that these entities account for roughly 7 percent of all nonbank covered persons in the automobile financing market and are responsible for approximately 91 percent of the activity in the nonbank automobile financing market.

As the Bureau explained in its proposal, the aggregate annual originations threshold of 10,000 will allow the Bureau to supervise market participants that represent a substantial portion of the automobile financing market and that have a significant impact on consumers. The Bureau estimates that in 2013 the entities that would qualify as larger participants under the proposed threshold provided loans and leases to approximately 6.8 million consumers.[122]

A number of consumer groups, civil rights groups, and consumer attorneys supported the proposed threshold and encouraged the Bureau to ensure that a threshold of 10,000 aggregate annual originations covers finance companies that target subprime consumers, regional finance companies, and finance companies related to Buy Here Pay Here (BHPH) dealers. One consumer advocacy group urged the Bureau to decrease the threshold to 5,000, asserting that the Bureau should protect as many consumers as feasible. A consumer banking trade association urged the Bureau not to raise the threshold above 10,000 because the proposed threshold would allow the Bureau to supervise a more varied mix of entities and would help to level the playing field between banks and nonbanks.

Two trade associations and an industry participant encouraged the Bureau to raise the threshold to 50,000. They believe that a lower threshold might prompt some covered persons to limit their originations to larger loans and to avoid making smaller loans, in order to avoid the rule's coverage. Three trade associations and an industry participant noted that many of the entities that would be larger participants at the proposed threshold have well below 1 percent market share and that small businesses could qualify as larger participants under the proposed threshold. A law firm representing small businesses urged the Bureau either to increase the threshold or to explicitly carve out small businesses as defined by the Small Business Administration (SBA). The commenter indicated that

[118] As noted above, the Bureau prioritizes supervisory activity among entities subject to its supervisory authority on the basis of risk, taking into account a variety of factors.

[119] *See* 77 FR 42874, 42880 (July 20, 2012).

[120] 12 U.S.C. 5514(e); *see also* 12 U.S.C. 5481(26)(A) (defining service provider).

[121] The Bureau originally estimated that the proposed threshold would bring within the Bureau's supervisory authority about 38 entities. In the proposal, the Bureau noted that it had consolidated entities in some cases based on known affiliations and excluded other entities listed in the AutoCount data on the ground that they do not engage in automobile financing activity as defined in the Proposed Rule. The Bureau's estimates of coverage at the different thresholds considered have changed slightly since the proposal stage due to the identification of some additional affiliations and additional entities that should be excluded from the market definition such as title lenders. However, these changes do not affect in any significant way the Bureau's analysis or its estimates of aggregate market activity covered at each threshold.

[122] The Bureau assumes that an average consumer only enters into one auto loan or lease in a given year.

one of its clients is a small business that would meet the threshold.

The Bureau is finalizing the threshold as proposed because it believes that 10,000 aggregate annual originations is a reasonable and appropriate threshold for defining larger participants of the automobile financing market. A threshold of 10,000 aggregate annual originations will bring within the Bureau's authority roughly 34 entities together with their affiliated companies that engage in automobile financing. Each of these entities provides or engages in hundreds of automobile originations each week and falls in the top 10 percent of nonbank entities in the market according to the Bureau's estimates. They can reasonably be considered larger participants of the market. Some entities that meet this threshold will have considerably less than 1 percent market share, but that is due in large part to the fragmentation of the market and does not change the fact they are ''larger'' than the vast majority of market participants.

The Bureau does not believe that the proposed threshold is likely to have any appreciable effect on the availability of credit. As discussed in part VI.B.2.b below, the Bureau estimates that the cost of supervision for an entity that provides 10,000 aggregate annual originations would be a small fraction of 1 percent of its total revenue from one year's originations. Given the nominal cost of supervision, the Bureau does not believe that entities will change the types of loans and leases they offer merely to avoid the Bureau's supervisory authority. Furthermore, should an entity that would otherwise meet the larger-participant test adjust its offerings in response to the rule, any effect on consumers would be mitigated by the large number of remaining nonbank entities in the market as well as depository institutions that provide auto financing.

The Bureau also considered a lower or higher threshold. For example, a threshold of 5,000 aggregate annual originations would allow the Bureau to supervise approximately 50 entities and their affiliated companies that engage in automobile financing. While lowering the threshold would substantially increase the number of entities subject to supervision, it would only result in a marginal increase in the percentage of overall market activity covered due to the relatively small market share of entities at the lower threshold.

The Bureau has a variety of other tools that it can use to protect consumers should concerns emerge regarding nonbank market participants that have less than 10,000 aggregate annual originations. The Bureau could, for example, establish supervisory authority over a particular company that the Bureau has reasonable cause to determine poses risks to consumers pursuant to the Bureau's risk determination rule.[123] The Bureau could also use non-supervisory tools if appropriate, such as initiating enforcement investigations; coordinating with State regulators, State attorneys general, and the Federal Trade Commission; and engaging in research and monitoring. In light of all these considerations, the Final Rule does not include a lower threshold.

The Bureau estimates that a higher alternative threshold of 50,000 aggregate annual originations would allow the Bureau to supervise only the 15 very largest participants in the market and their affiliated companies, representing approximately 86 percent of market activity. At this higher threshold the Bureau would not be able to supervise as varied a mix of nonbank larger participants because some firms impacting a large portion of consumers in important market segments, such as captive, subprime, and BHPH lending, would be omitted.

The Bureau does not believe it is necessary to raise the threshold in order to avoid capturing small businesses as defined by the SBA or to add an express exclusion for such entities. According to the Bureau's estimates, few if any entities that meet the proposed threshold have annual receipts at or below the relevant SBA size standard, which in recent years has increased from $7 million to $38.5 million.[124] In setting its size standards, the SBA considers a variety of factors, such as eligibility for Federal small-business assistance and Federal contracting programs; startup costs, entry barriers, and industry competition; and technological change. In contrast, the Bureau has established its larger-participant thresholds by reference to relative participation in the market, with a view to ensuring sufficient coverage of the market to allow it to assess compliance with Federal consumer financial law and detect and assess risks to consumers effectively. Because the SBA's size standards and the Bureau's threshold are used for different purposes and targeted to different statutory objectives, the Bureau does not need to conform its threshold for a particular market to the most applicable SBA size standard even if some small businesses will be larger participants. In light of all of the considerations discussed above, the Bureau is finalizing the threshold of 10,000 aggregate annual originations as proposed.

108(c) Exclusion for Dealers

The Bureau proposed to exclude from the rule those motor vehicle dealers that are excluded from the Bureau's authority by section 1029 of the Dodd-Frank Act.[125] The Bureau also proposed to exclude additional motor vehicle dealers that are not subject to the statutory exclusion and over which the Bureau has rulemaking and other authority. Specifically, the proposal excluded those motor vehicle dealers that are identified in section 1029(b)(2) of the Dodd-Frank Act and are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.[126] For the reasons that follow, the Bureau is finalizing the exclusion for dealers with no substantive changes.

The Bureau explained in its proposal that the dealers that were excluded by proposed § 1090.108(c)(2), typically BHPH dealers, can reasonably be considered part of a separate and distinct market. A trade association representing the used motor vehicle industry objected to the exclusion of BHPH dealers from this rule and stated that BHPH dealers provide the same financial product or service as those entities that the Bureau proposed to include. No other comments related to the exclusion under proposed § 1090.108(c) were received.

The Bureau continues to believe that it is appropriate to exclude dealers that are identified in proposed § 1090.108(c)(2) from the market defined in this Final Rule and is therefore

[123] 12 CFR part 1091.

[124] *See infra* note 168. As explained below, the Bureau used AutoCount data for 2013 combined with public financial statements, securitization filings, and additional market research to estimate annual receipts for each of the entities that it identified as potential larger participants meeting the 10,000 threshold. Based on this review, the Bureau believes that few if any of these entities would be small businesses under the current small business size standard. One law firm indicated in a comment that one of their clients is a small business that would meet the proposed threshold, but did not identify the client. Assuming this is accurate, the Bureau's estimates suggest that this is very much the exception to the general rule.

[125] 12 U.S.C. 5519.

[126] As the Bureau explained in the proposal, this exclusion applied to certain dealers that extend retail credit or leases to consumers without routinely assigning them to unaffiliated third parties. However, the proposed rule included those nonbank covered persons that meet the definition of ''motor vehicle dealer'' under section 1029(f)(2) but are not predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. Thus, for example, a captive lender that meets the definition of ''motor vehicle dealer'' under section 1029(f)(2) but is predominantly engaged in the financing of motor vehicles could qualify as a larger participant.

finalizing § 1090.108(c) as proposed with minor changes for clarity.[127] As the Bureau explained in the proposal, the Bureau specifically has rulemaking and other authority over motor vehicle dealers that are identified in section 1029(b)(2) of the Dodd-Frank Act. Because such dealers engage in both selling and financing automobiles, they set the price of the automobile and other sale terms in addition to establishing the terms of the financing. Such dealers use a different business model and are typically much smaller in asset size and activity level than the entities included in this rule. Therefore, it is appropriate and consistent with the Bureau's authority to consider dealers that are identified in § 1090.108(c)(2) in a separate larger-participant rulemaking, should the Bureau determine it is appropriate to do so.

VI. Section 1022(b)(2)(A) of the Dodd-Frank Act

A. Overview

The Bureau has considered potential benefits, costs, and impacts of the Final Rule.[128] The Bureau set forth a preliminary analysis of these effects, and the Bureau requested and received comments on the topic. In developing the Final Rule, the Bureau has consulted with or offered to consult with the Federal Trade Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration regarding, among other things, consistency with any prudential, market, or systemic objectives administered by such agencies.

The Final Rule defines a category of nonbanks that would be subject to the Bureau's nonbank supervision program pursuant to section 1024(a)(1)(B) of the Dodd-Frank Act. The category includes ''larger participant[s]'' of a market for ''automobile financing'' described in the Final Rule. Participation in this market is measured on the basis of aggregate annual originations. A nonbank covered person engaged in automobile financing is a larger participant of the market for automobile financing if, together with its affiliated companies, it has aggregate annual originations (measured for the preceding calendar year) of at least 10,000. As prescribed by existing § 1090.102, any nonbank covered person that qualifies as a larger participant will remain a larger participant until two years after the first day of the tax year in which the person last met the larger-participant test.[129] The Final Rule also includes in the definition of ''financial product[s] or service[s]'' a new category of automobile leases, as defined by the Final Rule, under authority granted to the Bureau by section 1002(15)(A)(xi)(II) of the Dodd-Frank Act.[130]

B. Potential Benefits and Costs to Consumers and Covered Persons

This analysis considers the benefits, costs, and impacts of the key provisions of the Final Rule against a baseline that includes the Bureau's existing rules defining larger participants in certain markets.[131] At present, there is no Federal program for supervision of nonbank covered persons in the automobile financing market for compliance with Federal consumer financial law. The Final Rule extends the Bureau's supervisory authority over larger participants of the defined automobile financing market. This includes the authority to supervise for compliance with the Equal Credit Opportunity Act (ECOA), the Truth in Lending Act (TILA), the Consumer Leasing Act (CLA), and the prohibition on unfair, deceptive, or abusive acts or practices (UDAAP) under section 1031 of the Dodd-Frank Act, as well as other Federal consumer financial laws, to the extent applicable.

The Bureau notes at the outset that limited data are available with which to quantify the potential benefits, costs, and impacts of the Final Rule. As described above, the Bureau has utilized the Experian AutoCount database for quantitative information on the number of market participants and their number and dollar volume of originations. However, the Bureau lacks detailed information about their rate of compliance with Federal consumer financial law and about the range of, and costs of, compliance mechanisms used by market participants.

In light of these data limitations, this analysis generally provides a qualitative discussion of the benefits, costs, and impacts of the Final Rule.[132] General economic principles, together with the AutoCount data, provide insight into these benefits, costs, and impacts. Where possible, the Bureau has made quantitative estimates based on these principles and data as well as its experience of undertaking similar supervisory activities with respect to depository institutions and credit unions.

The discussion below describes four categories of potential benefits and costs. First, the Final Rule authorizes the Bureau to supervise certain nonbank entities in the automobile financing market. These larger participants in the market might respond to the possibility of supervision by changing their systems and conduct, and those changes might result in costs, benefits, or other impacts. Second, if the Bureau undertakes supervisory activity at specific larger participants, those companies would incur costs from responding to supervisory activity, and

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[127] The Final Rule clarifies that the term ''motor vehicle'' is used in § 1090.108(c) as that term is defined in section 1029(f)(1).

[128] Specifically, 12 U.S.C. 5512(b)(2)(A) calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services, the impact on depository institutions and credit unions with $10 billion or less in total assets as described in 12 U.S.C. 5516, and the impact on consumers in rural areas. In addition, 12 U.S.C. 5512(b)(2)(B) directs the Bureau to consult, before and during the rulemaking, with appropriate prudential regulators or other Federal agencies, regarding consistency with objectives those agencies administer. The manner and extent to which the provisions of 12 U.S.C. 5512(b)(2) apply to a rulemaking of this kind that does not establish standards of conduct are unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the analysis and consultations described in those provisions of the Dodd-Frank Act.

[129] 12 CFR 1090.102.

[130] The Final Rule also clarifies how to address aggregation of formerly affiliated companies for purposes of assessing larger-participant status under the existing Consumer Reporting and Consumer Debt Collection Rules, by making changes to the definition of ''annual receipts'' in those rules. As explained above, the changes to the affiliate aggregation provisions clarify the Bureau's methodology for affiliate aggregation. The changes will provide marginal benefits for market participants in the consumer reporting and consumer debt collection markets by making those rules clearer and easier to understand. They may, however, result in an additional cost to market participants that are seeking to assess whether they are larger participants, but only if they would not have collected information relevant to thresholds from formerly affiliated companies for the entire preceding calendar year when the affiliation ended during the preceding calendar year. The Bureau does not know the extent to which participants seeking to self-assess currently collect information relevant to thresholds from formerly affiliated companies. However participants seeking to self-assess could arrange to obtain information relevant to the threshold in advance of ending the affiliation, and such arrangements would tend to mitigate the costs of obtaining this information. Further, as noted above, participants in these markets are not required to engage in such self-assessments. Thus, both the benefits and costs of these amendments will not be significant.

[131] The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits and costs and an appropriate baseline. The Bureau, as a matter of discretion, has chosen to describe a broader range of potential effects to inform the rulemaking more fully.

[132] While the Final Rule differs slightly from the Proposed Rule in the types of refinancings that are included as ''annual originations'' and the types of asset-backed securitization transactions that are excluded, the changes are intended to effectuate what the Bureau intended in its proposal, and so should not result in any additional costs or benefits beyond those discussed in the proposal. Accordingly, the impacts of these changes are not discussed here.

the results of the individual supervisory activities might also produce benefits and costs.[133] Third, entities might incur certain costs as a result of their efforts to assess whether they qualify as larger participants under the Final Rule. Fourth, including certain automobile leases in the Dodd-Frank Act definition of ''financial product or service'' subjects those leases to the UDAAP prohibition under section 1031 of the Dodd-Frank Act and to Bureau authority to prescribe certain rules applicable to a covered person or service provider under section 1031(b). The definition also expands the Bureau's supervisory authority, as described below, and these changes might also produce benefits and costs, although the Bureau does not expect these effects to be significant.

In considering the costs and benefits of the Final Rule, it is important to note that various products or services are included in the defined automobile financing market. Direct lending, where the consumer applies for credit directly to the financial institution, makes up a relatively small portion of the total automobile loan and sales volume. Direct lending is currently dominated by traditional depository institutions and credit unions already regulated by the Bureau and other Federal agencies. Indirect lending, where a dealer—rather than the consumer—finds a lender willing to provide credit to the consumer, comprises a significant portion of the automobile financing market. In addition, some consumers refinance the credit obligation for their automobile after taking out the initial loan. Finally, leasing is the other primary way in which consumers can finance the use of a vehicle; under this arrangement a financial institution holds the title to the vehicle that the consumer leases under a payment plan that typically ends with an option to purchase the vehicle.[134]

1. Benefits and Costs of Responses to the Possibility of Supervision

The Final Rule will subject larger participants of the automobile financing market to the possibility of Bureau supervision. That the Bureau will be authorized to undertake supervisory activities with respect to a nonbank covered person that qualifies as a larger participant does not necessarily mean the Bureau will in fact undertake such activities with respect to that covered entity in the near future. Rather, supervision of any particular larger participant as a result of this rulemaking is probabilistic in nature. For example, the Bureau will examine certain larger participants on a periodic or occasional basis. The Bureau's decisions about supervision will be informed, as applicable, by the factors set forth in section 1024(b)(2), relating to the size and volume of individual participants, the risks their consumer financial products and services pose to consumers, the extent of State consumer protection oversight, and other factors that the Bureau may determine are relevant. Each entity that believes it qualifies as a larger participant will know that it might be supervised and might gauge, given its circumstances, the likelihood that the Bureau will initiate an examination or other supervisory activity.

The prospect of potential supervisory activity could create an incentive for larger participants to allocate additional resources and attention to compliance with Federal consumer financial law, potentially leading to an increase in the level of compliance. These entities might anticipate that by doing so (and thereby decreasing risks to consumers) they could decrease the likelihood of their actually being subjected to supervision. In addition, an actual examination will likely reveal any past or present noncompliance, which the Bureau can seek to correct through supervisory activity or, in some cases, enforcement actions. Larger participants might therefore judge that the prospect of supervision increases the potential consequences of noncompliance with Federal consumer financial law, and they might seek to decrease that risk by curing or mitigating any noncompliance. Larger participants might thus be able to catch and address compliance problems at an earlier point when the costs of correcting them would be lower.

The Bureau believes it is likely that many market participants will increase compliance in response to the Bureau's supervisory activities authorized by the Final Rule. However, because the Final Rule itself does not require any nonbank covered person in the automobile financing market to alter its conduct, any estimate of the amount of increased compliance would require both an estimate of current compliance levels and a prediction of market participants' behavior in response to the Final Rule. The data the Bureau currently has do not support a specific quantitative estimate or prediction. But, to the extent that nonbank entities allocate resources to increase their compliance in response to the Final Rule, that response would result in both benefits and costs to consumers and covered persons.[135]

a. Benefits From Increased Compliance

Increased compliance with Federal consumer financial law by larger participants in the market for automobile financing will be beneficial to consumers who either finance the purchase of or lease automobiles, or refinance their credit obligations related to the purchase of their automobiles. The number of individuals potentially affected is significant. As noted above, data from Experian Automotive for the fourth quarter of 2014 show auto lenders holding outstanding auto loans totaling almost $900 billion.[136] The market is even larger when taking into account the auto leasing market, which comprised an additional 14 percent of the auto financing market in the fourth quarter of 2014.[137] Increasing the rate of compliance with Federal consumer financial law will benefit consumers and the consumer financial market by providing more of the protections mandated by law.

Several Federal consumer financial laws offer protections to consumers who seek automobile financing as defined in the Final Rule, including, to the extent applicable, TILA and Regulation Z, the Fair Credit Reporting Act and Regulation V, the CLA and Regulation M, ECOA and Regulation B, and the Gramm-Leach-Bliley Act and Regulation P.[138] More broadly, the Bureau will examine whether larger participants of the automobile financing market engage

[133] Pursuant to 12 U.S.C. 5514(e), the Bureau also has supervisory authority over service providers to nonbank covered persons encompassed by 12 U.S.C. 5514(a)(1), which includes larger participants. The Bureau does not have data on the number or characteristics of service providers to the larger participants of the automobile financing market. The discussion herein of potential costs, benefits, and impacts that may result from the Final Rule generally applies to service providers to larger participants.

[134] According to Experian Automotive, of all new and used auto financing transactions recorded in the fourth quarter of 2014, approximately 14 percent occurred through leasing arrangements, while the remainder used loans. *See* Zabritski, *supra* note 33, at 16.

[135] Another approach to considering the benefits, costs, and impacts of § 1090.108 would be to focus almost entirely on the supervision-related costs for larger participants and omit a broader consideration of the benefits and costs of increased compliance. As noted above, the Bureau has, as a matter of discretion, chosen to describe a broader range of potential effects to inform the rulemaking more fully.

[136] *See supra* note 79.

[137] *See* Zabritski, *supra* note 33, at 16.

[138] The Bureau recognizes that the nature of a larger participant's responsibility for compliance with these laws may vary depending on the activity the larger participant engages in. For example, under TILA, a larger participant that purchases a credit obligation for the purchase of an automobile is likely an assignee, not a ''creditor'' under TILA, and as such is generally liable only for a violation of TILA that is ''apparent on the face of the disclosure statement.'' 15 U.S.C. 1641(a).

in UDAAPs.[139] Conduct that does not violate an express prohibition of another Federal consumer financial law may nonetheless constitute a UDAAP.[140] To the extent that any larger participant or service provider is currently engaged in any UDAAP in connection with any transaction for or the offering of a consumer financial product or service, the cessation of the unlawful act or practice will benefit consumers. As the Bureau may review a larger participant's conduct in relation to any consumer financial product or service during an examination, larger participants might improve policies and procedures globally in response to possible supervision in order to avoid engaging in UDAAPs.

The possibility of supervision also may help make incentives to comply with Federal consumer financial law more consistent between the likely larger participants and depository institutions and credit unions, which are already subject to Federal supervision with respect to Federal consumer financial law. Introducing the possibility of Federal supervision could encourage entities that likely qualify as larger participants to devote additional resources to compliance. It could also help ensure that the benefits of Federal oversight reach consumers who do not have ready access to automobile financing through depository institutions and credit unions.

b. Costs of Increased Compliance

The Bureau recognizes that increasing compliance involves costs. These costs may be fixed or ongoing. Nonbank entities in the automobile financing market might need to hire or train additional personnel to effectuate any changes in their practices that would be necessary to produce the increased compliance. They might need to invest in changes to their systems to carry out their revised procedures. In addition, they might need to develop or enhance compliance management systems, to ensure awareness of any gaps in compliance. Such changes will also require investment and might entail increased operating costs.

In the proposal, the Bureau stated that economic theory predicts that fixed costs will be absorbed by providers, here the entities that may qualify as larger participants. One commenter stated that this prediction does not constitute broadly accepted economic theory. The Bureau disagrees and believes that fixed costs will not be directly passed through by providers. Canonical economic theory states that sellers will set a price along the demand curve based on the level of output where marginal cost equals marginal revenue. Since fixed costs do not impact demand, marginal cost, or marginal revenue, economic theory states that changes in these costs should not impact the pricing decisions of existing producers.[141]

Although these fixed costs are not expected to pass through to consumers via changes in price by current providers of automobile financing that become larger participants, consumers may be adversely affected by increases in costs associated with the introduction of this larger-participant rule to the extent these cost increases cause current providers to decrease volume below the larger-participant threshold (or to exit), deter current providers from increasing volume, or deter entry by new providers in the future.[142] This could result in consumers having more restricted choices than they would otherwise. In certain situations a decrease in the number of market participants could better enable those remaining providers to exercise market power, resulting in higher prices for consumers or decreased product or service quality, or both. One commenter expressed this concern as well, suggesting that smaller businesses may decrease origination volume in favor of issuing larger loans, thus restricting consumer choice. The extent to which this concern could come to fruition depends on the total number of participants in the market, as well as the existing number of covered entities. As stated earlier, the Bureau believes that the low relative costs of additional supervision, along with the large number of market participants in the market for automobile financing, should minimize these concerns.

An entity that incurs ongoing costs in support of increasing compliance might try to recoup these costs by attempting to pass those costs directly through to consumers; for example, in the case of the indirect channel, this could occur through lowering fees or other forms of compensation paid to dealers and other entities. Whether and to what extent either change would occur depends on the relative elasticities of supply and demand in the automobile financing market. These elasticities can vary across products or services covered by the Final Rule and may be influenced by the presence of substitute products or services as well as the availability of information, which would influence the perceived availability of substitute products or services. For example, larger participants of the automobile financing market may be in competition with depository institutions or credit unions (or affiliates thereof) that are already subject to supervision by the Bureau and/or Federal prudential regulators with respect to Federal consumer financial law. To the extent the Final Rule will result in an increase in the costs faced by larger participants, that increase will be a competitive benefit to banks and credit unions with sufficient liquidity to expand their financing operations. Competition from banks and credit unions might reduce the ability of larger participants to pass through cost increases to consumers, dealers, or other entities as they may instead seek alternate sources of financing. Moreover, consumers might respond to such a cost increase by reducing the amounts they are willing to pay in other aspects of the automobile purchase transaction. Dealers could respond to decreased levels of financing revenues shared with them by larger participants by either attempting to increase revenues derived from other areas of the automobile purchase transaction, such as the stated price of the vehicle or costs of accessories, or bearing the loss of revenue.

In considering the Final Rule's potential price effect, it is important to take into account the fact that nonbank covered persons below the larger-participant threshold will not be subject to supervision. The costs of these nonbank covered persons will therefore be unaffected by the definition of larger participants in the Final Rule and so their pricing should also not be affected. To the extent that nonbank larger participants consider raising their prices in response to this rule, nonbank entities that are not larger participants, along with banks and credit unions that already compete in the market while bearing the cost of supervision, could potentially offer more attractive transaction terms relative to larger participants and thus deter larger participants from actually increasing prices. While a shift in transactions from larger participants toward nonbank

[139] 12 U.S.C. 5531.

[140] The CFPB Supervision and Examination Manual provides further guidance on how the UDAAP prohibition applies to supervised entities. *CFPB Supervision and Examination Manual* (Oct. 1, 2012), *available at http://files.consumerfinance.gov/f/201210_cfpb_supervision-and-examination-manual-v2.pdf.*

[141] *See, e.g.,* N. Gregory Mankiw, *Principles of Microeconomics* 284, 286–87 (7th ed. 2015).

[142] Alexei Alexandrov & Xiaoling Ang, *Identifying a Suitable Control Group Based on Microeconomic Theory: The Case of Escrows in the Subprime Market* (Dec. 30, 2014) (finding consumers not adversely affected by policy changes that implement a fixed cost), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2462128.*

entities that are not larger participants would mitigate some of the benefits to consumers of supervision of larger participants, the prospect of this shift might also reduce the likelihood that larger participants will choose to increase their prices in response to the Final Rule.

2. Benefits and Costs of Individual Supervisory Activities

In addition to the responses of market participants anticipating supervision, the possible consequences of the Final Rule include the responses to and effects of individual examinations or other supervisory activities that the Bureau might conduct in the automobile financing market.

a. Benefits of Supervisory Activities

Supervisory activity could provide several types of benefits. For example, as a result of supervisory activity, the Bureau and an entity might uncover deficiencies in the entity's policies and procedures. The Bureau's examination manual calls for the Bureau generally to prepare a report of each examination, to assess the strength of the entity's compliance mechanisms, and to assess the risks the entity poses to consumers, among other things. The Bureau will share examination findings with the examined entity because one purpose of supervision is to inform the entity of problems detected by examiners. Thus, for example, an examination might find evidence of widespread noncompliance with Federal consumer financial law, or it might identify specific areas where an entity has inadvertently failed to comply. These examples are only illustrative of the kinds of information an examination might uncover.

Detecting and informing entities about such problems should be beneficial to consumers. When the Bureau notifies an entity about risks associated with an aspect of its activities, the entity is expected to adjust its practices to reduce those risks. That response may result in increased compliance with Federal consumer financial law, with benefits like those described above. Or it may avert a violation that would have occurred had Bureau supervision not detected the risk promptly. The Bureau may also inform entities about risks posed to consumers that fall short of violating the law. Action to reduce those risks would also be a benefit to consumers.

Given the obligations nonbank covered persons in the automobile financing market have under Federal consumer financial law and the existence of efforts to enforce such law, the results of supervision also may benefit entities under supervision by detecting compliance problems early. When an entity's noncompliance results in litigation or an enforcement action, the entity must face both the costs of defending its conduct and the penalties for noncompliance, including potential liability for damages to private plaintiffs. The entity must also adjust its systems to ensure future compliance. Changing practices that have been in place for long periods of time can be expected to be relatively difficult because the practices may be severe enough to represent a serious failing of an entity's systems. Supervision may detect flaws at a point when correcting them would be relatively inexpensive. Catching problems early can, in some situations, forestall costly litigation. To the extent early correction limits the amount of consumer harm caused by a violation, it can help limit the cost of redress. In short, supervision might benefit larger participants by, in the aggregate, reducing the need for other more expensive activities to achieve compliance.[143]

b. Costs of Supervisory Activities

The potential costs of actual supervisory activities arise in two categories. The first involves any costs to larger participants of increasing compliance in response to the Bureau's findings during supervisory activity and to supervisory actions. These costs are similar in nature to the possible compliance costs, described above, that larger participants in general might incur in anticipation of possible supervisory actions. This analysis will not repeat that discussion. The second category is the cost of supporting supervisory activity.

Supervisory activity may involve requests for information or records, on-site or off-site examinations, or some combination of these activities. For example, in an on-site examination, Bureau examiners generally contact the entity for an initial conference with management. That initial contact is often accompanied by a request for information or records. Based on the discussion with management and an initial review of the information received, examiners determine the scope of the on-site exam. While on-site, examiners spend some time in further conversation with management about the entity's policies, procedures, and processes. The examiners also review documents, records, and accounts to assess the entity's compliance and evaluate the entity's compliance management system. As with the Bureau's other examinations, examinations of nonbank larger participants of the automobile financing market could involve issuing confidential examination reports and compliance ratings. The Bureau's examination manual describes the supervision process and indicates what materials and information an entity could expect examiners to request and review, both before they arrive and during their time on-site.

The primary cost an entity will face in connection with an examination is the cost of employees' time to collect and provide the necessary information.[144] The frequency and duration of examinations of any particular entity will depend on a number of factors, including the size of the entity, the compliance or other risks identified, whether the entity has been examined previously, and the demands on the Bureau's supervisory resources imposed by other entities and markets. Nevertheless, some rough estimates may be useful to provide a sense of the magnitude of potential staff costs that entities might incur.

The cost of supporting supervisory activity may be calibrated using prior Bureau experience in supervision. The Bureau considers its auto financing examinations at depository institutions and credit unions as a reasonable proxy for the duration and labor intensity of potential nonbank larger participant examinations. This belief arises from the similar role these institutions play in the market for automobile financing,

[143] Further potential benefits to consumers, covered persons, or both might arise from the Bureau's gathering of information during supervisory activities. The goals of supervision include informing the Bureau about activities of market participants and assessing risks to consumers and to markets for consumer financial products and services. The Bureau may use this information to improve regulation of consumer financial products and services and to improve enforcement of Federal consumer financial law, in order to better serve its mission of ensuring consumers' access to fair, transparent, and competitive markets for such products and services. Benefits of this type would depend on what the Bureau learns during supervision and how it uses that knowledge. For example, because the Bureau will examine a number of covered persons in the automobile financing market, the Bureau will build an understanding of how effective compliance systems and processes function in that market.

[144] Some commenters suggested that the Bureau's estimate overlooks non-labor costs that supervised entities may incur in responding to examinations and other supervisory requests. The Bureau recognizes that responding to examinations and other supervisory requests will entail certain other costs, such as costs of producing information electronically or in hard copy. However, such expenses are generally minimal in comparison to labor costs, and accordingly, the Bureau has focused on staff time in collecting and providing information in order to provide an approximate sense of the magnitude of the key cost involved.

where they frequently coexist as direct competitors to one another.

The average duration of the on-site portion of Bureau bank auto financing examinations is approximately nine weeks.[145] Assuming that each exam requires two weeks of preparation time by a larger participant's staff prior to the exam as well as on-site assistance by staff throughout the duration of the exam, the Bureau assumes that the typical examination in this nonbank market would require 11 weeks of staff time. The Bureau has not suggested that counsel or any particular staffing level is required during an examination. However, for purposes of this analysis, the Bureau assumes, conservatively, that an entity might dedicate the equivalent of one full-time compliance officer and one-tenth of a full-time attorney to the exam. The mean hourly wage of a compliance officer in a nonbank entity that operates in activities related to installment lending is $33.97, and the mean hourly wage of a lawyer in the same industry is $83.88.[146] Assuming that wages account for 67.5 percent of total compensation, the total labor cost of an examination would be about $27,611.[147] The Bureau estimates that the cost for an entity with 10,000 aggregate annual originations per year, with an average amount financed of approximately $22,000 per loan origination,[148] would be less than one-tenth of 1 percent of total revenue from originations for that year.[149] This is a conservative estimate in several respects because it reflects revenue only from this line of business and uses an average amount financed in combination with the minimum number of transactions that a larger participant could provide.

Some industry commenters challenged this estimate, drawing on experiences by other companies in other industries to suggest that exam costs for larger participants would, in fact, range from $750,000 to $1,000,000.[150] While the Bureau acknowledges that larger and lengthier exams may prove costlier than the amount estimated in the Proposed Rule, it also believes that the experience-based analogue it uses provides a better analogue than the commenter's general cross-industry comparison because the exams considered by the Bureau more accurately reflect the sort of examination to which automobile financing entities will be subject.

A law firm that represents financial services entities indicated that one of its clients finances an average of $3,800 per transaction, an amount approximately 83 percent lower than the Bureau's estimate, and stated as a result that the cost of an examination relative to total revenue would be much higher than the Bureau's estimate. The Bureau acknowledges some entities may participate in certain segments of the market in a way that results in a lower amount financed; however, of the over 500 institutions in AutoCount that the Bureau considered as participants in the nonbank market in 2013, the amount cited by the commenter ($3,800) falls within the lowest percentile of amount financed. Even if this remarkably low amount financed were considered in evaluating relative costs, for an entity with the larger-participant minimum of 10,000 aggregate annual originations the costs would still be less than one-half of 1 percent of total revenue from the 10,000 aggregate annual originations according to the Bureau's estimates.

The Bureau declines to predict, at this point, precisely how many examinations in the automobile financing market it will undertake in a given year, as neither the Dodd-Frank Act nor the Final Rule specifies a particular level or frequency of examinations. Given the Bureau's finite supervisory resources, and the range of industries over which it has supervisory responsibility for consumer financial protection, when and how often a given larger participant will be supervised is uncertain. The frequency of examinations will depend on a number of factors, including the Bureau's understanding of the conduct of market participants and the specific risks they pose to consumers; the responses of larger participants to prior examinations; and the demands that other markets make on the Bureau's supervisory resources. These factors can be expected to change over time, and the Bureau's understanding of these factors may change as it gathers more information about the market through its supervision and by other means.

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[145] This estimate was derived at the proposal stage using confidential supervisory Bureau data on the duration of on-site auto financing examinations at depository institutions and credit unions. For purposes of this calculation, the Bureau counted its auto financing examinations for which the on-site portion had been completed, while excluding the shortest and longest examinations to minimize the influence of outliers. Additionally, the Bureau counted only the on-site portion of an examination, which included time during the on-site period of the examination that examiners spent off-site for holiday or other travel considerations. However, the Bureau did not count time spent scoping an examination before the on-site portion of the examination or summarizing findings or preparing reports of examination afterwards.

[146] Bureau of Labor Statistics (BLS), *Occupational Employment Statistics, available at http://data.bls.gov/oes/* (May 2013 release for North American Industry Classification System code 522200 ''Nondepository Credit Intermediation'').

[147] BLS, *Employer Costs for Employee Compensation Database,* Series ID CMU2025220000000D, *available at http://data.bls.gov/timeseries/CMU2025220000000D?data_tool=XGtable* (providing wage and salary percent of total compensation in the credit intermediation and related activities private industry for the second quarter of 2013). Dividing the mean hourly wages by 67.5 percent yields a total mean hourly cost (including total costs, such as salary, benefits, and taxes). Assuming that individuals are compensated for 40 hour work weeks, the total labor cost of an examination is calculated as follows: [(0.1*83.88+33.97)/0.675]*40*11.

[148] In the proposal, the Bureau used an estimated average amount financed of $21,750 based on 2013 origination data from AutoCount for all entities with 360 or greater loans and leases on an annual basis. As noted below, one commenter raised a question about the Bureau's estimated average amount financed. To ensure that the estimate accurately reflects the nonbank market defined in this Final Rule, the Bureau has applied the same methodology as in the proposal but has excluded entities that are not participants in the nonbank market defined in this rule, such as depository institutions, which resulted in a very similar average amount financed of $22,299. These estimates of average amount financed per origination are based solely on loans in AutoCount for which data are available on amount financed. The Bureau was unable to obtain data on the average amount financed in lease transactions, but believes it is unlikely that the estimated revenue from leasing transactions, including both the stream of payments over the course of the lease as well as the option value of the purchase or resale price of the vehicle at the end of the lease, would differ in a way that materially impacts the relationship between the cost of supervision and revenues.

[149] In the proposal, the Bureau estimated revenue as the sum total of payments received for loans originated that year, assuming zero interest rates and no defaults. The proportion of revenue was thus $27,611/($21,750*10,000). A similar, more conservative calculation can also be done that considers only revenue generated from interest for an entity with 10,000 originations. Using 2013 origination data from AutoCount for which rate and term data are available, the Bureau estimates that the average interest rate per vehicle originated in the nonbank market defined in the Final Rule is 6.54 percent, and the average term length per vehicle originated in the nonbank market defined in the Final Rule is 60.42 months. Assuming zero default and zero prepayment, the Bureau estimates that an entity making 10,000 originations a year would receive approximately $39 million in total revenue from interest from a single year's originations. This is likely a low estimate because the interest rate of 6.54 percent reflects the frequently-subsidized low interest rates offered by the largest captive participants that typically originate much more than 10,000 loans per year. Under either approach to estimating revenue, the cost of an examination is less than one-tenth of 1 percent of revenue from a year's originations according to the Bureau's estimates.

[150] These commenters suggested that an examination might require the participation of a compliance officer with a higher salary than the mean hourly wage used in the Bureau's analysis. In estimating that an examination might require a full-time compliance officer for 11 weeks and using the mean hourly wage for compliance officers, the Bureau did not mean to suggest that only one mid-level person would be involved in an examination. Instead, the Bureau recognizes that both junior and high-level staff may participate on a part-time basis and that these staff may be drawn from different offices within the entity. The Bureau intended its original estimate to represent the aggregate amount of labor resources a company might dedicate to responding to supervisory activity.

3. Costs of Assessing Larger-Participant Status

The larger-participant rule does not require nonbank entities to assess whether they are larger participants. However, the Bureau acknowledges that in some cases they might decide to incur costs in assessing whether they qualify as larger participants and potentially disputing their status.

Larger-participant status depends on a nonbank's aggregate annual originations as defined in the Final Rule. An estimate of this number should be readily extractible from company records, as market participants likely evaluate the components of aggregate annual originations as part of their regular business practices. In addition, information on originations can be derived from title records that market participants maintain and publicly record.

To the extent that some nonbank covered persons in the automobile financing market do not already know whether their aggregate annual originations exceed the threshold, such entities might, in response to the Final Rule, develop new systems to count their aggregate annual originations in accordance with the definition in the Final Rule. The data the Bureau currently has do not support a detailed estimate of how many nonbank entities will engage in such development or how much they might spend. Regardless, nonbank entities will be unlikely to spend significantly more on specialized systems to count aggregate annual originations than it would cost them to be supervised by the Bureau as larger participants. It bears emphasizing that even if expenditures on an accounting system successfully proved that a nonbank covered person in the automobile financing market was not a larger participant, it does not necessarily follow that this entity could not be supervised. The Bureau can supervise a nonbank entity whose conduct the Bureau determines, pursuant to section 1024(a)(1)(C), poses risks to consumers. Thus, a nonbank entity choosing to spend significant amounts on an accounting system directed toward the larger-participant test could not be sure it will not be subject to Bureau supervision notwithstanding those expenses. The Bureau therefore believes it is unlikely that any but a very few nonbank entities will undertake such expenditures.

4. Benefits and Costs of Adding Certain Automobile Leases to the Definition of ''Financial Product or Service''

Finally, in § 1001.2, the Bureau is defining the term ''financial product or service'' to include automobile leases that (1) meet the requirements of leases authorized under section 108 of CEBA, as implemented by 12 CFR part 23, and are thus permissible for national banks to offer or provide; and (2) are not currently defined as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. As explained below, the Bureau believes that the benefits, costs, and impacts to consumers and covered persons of § 1001.2 will likely be small. First, § 1001.2 will not extensively alter the substantive obligations of covered persons. Second, § 1001.2 will not substantially expand the number of market participants brought under supervision as a result of the Final Rule, or for entities already subject to supervision, the scope of supervisory examinations. The Bureau lacks data about the range of, and costs of, compliance mechanisms used by banks or nonbank entities in the automobile financing market. In light of these data limitations, the Bureau's analysis generally provides a qualitative discussion of the benefits, costs, and impacts of § 1001.2.

a. Benefits of § 1001.2

Benefits of § 1001.2 will stem from enhanced consumer protections relating to automobile leases that will fall under the definition. As financial products or services under title X of the Dodd-Frank Act, such leases will become subject to the UDAAP prohibition under section 1031 of the Dodd-Frank Act. These leases are already subject to a similar prohibition against unfair or deceptive acts or practices (UDAP) in or affecting commerce under section 5 of the Federal Trade Commission Act (FTC Act).[151] The prohibitions set forth in section 5 of the FTC Act and section 1031 of the Dodd-Frank Act, however, are not precisely co-extensive. Most notably, section 5 of the FTC Act does not include a prohibition on abusive acts or practices similar to that under section 1031 of the Dodd-Frank Act. Accordingly, consumers will benefit from the expanded scope of consumer protection under section 1031 of the Dodd-Frank Act in connection with transactions involving these leases.

Section 1001.2 also has the potential to expand supervisory activities in two distinct ways. First, § 1001.2, as incorporated into the final larger-participant rule, could bring certain nonbank entities under Bureau supervision by expanding the activities counted in determining whether participants of the automobile financing market qualify as larger participants and are thus subject to supervision under the Final Rule. To the extent that nonbank entities in the automobile financing market are brought under supervision as a result of § 1001.2, both consumers and covered persons will benefit. The nature of these benefits, including from both the possibility of supervision and actual individual supervisory activities, are discussed above.

Second, § 1001.2 could affect the scope of supervision for other nonbank entities and certain banks and credit unions and their affiliates.[152] For nonbank entities in the automobile financing market that will be subject to supervision as a larger participant even absent § 1001.2, § 1001.2 will not expand the leasing activities of such entities that will be subject to supervision. However, § 1001.2 will expand the scope of supervision for leasing covered by § 1001.2 to include compliance with section 1031 of the Dodd-Frank Act.

With respect to banks and credit unions, the Bureau has supervisory authority over insured depository institutions and credit unions with total assets of more than $10 billion (and their affiliates) for compliance with Federal consumer financial laws, and the prudential regulators exercise primary supervisory authority over other insured depository institutions and credit unions with total assets of $10 billion or less for compliance with Federal consumer financial laws. As noted above, although § 1001.2 will not expand the scope of leasing activities of depository institutions and credit unions that are subject to supervision, for leasing covered under § 1001.2, it will expand the scope of that supervision to include compliance with section 1031 of the Dodd-Frank Act.

[151] 15 U.S.C. 45. This prohibition is enforced by the Federal Trade Commission with respect to nonbanks under section 5 and by the prudential regulators with respect to banks under section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818.

[152] With respect to nonbanks, the Bureau currently supervises mortgage companies, payday lenders, and private student lenders, as well as larger participants of the consumer reporting, consumer debt collection, student loan servicing, and international money transfer markets. The Bureau is not aware of any significant automobile leasing activity by these entities. Thus, the Bureau believes that § 1001.2 in itself will have at most a marginal impact on the scope of examinations for these entities.

Again, the benefits to consumers of that expanded supervision authority will be similar to the general benefits of supervision discussed above.

Although the Bureau has identified the above potential consumer benefits from the expanded supervision authority that could result from § 1001.2, the Bureau believes such benefits will be limited in extent. Most significantly, as discussed above, the Bureau believes that most automobile leases currently qualify as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. Thus, the Bureau believes that few, if any, nonbank participants in the automobile financing market will be subject to the Bureau's supervision under the Final Rule as a result of § 1001.2.[153] Further, for bank and nonbank entities that will be subject to supervision even absent § 1001.2, the Bureau believes that § 1001.2 will expand only the scope of supervision of the leasing activities of such entities. Notably, even absent § 1001.2, all leasing activities of such entities will be subject to supervision by the Bureau or the prudential regulators for compliance with the ''enumerated consumer laws'' as defined in section 1002(12) of the Dodd-Frank Act, including the CLA.[154] And under the existing regulatory framework, the prudential regulators are authorized to supervise banks for compliance with section 5 of the FTC Act. Thus, for entities that will be subject to supervision even absent § 1001.2, the expanded supervision resulting from § 1001.2 will be focused on the entity's compliance with section 1031 of the Dodd-Frank Act in connection with the activities covered by § 1001.2.

Finally, under section 1031(b), the Bureau has authority to prescribe rules applicable to a covered person or service provider identifying as unlawful UDAAPs in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Thus, the Bureau could promulgate such rules in connection with transactions for the leases that would fall under § 1001.2. The Bureau would consider the benefits, costs, and impacts of any such rulemaking as part of its analysis under section 1022(b)(2) for that rulemaking. The Bureau notes that any such rulemaking would likely aim to provide consumers and covered persons with additional clarity in regard to identifying UDAAPs. It is not possible, however, to identify with any greater specificity here the potential benefits to consumers or covered persons from § 1001.2 as a result of an unspecified future rulemaking.[155]

b. Costs of § 1001.2

Section 1001.2 will impose compliance costs on covered persons by subjecting leasing activities that fall under § 1001.2 to the UDAAP prohibition in section 1031 of the Dodd-Frank Act. Those entities will incur some cost of compliance because, as laid out above, the prohibitions under section 1031 of the Dodd-Frank Act and section 5 of the FTC Act are not co-extensive: in particular, section 5 of the FTC Act does not include a prohibition on abusive acts or practices similar to that under section 1031 of the Dodd-Frank Act. However, given the fact that, as interpreted by the Bureau, section 1002(15)(A)(ii) covers most automobile leases and the substantial overlap of the prohibited conduct under section 1031 of the Dodd-Frank Act and section 5 of the FTC Act, in the Bureau's judgment, the compliance costs to covered persons of this new prohibition will be limited in extent.

Regarding supervision, § 1001.2, as incorporated into the final larger-participant rule, could also bring certain nonbank entities under Bureau supervision and will affect the scope of supervision for other nonbank entities, banks, and credit unions. With respect to nonbanks, § 1001.2 will, as discussed above, expand the activities counted in determining whether participants of the automobile financing market qualify as larger participants and are thus subject to supervision under the Final Rule. To the extent that larger participants in the automobile financing market are brought under supervision as a result of § 1001.2, such entities will incur costs. The nature of these costs, including from the possibility of supervision as well as from actual individual supervisory activities, are discussed above. For participants of the automobile financing market that would be subject to supervision under the larger-participant rule even absent § 1001.2, § 1001.2 will impose costs by expanding the leasing activities of such entities subject to supervision for compliance with section 1031 of the Dodd-Frank Act. With respect to banks and credit unions, by expanding the leasing activities subject to the section 1031 UDAAP prohibition, as discussed above, § 1001.2 will correspondingly expand the activities subject to supervision by either the Bureau or the prudential regulators, as applicable, for compliance with that prohibition.

For both banks and nonbanks, the Bureau believes that the increased costs of supervision identified above will be small. As discussed above, the Bureau believes that most auto leases currently qualify as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act, and, as discussed above, the Bureau believes that few, if any, nonbank participants in the automobile financing market will be brought under Bureau supervision under the Final Rule as a result of § 1001.2.[156] Similarly, for banks and nonbank entities that will be subject to supervision even absent § 1001.2, the Bureau believes that § 1001.2 will only subject the leasing activities of such entities to slightly expanded supervision. Notably, even absent § 1001.2, all leasing activities of such entities would be subject to supervision by the Bureau or the prudential regulators for compliance with the enumerated consumer laws, including the CLA.[157] And under the existing

[153] As discussed above, some commenters have argued that § 1001.2 will actually cover most, if not all, automobile leases. Even assuming this were the case, the Bureau estimates that very few entities will exceed the larger-participant aggregate annual origination threshold solely as a result of their total leasing volume. Thus, even if § 1001.2 were to cover all leasing, it would not have a significant effect on which entities are considered larger participants.

[154] With respect to the enumerated consumer laws, the scope of the Bureau's authority is defined by the scope of those laws, not by the activities listed under section 1002(15)(A) of the Dodd-Frank Act.

[155] Section 1001.2 will also benefit consumers by expanding the scope of certain other Bureau authorities under title X of the Dodd-Frank Act. Perhaps most significantly, § 1001.2 will expand the Bureau's rulemaking authority under section 1032 of the Dodd-Frank Act, which authorizes the Bureau to prescribe rules to ensure that the features of any consumer financial product or service are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service. In addition, § 1001.2 will expand the scope of the Bureau's authority under section 1022(c) of the Dodd-Frank Act to ''monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services,'' and the scope of the Bureau's authority under section 1033 of the Dodd-Frank Act to prescribe rules for covered persons with respect to consumer rights to access information concerning consumer financial products or services that the consumer receives from such persons. As with respect to section 1031(b) of the Dodd-Frank Act, it is not possible for the Bureau to identify with specificity here the benefits to consumers that might result from the Bureau's potential future exercise of these authorities. The Bureau, however, notes that it would consider the benefits, costs, and impacts of any rulemakings under sections 1032 or 1033 of the Dodd-Frank Act as part of the section 1022(b)(2) analysis for such rulemakings.

[156] *See supra* note 153.

[157] With respect to the enumerated consumer laws, the scope of the Bureau's authority is defined by the scope of those laws, not by the activities

regulatory framework, the prudential regulators are authorized to supervise banks for compliance with section 5 of the FTC Act. Thus, for entities that would be subject to supervision even absent the Final Rule, the scope of expanded supervision for the limited activities that will fall under § 1001.2 will be further limited to compliance with section 1031 of the Dodd-Frank Act. The Bureau believes that the additional cost to entities already subject to supervision of being supervised for compliance with section 1031 of the Dodd-Frank Act will be minimal.

Finally, under section 1031(b) of the Dodd-Frank Act, the Bureau has authority to prescribe rules applicable to a covered person or service provider identifying as unlawful UDAAPs in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Thus, under § 1001.2, the Bureau may promulgate such rules in connection with transactions for the leases that fall under § 1001.2. Such a rule may impose costs on covered persons or service providers. It is not possible to identify with any greater specificity here the potential costs to covered persons or service providers of any such hypothetical future rulemaking. The Bureau notes, however, that it would consider the benefits, costs, and impacts of any such rulemaking as part of its analysis under section 1022(b)(2) for that rulemaking.[158]

5. Consideration of Alternatives

The Bureau considered different thresholds for larger-participant status in the market for automobile financing. One alternative the Bureau considered is a larger threshold of, for example, 50,000 aggregate annual originations. Under such an alternative, the benefits of supervision to both consumers and covered persons would likely be substantially reduced because some firms impacting a large portion of consumers in important market segments, such as captive, subprime, and BHPH lending, would be omitted. On the other hand, the overall potential costs across all nonbank covered persons would be reduced if fewer firms were defined as larger participants and thus fewer were subject to the Bureau's supervision authority on that basis. Similarly, the Bureau also considered lower thresholds, such as 5,000 aggregate annual originations, but believes these would only marginally increase the proportion of market activity that the Bureau could supervise while potentially exposing a greater number of nonbank covered persons to the costs listed above. However, the total direct costs for actual supervisory activity might not change substantially because the Bureau conducts exams based on risk and would not necessarily examine more or fewer entities if the rule's coverage were broader or narrower.[159]

The Bureau also considered various other criteria for assessing larger-participant status, including dollar volume of originations and total unpaid principal balances. Calculating either of these metrics might be more involved than calculating the number of originations for a given nonbank entity. If so, then a given entity might face greater costs for evaluating or disputing whether it qualified as a larger participant should the occasion to do so arise. Additionally, as some nonbank entities might, for example, specialize in sectors featuring higher average loan amounts or different prepayment and default rates than others, using aggregate annual originations more directly captures the number of consumers impacted by the Final Rule. For each criterion, the Bureau expects that it could choose a suitable threshold for which the set of larger participants, among those entities participating in the market today, would be similar to those expected to qualify under the Final Rule. Consequently, the costs, benefits, and impacts of this Final Rule should not depend on which criterion the Bureau uses.

C. Potential Specific Impacts of the Final Rule

1. Depository Institutions and Credit Unions With $10 Billion or Less in Total Assets, as Described in Section 1026 of the Dodd-Frank Act

No depository institutions or credit unions of any size will become larger participants in the market for automobile financing under the Final Rule. Further, as explained above, the Final Rule's definition of certain leasing activity as a financial product or service will not in itself have any significant effect on depository institutions and credit unions with $10 billion or less in total assets. Nevertheless, the Final Rule might, as discussed above, have some impact on depository institutions or credit unions that provide financing for automobile transactions. The Final Rule might therefore alter market dynamics in a market in which some depository institutions and credit unions with less than $10 billion in assets may be active. For example, if nonbanks' price of credit for loan acquisitions or leases were to increase, or similarly were the compensation for selling those same products to decrease due to increased costs related to supervision, then depository institutions or credit unions of any size might benefit by the relative change in competitors' costs.

2. Impact of the Provisions on Consumer Access to Credit and on Consumers in Rural Areas

Because the rule applies uniformly to automobile financing transactions of both rural and non-rural consumers, the rule should not have a unique impact on rural consumers. The Bureau is not aware of any evidence suggesting that rural consumers have been disproportionately harmed by nonbank entities' failure to comply with Federal consumer financial law. The Bureau requested comments that provide information related to how automobile financing transactions affect rural consumers, but did not receive any.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA),[160] as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[161] requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-

listed under section 1002(15)(A) of the Dodd-Frank Act.

[158] Section 1001.2 would also impose costs on covered persons by expanding the scope of certain other Bureau authorities under title X of the Dodd-Frank Act. Specifically, § 1001.2 will expand the Bureau's rulemaking authority under section 1032 of the Dodd-Frank Act, which authorizes the Bureau to prescribe rules to ensure that the features of any consumer financial product or service are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service. In addition, § 1001.2 will expand the scope of the Bureau's authority under section 1022(c) of the Dodd-Frank Act to ''monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services,'' and the scope of the Bureau's authority under section 1033 of the Dodd-Frank Act, to prescribe rules for covered persons with respect to consumer rights to access information concerning consumer financial products or services that the consumer receives from such persons. As with respect to section 1031(b) of the Dodd-Frank Act, it is not possible for the Bureau to identify with specificity here the costs to covered persons that may result from the Bureau's potential future exercise of these authorities. The Bureau, however, notes that it would consider the benefits, costs, and impacts of any rulemakings under sections 1032 or 1033 of the Dodd-Frank Act as part of the section 1022(b)(2) analysis for such rulemakings.

[159] Further discussion of comments on the threshold level is provided in the section-by-section analysis of § 1090.108(b) above.

[160] Public Law 96–354, 94 Stat. 1164 (1980).

[161] Public Law 104–121, section 241, 110 Stat. 847, 864–65 (1996).

profit organizations.[162] The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration (SBA) pursuant to the Small Business Act.[163]

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) of any proposed rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.[164] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small entity representatives prior to proposing a rule for which an IRFA is required.[165]

The undersigned certified that the Proposed Rule, if adopted, would not have a significant economic impact on a substantial number of small entities and that an IRFA was therefore not required. The Final Rule adopts the Proposed Rule with some modifications that do not lead to a different conclusion. Therefore, a final regulatory flexibility analysis is not required.

The Final Rule defines a class of nonbank covered persons as larger participants of the automobile financing market and thereby authorizes the Bureau to undertake supervisory activities with respect to those nonbank covered persons. The Final Rule also defines the term ''financial product[s] or service[s]'' to include automobile leases that (1) meet the requirements of leases authorized under section 108 of CEBA, as implemented by 12 CFR part 23, and are thus permissible for national banks to offer or provide; and (2) are not currently defined as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. The Final Rule will not affect a substantial number of small businesses.

Regarding insured depositories and credit unions, these entities are small businesses only if their assets are below $550 million.[166] The final definition of larger participants of the automobile financing market applies only to nonbank entities, so it will have no significant impact on depository institutions or credit unions of any size. The final definition of the term financial product or service to include certain automobile leases will have little impact on compliance and supervision costs for insured depositories and credit unions. The leasing activities covered under § 1001.2 will become subject to the UDAAP prohibition under section 1031 of the Dodd-Frank Act. Although the two are not co-extensive, as discussed above, a similar prohibition on UDAP in or affecting commerce under section 5 of the FTC Act already applies to these activities. Similarly, small banks are already subject to supervision for compliance with section 5 of the FTC Act, as well as with the enumerated consumer laws. In addition, most small banks have a very low share of leases relative to loans, and most of this leasing activity already qualifies as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. Accordingly, the Bureau estimates that very few, if any, small banks will experience a significant impact due to the Final Rule's change to the definition of a financial product or service.

Regarding nonbank entities, the Final Rule adopts a threshold for larger-participant status of at least 10,000 aggregate annual originations.[167] Under the size standard for the most relevant SBA classification, *i.e.,* North American Industry Classification System (NAICS) code 522220, an entity engaged in automobile financing is a small business if its annual receipts are at or below $38.5 million.[168] The Bureau solicited comments on whether NAICS code 522220 or any other NAICS code is more appropriate for this market, but did not receive any. The Bureau used AutoCount data for 2013 combined with public financial statements, securitization filings, and additional market research to estimate annual receipts for each of the potential larger participants.[169] Based on this review, it appears that few, if any, of the potential larger participants identified by the Bureau's analysis meet the small business threshold classification.[170]

Considering the limited public information available for several of the smallest potential larger participants, the Bureau requested comment on the impact of the Proposed Rule on small nonbank entities and solicited data that may be relevant to this analysis. A law firm that represents financial services entities stated that one of its clients, which the law firm did not name, had approximately $30 million in total receipts during fiscal year 2014, while generating sufficient origination volume to constitute a larger participant under the Proposed Rule. The Bureau acknowledges that it is possible that a few firms that qualify as a small business could also meet the threshold as a larger participant due to small loan amounts, short term lengths, or other factors. However, the Bureau's analysis indicates that this will not be the case for a substantial number of small entities. In order to qualify as a small business and a larger participant according to the Bureau's estimates, an

[162] 5 U.S.C. 601–12. The term '''small organization' means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes [an alternative definition after notice and comment].'' 5 U.S.C. 601(4). The term '' 'small governmental jurisdiction' means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes [an alternative definition after notice and comment].'' *Id.* at 601(5). The Bureau is not currently aware of any small governmental units or small not-for-profit organizations to which the Final Rule would apply.

[163] 5 U.S.C. 601(3). The Bureau may establish an alternative definition after consultation with SBA and an opportunity for public comment. *Id.*

[164] 5 U.S.C. 605(b).

[165] 5 U.S.C. 609.

[166] 13 CFR 121.201.

[167] As noted above, if a nonbank covered person meets the larger-participant test, it would remain a larger participant until two years from the first day of the tax year in which it last met the larger-participant test. 12 CFR 1090.102.

[168] 13 CFR 121.201 (NAICS code 522220) (as amended by 79 FR 33647, 33655 (June 12, 2014)). The Bureau believes that larger participants in the nonbank automobile financing market are likely to be classified under NAICS code 522220, sales financing. NAICS lists ''automobile financing'' and ''automobile finance leasing companies'' as index entries corresponding to this code. *See* U.S. Census Bureau, North American Industry Classification System, *2012 NAICS Definition 522220 Sales Financing, available at http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[169] To generate these estimates, the Bureau first calculated an estimate of the average stream of interest income the 34 potential larger participants identified by the Bureau would receive over a 12-month period for all loans originated in 2013, as well as the income each entity would receive during the same period for loans made in previous years if the number of originations were identical to 2013 levels. This initial calculation excludes leases that also generate income. It also assumes no prepayment, which would increase receipts; no defaults, which would decrease receipts; and no other income generated from any other sources. The Bureau then analyzed public financial statements to verify any potential outliers. Using this methodology, the Bureau found five potential larger participants with receipts from loans in 2013 that it estimated would fall below the current $38.5 million SBA size standard. Further market research indicated that four of these five remaining entities likely had sufficient additional revenue from leases, affiliate activity, or other sources such that their 2013 annual receipts also exceed the relevant size standard. Upon further review of information considered at the proposal stage and additional market research, the Bureau was not able to determine whether the final remaining entity would have met the relevant size standard in 2013.

[170] The Bureau's analysis concluding that few, if any, potential larger participants meet the relevant size standard is described in note 169 above. The Bureau also believes that it is unlikely that any small entities would be rendered larger participants of the consumer reporting or consumer debt collection markets by the Final Rule's technical amendments to §§ 1090.104(a) and 1090.105(a), since very few entities in those markets are likely to have annual receipts that are so close to the larger-participant threshold that inclusion of additional receipts from a formerly affiliated company would affect their larger-participant status.

entity would need to maintain a portfolio featuring a total number of originations at or close to the threshold, with the typical loan featuring some combination of below average rate, term length, and amount financed.[171] The Bureau therefore maintains its estimate that very few, if any, small businesses will be classified as larger participants of the automobile financing market under the Final Rule.[172]

Section 1001.2(a) will have little impact on small nonbank entities engaged in automobile leasing. As mentioned above, the vast majority of automobile leases likely already qualify as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act, and so the change in definition is unlikely to affect the larger-participant status of any small business. With respect to costs related to compliance, under § 1001.2 small nonbanks will have to comply with the UDAAP prohibition under section 1031 of the Dodd-Frank Act when providing automobile leases covered under § 1001.2. However, as with small banks, small nonbanks that provide automobile leases must already comply with similar UDAP prohibitions under section 5 of the FTC Act as well as the applicable enumerated consumer laws, such as the CLA. Additionally, as explained above, there are likely to be few, if any, small nonbank businesses in the automobile financing market that will be subject to supervision irrespective of § 1001.2. To the extent that any small nonbanks are larger participants under the Final Rule, the Bureau believes that § 1001.2 will expand the scope of leasing activities of such entities subject to supervision for compliance with section 1031. The economic impact of this expansion in scope will not be significant. Notably, even absent § 1001.2, all leasing activities of such entities would be subject to supervision by the Bureau for compliance with the enumerated consumer laws, including the CLA.[173]

Additionally, if a larger participant qualifies as a small business under the $38.5 million SBA size standard, the Final Rule will not result in a ''significant impact'' on the entity. The Final Rule will not itself impose any business conduct obligations beyond those described above regarding the automobile leases defined under the Final Rule as financial products or services. Furthermore, the Bureau's supervisory activity will have very little economic impact on a supervised entity. When and how often the Bureau will in fact engage in supervisory activity, such as an examination, with respect to a larger participant (and, if so, the extent of such activity) will depend on a number of considerations, including the Bureau's allocation of resources and the application of the statutory factors set forth in section 1024(b)(2) of the Dodd-Frank Act. Given the Bureau's finite supervisory resources, and the range of industries over which it has supervisory responsibility for consumer financial protection, when and how often a given a larger participant will be supervised is uncertain. Moreover, if supervisory activity occurs, the costs that will result from such activity are expected to be minimal in relation to the overall activities of a larger participant.[174] Hence, the Final Rule will not have a significant economic impact on a substantial number of small entities because the Final Rule will not impose any significant business conduct obligations on the defined class of larger participants and the cost of supervisory activities will be nominal in relation to the revenue of a larger participant whose annual revenue fell at or below the $38.5 million SBA size standard.[175]

Finally, section 1024(e) of the Dodd-Frank Act authorizes the Bureau to supervise service providers to nonbank covered persons encompassed by section 1024(a)(1), which includes larger participants. Because the Final Rule does not specifically address service providers, effects on service providers need not be discussed for purposes of this RFA analysis. Even were such effects relevant, the Bureau believes that it would be very unlikely that any supervisory activities with respect to the service providers to the potential larger participants of the market for automobile financing would result in a significant economic impact on a substantial number of small entities.[176]

Accordingly, the undersigned certifies that the Final Rule will not have a significant economic impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

The Bureau has determined that this Final Rule does not impose any new recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would constitute collections of information requiring approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

List of Subjects in 12 CFR Parts 1001 and 1090

Consumer protection, Credit.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau adds 12 CFR part 1001 and amends 12 CFR part 1090, to read as follows:

[171] For example, an institution with exactly 10,000 aggregate annual originations at an interest rate and amount financed at the median among nonbank participants in 2013, along with a loan term in the fifteenth percentile, would still be estimated to generate receipts above the current $38.5 million SBA size standard.

[172] According to the 2007 Economic Census, more than 2,000 small firms are encompassed under the most applicable NAICS code (522220). U.S. Census Bureau, *American FactFinder Database, Estab and Firm Size: Summary Statistics by Revenue Size of Establishments for the United States: 2007, available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_52SSSZ4&prodType=table.* Thus, even if a few small firms were classified as larger participants, they would constitute less than 1 percent of the small firms in the industry under that NAICS code.

[173] As noted above, with respect to the enumerated consumer laws, the scope of the Bureau's authority is defined by the scope of those laws, not by the activities listed under section 1002(15)(A) of the Dodd-Frank Act.

[174] As noted in part VI.B.2.b above, the Bureau estimates that the cost of participation in an examination would be less than one-tenth of 1 percent of the total revenue generated from one year's originations for an entity at the threshold of 10,000 aggregate annual originations. Even if the unusually low amount financed suggested by a commenter is used in the analysis, the Bureau's estimates suggest that an examination would still require less than one-half of 1 percent of total revenue from one year's originations for an entity at the threshold of 10,000 aggregate annual originations.

[175] Because the Final Rule aggregates the activities of affiliated companies in part by adding together annual originations, two companies that are small businesses might, together, have aggregate annual originations of 10,000 or more. The Bureau anticipates no more than a very few such cases, if any, in the automobile financing market.

[176] As noted above, according to the 2007 Economic Census, more than 2,000 small firms are encompassed under NAICS code 522220, and the number of those firms that are service providers for the approximately 34 potential larger participants and their affiliated companies will be only a small fraction of that number. Other service providers may be classified under NAICS code 522320 for financial transactions processing, reserve, and clearing house activities, which also includes more than 2,000 small firms. U.S. Census Bureau, *American FactFinder Database, Estab and Firm Size: Summary Statistics by Revenue Size of Establishments for the United States: 2007, available at http://factfinder2.census.gov/bkmk/table/1.0/en/ECN/2007_US/52SSSZ4//naics~522320.* Still other service providers are likely to be considered in other NAICS codes corresponding to the service provider's primary business activities. As noted above with respect to larger participants themselves, the frequency and duration of examinations that would be conducted at any particular service provider would depend on a variety of factors. However, it is implausible that in any given year the Bureau would conduct examinations of a substantial number of the more than 4,000 small firms in NAICS code 522220 and 522320, or the small firm service providers that happen to be in any other NAICS code. Moreover, the impact of supervisory activities, including examinations, at such small firm service providers can be expected to be less, given the Bureau's exercise of its discretion in supervision, than at the larger participants themselves.

■ 1. Add part 1001 to read as follows:

PART 1001—FINANCIAL PRODUCTS OR SERVICES

Sec.
1001.1 Authority and purpose.
1001.2 Definitions.

Authority: 12 U.S.C. 5481(15)(A)(xi); and 12 U.S.C. 5512(b)(1).

§ 1001.1 Authority and purpose.

Under 12 U.S.C. 5481(15)(A)(xi), the Bureau is authorized to define certain financial products or services for purposes of title X of the Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376 (2010) (Title X) in addition to those defined in 12 U.S.C. 5481(15)(A)(i)–(x). The purpose of this part is to implement that authority.

§ 1001.2 Definitions.

Except as otherwise provided in Title X, in addition to the definitions set forth in 12 U.S.C. 5481(15)(A)(i)–(x), the term ''financial product or service'' means, for purposes of Title X:

(a) Extending or brokering leases of an automobile, as automobile is defined by 12 CFR 1090.108(a), where the lease:

(1) Qualifies as a full-payout lease and a net lease, as provided by 12 CFR 23.3(a), and has an initial term of not less than 90 days, as provided by 12 CFR 23.11; and

(2) Is not a financial product or service under 12 U.S.C. 5481(15)(A)(ii).

PART 1090—DEFINING LARGER PARTICIPANTS OF CERTAIN CONSUMER FINANCIAL PRODUCT AND SERVICE MARKETS

■ 2. The authority citation for part 1090 continues to read as follows:

Authority: 12 U.S.C. 5514(a)(1)(B); 12 U.S.C. 5514(a)(2); 12 U.S.C. 5514(b)(7)(A); and 12 U.S.C. 5512(b)(1).

Subpart A—General

■ 3. Section 1090.101 is amended by revising the definition of ''*Nonbank covered person''* to read as follows:

§ 1090.101 Definitions.

* * * * *

Nonbank covered person means, except for persons described in 12 U.S.C. 5515(a) and 5516(a):

(1) Any person that engages in offering or providing a consumer financial product or service; and

(2) Any affiliate of a person that engages in offering or providing a consumer financial product or service if such affiliate acts as a service provider to such person.

* * * * *

Subpart B—Markets

■ 4. Section 1090.104 is amended by revising paragraph (iii)(D) of the definition of ''Annual receipts'' to read as follows:

§ 1090.104 Consumer reporting market.

(a) * * *

*Annual receipts** * *

(iii) * * *

(D) The annual receipts of a formerly affiliated company are not included in the annual receipts of a nonbank covered person for purposes of this section, if the affiliation ceased before the applicable period of measurement as set forth in paragraph (ii) of this definition. The annual receipts of a nonbank covered person and its formerly affiliated company are aggregated for the entire period of measurement if the affiliation ceased during the applicable period of measurement as set forth in paragraph (ii) of this definition.

* * * * *

■ 5. Section 1090.105 is amended by revising paragraph (iii)(D) of the definition of ''Annual receipts'' to read as follows:

§ 1090.105 Consumer debt collection market.

(a) * * *

*Annual receipts** * *

(iii) * * *

(D) The annual receipts of a formerly affiliated company are not included in the annual receipts of a nonbank covered person for purposes of this section if the affiliation ceased before the applicable period of measurement as set forth in paragraph (ii) of this definition. The annual receipts of a nonbank covered person and its formerly affiliated company are aggregated for the entire period of measurement if the affiliation ceased during the applicable period of measurement as set forth in paragraph (ii) of this definition.

* * * * *

■ 6. Add § 1090.108 to subpart B to read as follows:

§ 1090.108 Automobile financing market.

(a) *Market-related definitions.* As used in this section:

Aggregate annual originations means the sum of the number of annual originations of a nonbank covered person and the number of annual originations of each of the nonbank covered person's affiliated companies, calculated as follows:

(i) *Annual Originations.*

(A) Annual originations means the sum of the following transactions for the preceding calendar year:

(*1*) Credit granted for the purpose of purchasing an automobile;

(*2*) Automobile leases;

(*3*) Refinancings of obligations described in (i)(A)(*1*) of this definition that are secured by an automobile, and any subsequent refinancings thereof that are secured by an automobile; and

(*4*) Purchases or acquisitions of obligations described in (i)(A)(*1*), (*2*), or (*3*) of this definition.

(B) The term annual originations does not include:

(*1*) Investments in asset-backed securities; and

(*2*) Purchases or acquisitions of obligations by a special purpose entity established for the purpose of facilitating asset-backed securities transactions if the purchases or acquisitions are made for the purpose of facilitating an asset-backed securities transaction.

(ii) *Aggregating the annual originations of affiliated companies.* The annual originations of a nonbank covered person must be aggregated with the annual originations of any person (other than an entity described in paragraph (c) of this section) that was an affiliated company of the nonbank covered person at any time during the preceding calendar year. The annual originations of a nonbank covered person and its affiliated companies are aggregated for the entire preceding calendar year, even if the affiliation did not exist for the entire calendar year.

Automobile means any self-propelled vehicle primarily used for personal, family, or household purposes for on-road transportation. The term does not include motor homes, recreational vehicles (RVs), golf carts, and motor scooters.

Automobile financing means providing or engaging in the transactions identified under the term ''Annual originations'' as defined in this section.

Automobile lease means a lease that is for the use of an automobile, as defined in this section, and that meets the requirements of 12 U.S.C. 5481(15)(A)(ii) or 12 CFR 1001.2(a).

Refinancing has the same meaning as in 12 CFR 1026.20(a), except that the nonbank covered person need not be the original creditor or a holder or servicer of the original obligation.

(b) *Test to define larger participants.* Except as provided in paragraph (c) of this section, a nonbank covered person that engages in automobile financing is a larger participant of the automobile financing market if the person has at

least 10,000 aggregate annual originations.

(c) *Exclusion for dealers.* The following entities do not qualify as larger participants under this section:

(1) Persons excluded from the Bureau's authority by 12 U.S.C. 5519; and

(2) Persons who meet the definition in 12 U.S.C. 5519(f)(2); are identified in 12 U.S.C. 5519(b)(2); and are predominantly engaged in the sale and servicing of motor vehicles (as that term is defined in 12 U.S.C. 5519(f)(1)), the leasing and servicing of motor vehicles, or both.

Dated: June 5, 2015.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

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