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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2015–0016]

Amendment of Asian Longhorned Beetle Quarantine Areas in Massachusetts and New York

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Asian longhorned beetle (ALB) regulations by removing the boroughs of Manhattan and Staten Island in New York City, as well as the counties of Suffolk and Norfolk in Massachusetts, from the list of quarantined areas for ALB. These actions are necessary to relieve restrictions on the movement of regulated articles from areas no longer under ALB quarantine while preventing the artificial spread of ALB from infested areas to noninfested areas of the United States.

DATES: This interim rule is effective August 11, 2015. We will consider all comments that we receive on or before September 10, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0016*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0016, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0016* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, Regulations, Permits and Manuals, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2352; *Claudia.Ferguson@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Asian longhorned beetle (ALB, *Anoplophora glabripennis*), an insect native to China, Japan, Korea, and the Isle of Hainan, is a destructive wood-boring pest of hardwood trees. The ALB regulations (contained in 7 CFR 301.51–1 through 301.51–9 and referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of ALB to noninfested areas of the United States.

In accordance with § 301.51–3(a) of the regulations, quarantined areas are, with certain exceptions, those States or portions of States in which ALB has been found by an inspector, in which the Administrator has reason to believe that ALB is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where ALB has been found. Less than an entire State will be designated as a quarantined area only if (1) The Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed on the interstate movement of regulated articles; and (2) the designation of less than an entire State as a quarantined area will be adequate to prevent the artificial interstate spread of ALB.

On May 14, 2013, the Animal and Plant Health Inspection Service (APHIS) issued a Federal Order [1] to immediately remove the boroughs of Manhattan and Staten Island in New York City from the list of areas quarantined for ALB. On May 12, 2014, APHIS also issued a Federal Order [2] to immediately remove Suffolk and Norfolk Counties, MA, from the list of areas quarantined for ALB. The removal of quarantined areas in both States was determined after completion of control and regulatory activities and based on the results of at least 3 years of negative surveys [3] of all regulated host plants within those areas. As a result, restrictions on the movement of regulated articles from those areas were removed.

Therefore, in this interim rule, we are amending the regulations in § 301.51–3(c) by removing the boroughs of Manhattan and Staten Island in New York City and the counties of Suffolk and Norfolk in Massachusetts from the list of areas quarantined for ALB. This action will relieve restrictions on the movement of regulated articles from areas no longer under ALB quarantine.

Immediate Action

Immediate action is warranted to relieve restrictions on the movement of regulated articles for ALB in the boroughs of Manhattan and Staten Island in New York City and the counties of Suffolk and Norfolk in Massachusetts. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

[1] DA–2013–17: *http://www.aphis.usda.gov/plant_health/plant_pest_info/asian_lhb/downloads/DA-2013-17.pdf*.

[2] DA–2014–21: *http://www.aphis.usda.gov/plant_health/plant_pest_info/asian_lhb/downloads/DA-2014-21.pdf*.

[3] The APHIS ALB Survey Protocol is accessible on the APHIS Plant Health Web site by visiting *http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/planthealth/sa_domestic_pests_and_diseases/* and selecting these links: Pest and Disease Programs>Asian Longhorned Beetle>Survey Components.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. The full analysis may be viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) or obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

APHIS is amending the ALB regulations by removing the boroughs of Manhattan and Staten Island in New York City and Suffolk and Norfolk Counties, MA, from the list of areas quarantined for ALB.

For more than 400 establishments located in the boroughs of Manhattan and Staten Island in New York City, as well as nearly 250 establishments in the counties of Norfolk and Suffolk in Massachusetts, the interim rule will have a positive impact by allowing all entities that previously had compliance agreements with APHIS to again offer services and move regulated articles without APHIS inspections or other time constraints resulting from the quarantine. The majority of these entities are nursery dealers.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.51–3, paragraph (c) is amended as follows:

■ a. Under the heading for Massachusetts, by removing the entry for Suffolk and Norfolk Counties; and

■ b. Under the heading for New York, by revising the entry for New York City.

The revision reads as follows:

§ 301.51–3 Quarantined areas.

* * * * *

(c) * * *

New York

New York City. That area in the boroughs of Brooklyn and Queens in the City of New York that is bounded by a line beginning at the point where the Brooklyn Battery Tunnel intersects the Brooklyn shoreline of the East River; then east and north along the shoreline of the East River to its intersection with the City of New York/Nassau County line; then southeast along the City of New York/Nassau County line to its intersection with the Grand Central Parkway; then west on the Grand Central Parkway to the Jackie Robinson Parkway; then west on the Jackie Robinson Parkway to Park Lane; then south on Park Lane to Park Lane South; then south and west on Park Lane South to 112th Street; then south on 112th Street to Atlantic Avenue; then west on Atlantic Avenue to 106th Street; then south on 106th Street to Liberty Avenue; then west on Liberty Avenue to Euclid Avenue; then south on Euclid Avenue to Linden Boulevard; then west on Linden Boulevard to Canton Avenue; then west on Canton Avenue to the Prospect Expressway; then north and west on the Prospect Expressway to the Gowanus Expressway; then north and west on the Gowanus Expressway; then north on Hamilton Avenue to the point of beginning.

* * * * *

Done in Washington, DC, this 5th day of August 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–19697 Filed 8–10–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2013–0059]

RIN 0579–AD85

Importation of Fresh Unshu Oranges From Japan Into the United States; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule published in the **Federal Register** on October 27, 2014, and effective on November 26, 2014, we amended the regulations concerning the importation of citrus fruit to remove certain restrictions on the importation of Unshu oranges from Japan. Among other amendments, we removed a requirement for joint inspection of the fruit at groves and packinghouses by the Government of Japan and the Animal and Plant Health Inspection Service. As an unintended consequence of removing that requirement, we effectively precluded the Government of Japan from being able to meet another one of the requirements of the regulations, which requires oranges produced on two islands in Japan to be fumigated with methyl bromide prior to exportation to the United States, if the oranges are destined for certain commercial citrus-producing areas of the United States. This document corrects that error.

DATES: Effective August 11, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. David Lamb, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2103.

SUPPLEMENTARY INFORMATION: In a final rule [1] that was published in the **Federal**

[1] To view the rule, supporting analyses, and comments we received, go to *http://*

Register on October 27, 2014 (79 FR 63807–63809, Docket No. APHIS–2013–0059), and effective on November 26, 2014, we amended the regulations concerning the importation of citrus fruit (referred to below as the regulations) to remove certain restrictions on the importation of Unshu oranges from Japan. Among other changes, we removed a requirement from the regulations that required the oranges to be grown in export areas in Japan that are free of citrus canker (*Xanthomonas citri* subsp. *citri,* referred to as Xcc), with buffer zones that are similarly free of Xcc, based on joint inspection by the Government of Japan and the Animal and Plant Health Inspection Service (APHIS). We also removed a requirement from the regulations that required the national plant protection organization (NPPO) of Japan and APHIS to jointly inspect fruit in the groves prior to and during harvest, as well as in the packinghouses during packinghouse operations. We removed these requirements in order to make our regulations concerning the importation of Unshu oranges from Japan consistent with our domestic regulations concerning the interstate movement of citrus fruit from areas quarantined for citrus canker, which do not require APHIS oversight of grove or packinghouse inspections.

As a result of the rule, APHIS believed that its presence in Japan to help oversee the export program for Unshu oranges to the United States was no longer necessary. Accordingly, we recalled inspectors assigned to that program to the United States.

However, our final rule retained provisions in the regulations that required Unshu oranges imported from Shikoku and Honshu Islands in Japan to be fumigated with methyl bromide in accordance with 7 CFR part 305 after harvest and prior to export to the United States, if the oranges are to be imported into Arizona, California, Florida, Hawaii, Louisiana, or Texas, all of which have significant commercial citrus production. We also retained provisions of the regulations that prohibited Unshu oranges from Shikoku or Honshu Island that have not been fumigated with methyl bromide in accordance with 7 CFR part 305 from being imported into Arizona, California, Florida, Hawaii, Louisiana, or Texas.

Within part 305, § 305.4 requires any treatment performed outside of the United States to be monitored and certified by inspector or an official authorized by APHIS, and further provides that all treatments are subject to monitoring and verification by APHIS.

As a matter of APHIS policy, we currently require chemical treatments performed outside the United States to be monitored and certified by APHIS inspectors and do not authorize other officials to perform such functions in our absence. Accordingly, when we recalled APHIS inspectors assigned to the export program for Unshu oranges to the United States from Japan, we effectively precluded Shikoku and Honshu Islands from administering the methyl bromide treatment required by the regulations for citrus destined to Arizona, California, Florida, Hawaii, Louisiana, or Texas. We thus inadvertently prohibited the two islands from shipping Unshu oranges to those States.

This was not our intent. Therefore, we are amending the regulations to allow Unshu oranges from Shikoku or Honshu Islands to be fumigated with methyl bromide at the port of entry into Arizona, California, Florida, Hawaii, Louisiana, or Texas. We are also amending the regulations to allow such oranges to be shipped to Arizona, California, Florida, Hawaii, Louisiana, or Texas without prior methyl bromide fumigation, provided that they are fumigated at the port of entry in Arizona, California, Florida, Hawaii, Louisiana, or Texas.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.28 is amended by revising paragraphs (b)(6) and (b)(8)(ii) to read as follows:

§ 319.28 Notice of quarantine.

* * * * *

(b) * * *

(6) To be eligible for importation into Arizona, California, Florida, Hawaii, Louisiana, or Texas, each shipment of oranges grown on Honshu Island or Shikoku Island, Japan, must be fumigated with methyl bromide in accordance with part 305 of this chapter either after harvest and prior to exportation to the United States, or upon arrival at the port of entry in Arizona, California, Florida, Hawaii, Louisiana, or Texas. Fumigation will not be required for shipments of oranges grown on Honshu Island or Shikoku Island, Japan, that are to be imported into States other than Arizona, California, Florida, Hawaii, Louisiana, or Texas.

* * * * *

(8) * * *

(ii)(A) Unshu oranges from Honshu Island or Shikoku Island, Japan, may not be imported into American Samoa, Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands.

(B) Unshu oranges from Kyushu Island, Japan (Prefectures of Fukuoka, Kumanmoto, Nagasaki, and Saga only) that have not been fumigated in accordance with part 305 of this chapter may not be imported into American Samoa, Arizona, California, Florida, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands.

* * * * *

Done in Washington, DC, this 5th day of August 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–19698 Filed 8–10–15; 8:45 am]

BILLING CODE 3410–34–P

www.regulations.gov/#!docketDetail;D=APHIS-2013-0059.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket No. FCIC–14–0004]

RIN 0563–AC44

Common Crop Insurance Regulations; Macadamia Tree Crop Insurance Provisions Correcting Amendment

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correcting amendment.

SUMMARY: This document contains necessary amendments for addressing potential ambiguities in the final regulation for Macadamia Tree Crop Insurance Provisions, which was published on April 16, 2015 (80 FR 20407–20413).

DATES: This rule is effective August 11, 2015.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Administration and Standards Division,

Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulation subject to this amendment revised the Common Crop Insurance Regulations, Macadamia Tree Crop Insurance Provisions. The final regulation was published April 16, 2015 (80 FR 20407–20413).

Need for Amendment

As published, language in the final regulation for Macadamia Tree Crop Insurance Provisions may require clarification to ensure proper application of the policy provisions. Sections 11(b)(3)(ii)(A) and (B) of the Macadamia Tree Crop Insurance Provisions may lack information or explanation needed to properly calculate an indemnity. Section 11(b)(3)(ii)(A) has been clarified to note that the result in this provision must also be multiplied by 100 to clearly represent the percentage of destroyed trees. Section 11(b)(3)(ii)(B) states the loss adjuster must take the number of damaged trees and divide by the total number of trees to calculate the percent of damage. However, the loss adjuster must also determine the percent of damage for each damaged tree within the overall loss calculation formula, when at least some damage (rather than solely complete destruction) is at issue. As a result, a description of specific additional steps is necessary under section 11(b)(3)(ii)(B) to clarify this issue.

In addition, section 11(c)(1) of the Macadamia Tree Crop Insurance Provisions was revised to change the provision from '' . . . over 80 percent actual damage due to an insured cause of loss will be considered to be 100 percent damaged'' to '' . . . over 80 percent of the actual trees damaged or destroyed due to an insured cause of loss will be considered to be 100 percent damaged . . . '' This change may have appeared to require the loss adjuster to determine whether the orchard was damaged more than 80 percent solely by counting the number of trees damaged or destroyed, without calculating the actual damage to individual trees. That application was not FCIC's intent. It is FCIC's intent that actual damage to each individual tree, in addition to the total number and percentage of actual damaged trees, are both used among other factors (such as destroyed trees when applicable) to determine whether the orchard is damaged more than 80 percent.

List of Subjects in 7 CFR Part 457

Crop insurance, Macadamia tree, Reporting and recordkeeping requirements, Amendment of publication.

Accordingly, 7 CFR part 457 is amended by making the following correcting amendments:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1) and 1506(o).

■ 2. In § 457.130, under the heading 11. Settlement of Claim, revise paragraphs (b)(3)(ii)(A) and (B) paragraph (c) to read as follows:

§ 457.130 Macadamia tree crop insurance provisions.

* * * * *

11. Settlement of Claim

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(A) For destroyed trees, divide the number of trees destroyed by the total number of trees and multiply by 100 to calculate the percent of loss;

(B) For damaged trees:

(1) Divide the number of trees damaged by the total number of trees (both damaged and undamaged) to calculate the amount of damage;

(2) Divide the number of damaged scaffold limbs by the total number of scaffold limbs on each damaged tree to calculate the amount of damage for each damaged tree;

(3) Total the results in (b)(3)(ii)(B)*(2);*

(4) Divide the result of (b)(3)(ii)(B)*(3)* by the number of damaged trees;

(5) Multiply the result of (b)(3)(ii)(B)*(1)* by the result of (b)(3)(ii)(B)*(4),* then multiply that result by 100 to calculate the percent of loss; and

* * * * *

(c) * * *

(1) Any orchard with damage, destruction, or combined damage and destruction, that results in a total percent of loss greater than 80 percent due to an insured cause of loss will be considered to be 100 percent damaged and/or destroyed; and

* * * * *

Signed in Washington, DC, on July 31, 2015.

Brandon Willis,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2015–19465 Filed 8–10–15; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2015–BT–STD–0017]

RIN 1904–AD55

Energy Conservation Program for Consumer Products: Definitions and Standards for Grid-Enabled Water Heaters

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

ACTION: Final rule.

SUMMARY: Congress created a new definition and energy conservation standard for grid-enabled water heaters in the Energy Efficiency Improvement Act of 2015, which amended the Energy Policy and Conservation Act of 1975 (EPCA). The Department of Energy (DOE) is publishing this final rule to place in the Code of Federal Regulations (CFR) the energy conservation standards, and related definitions, and to explain its interpretation of the new language. This final rule will implement these amendments to EPCA.

DATES: *Effective Date:* August 11, 2015.

FOR FURTHER INFORMATION CONTACT:

Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*

Ms. Johanna Hariharan, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 287–6307. Email: *Johanna.Hariharan@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

The following section briefly discusses the statutory authority DOE is interpreting in this rule, as well as some of the relevant historical background related to the establishment of standards for residential water heaters.

A. Authority

Part B of Title III of the Energy Policy and Conservation Act [1] (42 U.S.C. 6291 *et seq.; hereinafter ''EPCA''*), establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles,'' under which the Department of Energy (and in some cases the statute) sets energy conservation standards for a variety of products called ''covered products.'' [2] Covered products generally include water heaters. (42 U.S.C. 6292(a)(4)) [3] EPCA authorizes the Department of Energy (''Department'' or ''DOE'') to implement EPCA by ''prescrib[ing] amended or new energy conservation standards'' for covered products, establishing test protocols for measuring products' performance *vis à vis* conservation standards, setting labeling requirements, etc. (42 U.S.C. 6293, 6294, 6295, 6296) The Department is authorized to ''issue such rules as [it] deems necessary to carry out the provisions'' of EPCA. (42 U.S.C. 6298)

The Energy Efficiency Improvement Act of 2015 (EEIA 2015) (Pub. L. 114–11–210) was enacted on April 30, 2015. Among other things, Title II of EEIA 2015 adds the definition of ''grid-enabled water heaters'' to EPCA's energy conservation standards for residential water heaters. These products are intended for use as part of an electric thermal storage or demand response program. Among the criteria that define ''grid-enabled water heaters'' is an energy-related performance standard that is either an energy factor specified by a formula set forth in the statute, or an equivalent alternative standard that DOE may prescribe. In addition, EEIA's amendments to EPCA direct DOE to require reporting on shipments and activations of grid-enabled water heaters and to establish procedures, if appropriate, to prevent product diversion for non-program purposes.

B. Background

EPCA prescribed energy conservation standards for residential water heaters and directed DOE to conduct rulemakings to determine whether to amend these standards. Pursuant to 42 U.S.C. 6295(m), DOE must also periodically review its already established energy conservation standards for a covered product. Under this requirement, DOE would need to undertake its periodic review no later than six years from the issuance of a final rule establishing or amending a standard for a covered product.

On April 16, 2010, DOE published a final rule in the **Federal Register** amending the energy conservation standards for residential water heaters for a second time (hereinafter ''April 2010 final rule''). 75 FR 20111. The updated standards maintained the existing product structure, dividing water heaters based on the type of energy used (*i.e.,* gas, oil, or electricity) and whether the water heater is a storage, instantaneous, or tabletop model, but also differentiated standard levels for electric and gas-fired storage water heaters based on whether the rated storage volume is greater than 55 gallons, or less than or equal to 55 gallons. Compliance with the energy conservation standards contained in the April 2010 final rule was required starting on April 16, 2015.

Table I.11 presents the Federal energy conservation standards for residential water heaters, amended in the April 2010 final rule, which are set forth in 10 CFR 430.32(d).

TABLE I.1—AMENDED FEDERAL ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL WATER HEATERS ESTABLISHED BY APRIL 2010 FINAL RULE

Product description	Energy factor as of April 16, 2015
Gas-fired Water Heater	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.675 − (0.0015 × Rated Storage Volume in gallons).
	For tanks with a Rated Storage Volume above 55 gallons: EF = 0.8012 − (0.00078 × Rated Storage Volume in gallons).
Oil-fired Water Heater	EF = 0.68 − (0.0019 × Rated Storage Volume in gallons).
Electric Water Heater	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.960 − (0.0003 × Rated Storage Volume in gallons).
	For tanks with a Rated Storage Volume above 55 gallons: EF = 2.057 − (0.00113 × Rated Storage Volume in gallons).
Tabletop Water Heater	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).
Instantaneous Gas-Fired Water Heater	EF = 0.82 − (0.0019 × Rated Storage Volume in gallons).
Instantaneous Electric Water Heater	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).

After DOE issued the April 2010 final rule, several stakeholders expressed concern about April 2010 final rule's effect on electric thermal storage (ETS) programs. Utilities use ETS programs, sometimes also known as load shifting or demand response programs, to manage peak demand load by limiting the times when certain appliances are

[1] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 112–210 (Apr. 30, 2015).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[3] The statute excludes ''those consumer products designed solely for use in recreational vehicles and other mobile equipment.'' 42 U.S.C. 6292(a).

operated. In certain water-heater based ETS programs, a utility typically controls a water heater remotely to allow operation only when electricity demand is during off-peak hours. During that off-peak operation, the electricity consumed is stored by the water heater as thermal energy for use during peak hours when the utility prevents the water heater from using electricity.

Stakeholders told the Department that large-volume water heaters are important for water heater-based ETS programs because a larger-volume product permits the storage of enough hot water to satisfy a consumer's needs through the peak hours. Utility companies also asserted that ETS programs are feasible only with electric resistance water heaters, as opposed to heat pump water heaters. In light of these two conditions, stakeholders said, the April 2010 final rule could impair water heater-based ETS programs because the rule effectively precludes the manufacture of large-volume electric resistance heaters. The minimum energy factor that the Department set for electric water heaters above 55 gallons is higher than electric resistance heaters can meet.

In February 2013, DOE proposed a rule that would have established a mechanism for utilities and water heater manufacturers to request exemptions from the new standards for large-volume electric water heaters. The Department then commissioned studies of the performance of electric heaters with heat pumps (a technology capable of satisfying the new standard) in ETS programs. After receiving reports that concluded heat pumps are technically feasible in existing ETS programs, the Department withdrew its proposed rule on April 3, 2015.

C. New Legislation

Congress enacted EEIA 2015 to address the use of large capacity electric resistance water heaters in thermal storage and demand response systems operated by electric utilities. Specifically, EEIA 2015 amended EPCA to establish a category of water heater called ''grid enabled water heaters.'' As detailed below, a ''grid enabled water heater'' is defined as an electric resistance water heater made after April 16, 2015, with a tank over 75 gallons, an activation lock installed at manufacture, and a label. The water heater must also satisfy an energy-efficiency criterion—either an ''energy factor'' determined by a certain formula or ''an equivalent alternative standard prescribed by the Secretary and developed pursuant to'' 42 U.S.C. 6295(e)(5)(E). A manufacturer can provide the activation key for a grid-enabled heater only to a utility using it in a thermal storage or demand response program. In addition, DOE is to require manufacturers to report data on their sales of grid-enabled heaters, and the Department can in appropriate circumstances establish procedures to prevent product diversion for non-program purposes. These provisions regarding grid-enabled water heaters will remain in effect unless and until DOE determines that they do not require a separate efficiency requirement or that efforts to prevent diversion of the water heaters are ineffective. Finally, in making standards in general for electric water heaters, DOE must consider the impact on thermal storage and demand response programs.

While not explicit on the face of the statute, DOE interprets EEIA 2015 as having established a category of water heaters subject to their own energy conservation standard. It is apparent that Congress intended to ensure the continued availability of certain large capacity electric resistance water heaters for use in utility operated thermal storage and demand response programs. To do so, Congress defined a separate grouping of water heaters for this use and stated the energy conservation standard that would be applicable to water heaters in this group. Congress also made clear that DOE is to monitor that such water heaters are used only for the purpose stated and that DOE could take steps to address diversion to other uses of water heaters within this category, including a determination that separate energy conservation standards are no longer necessary.

In that Congress clearly intended to ensure continued availability of certain large capacity water heaters for use in ETS and demand response programs, DOE notes that its interpretation of EEIA 2015 is consistent with the intended outcome of its earlier rulemaking. DOE's existing standards, which took effect on April 16, 2015, would require a residential electric resistance water heater with a capacity over 55 gallons to have an energy factor that is currently achievable for an electric heater only by using heat pump technology, and not solely by use of electric resistance elements. Stakeholders had told DOE they considered large-capacity electric resistance heaters important for ETS programs and urged DOE to amend the standard to permit continued manufacture of the heaters for that purpose. As such, Congress enacted EEIA 2015 to remedy this issue through establishing a separate grouping of water heaters, ensuring that grid-enabled water heaters would be used only for ETS programs.

Table I.2 presents the below presents the new standards Congress laid out in EEIA 2015 for grid-enabled water heaters.

TABLE I.2—AMENDED FEDERAL ENERGY CONSERVATION STANDARDS FOR GRID-ENABLED WATER HEATERS ESTABLISHED BY EEIA 2015

Product description	Energy factor as of April 30, 2015
Grid-Enabled Water Heaters	For tanks with a Rated Storage Volume above 75 gallons: EF = 1.061 − (0.00168 × Rated Storage Volume in gallons).

II. Summary of Final Rule

DOE is placing the new energy conservation standards and related definitions for grid-enabled water heaters into 10 CFR part 430 (''Energy Conservation Program for Consumer Products''). This final rule codifies EEIA 2015, which established the energy conservation standards for grid-enabled water heaters on April 30, 2015 to permit the continued manufacture of grid-enabled water heaters after that date, provided the water heaters meet the criteria established in the amendment. DOE is also explaining its interpretation of some of the new language in EPCA regarding grid-enabled water heaters. DOE reads the new provisions as establishing a category of water heaters called ''grid-enabled water heaters'' and setting an energy conservation standard for those products. DOE notes that continued manufacture of grid-enabled water heaters has been legal under EPCA since April 30, 2015, and that this notice simply places that language into DOE's codified regulations. This notice also provides a summary of the amendments

EEIA 2015 made to EPCA, with respect to grid-enabled water heaters.

A. Standards for Grid-Enabled Water Heaters

The EEIA 2015 amendments to EPCA became effective on April 30, 2015. The new provisions constitute the new 42 U.S.C. 6295(e)(6), appended to the subsection that details the standards program for residential water heaters. As amended, EPCA defines a ''grid-enabled water heater'' as an electric resistance water heater that:

(I) Has a rated storage tank volume of more than 75 gallons;

(II) is manufactured on or after April 16, 2015;

(III) has an energy factor of not less than 1.061 minus the product of 0.00168 times the tank's rated storage volume (in gallons); or an equivalent alternative standard prescribed by the Secretary and developed pursuant to paragraph (5)(E);

(IV) is equipped at the point of manufacture with an activation lock; and

(V) has a label meeting certain criteria for permanence and states, using text set by the statute, that the water heater is intended only for use as part of an electric thermal storage or demand response program.

DOE at this time declines to develop such an equivalent standard through a lengthy notice and comment rulemaking process, and is therefore codifying the standard established in § 6295(e)(6)(A)(ii)(III)(aa) as an energy factor of not less than 1.061 minus the product of 0.00168 times the tank's rated storage volume (in gallons).

EPCA, as amended, also defines an ''activation lock'' as a control mechanism that is locked by default and must be activated with an activation key to enable the product to operate at its designed specifications and capabilities. A manufacturer can provide the activation key for the activation lock on a grid-enabled heater only to a utility or other company that operates an electric thermal storage or demand response program that uses such grid-enabled water heater.

EPCA also mandates the Department to require each grid-enabled water heater manufacturer to report annually the quantity of grid-enabled water heaters shipped each year. Likewise, operators of demand response and/or thermal storage systems must report the quantity of grid-enabled water heaters that are activated, using Energy Information Agency (EIA) forms, or another mechanism that DOE creates through a notice-and-comment rulemaking. At this time, DOE declines to develop another mechanism through a notice-and-comment rulemaking. DOE must treat all information received under these provisions as confidential business information.

The EEIA 2015 instructs the Department to publish in 2017 and 2019 analyses of the manufacturer and operator data to assess the extent to which shipped products are put into use in demand response and thermal storage programs. If DOE finds that sales of the products exceed by 15 percent or greater the numbers activated annually, it can establish procedures to prevent product diversion for non-program purposes.

Pursuant to EEIA 2015, the preceding provisions remain in effect until the Secretary determines that grid-enabled water heaters do not require a separate efficiency requirement or that sales exceed activations by more than 15 percent and procedures to prevent product diversion for non-program purposes would not be adequate. The statute also states that in carrying out this section with respect to electric water heaters, DOE must consider the impact on thermal storage and demand response programs. DOE is to require that grid-enabled water heaters be equipped with communication capability to participate in ancillary services programs if such technology is available, practical, and cost-effective.

B. Enforcement Provisions for Grid-Enabled Water Heaters

EEIA 2015 also amended EPCA's list of prohibited acts in 42 U.S.C. 6302(a) to include additional authority for DOE to enforce standards for grid-enabled water heaters so they are used exclusively in ETS programs. Under EPCA, certain actions, including activating an activation lock, distributing an activation key, or otherwise enabling a grid-enabled water heater to operate, with the knowledge that the grid-enabled water heater will not be used as part of an electric thermal storage or demand response program. In addition, removing a grid-enabled water heater label, or rendering it unintelligible, is also prohibited.

III. Procedural Issues and Regulatory Review

A. Review Under the Administrative Procedure Act

This final rule provides DOE's interpretation of EEIA 2015, and is not subject to the requirement to provide prior notice and an opportunity for public comment pursuant to authority at 5 U.S.C. 553(b)(A). To the extent that this final rule codifies, verbatim, EEIA 2015, DOE finds good cause to waive the requirement to provide prior notice and an opportunity for public comment as such procedure is unnecessary in that DOE has no authority to amend the statute.

B. Review Under Executive Orders 12866 and 13563

This final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (Oct. 4, 1993). Accordingly, DOE is not required under section 6(a)(3) of the Executive Order to prepare a regulatory impact analysis (RIA) on today's rule and the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) is not required to review this rule.

DOE has also reviewed this regulation pursuant to Executive Order 13563. 76 FR 3281 (Jan. 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated

behavioral changes. For the reasons stated in the preamble, DOE believes that this final rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

C. 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, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 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 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 is revising the Code of Federal Regulations to incorporate, without substantive change, energy conservation standards prescribed by Congress in the Energy Efficiency Improvement Act of 2015. Because this is a technical amendment for which a general notice of proposed rulemaking is not required, the analytical requirements of the Regulatory Flexibility Act do not apply to this rulemaking.

D. Review Under the Paperwork Reduction Act

Manufacturers of residential water heaters, including grid-enabled water heaters, 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 residential water heaters, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including residential water heaters. 76 FR 12422 (March 7, 2011). 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.

The Energy Efficiency Improvement Act of 2015 also requires manufacturers of grid-enabled water heaters to report to DOE annually the quantity of grid-enabled water heaters that the manufacturer ships each year. It also requires operators of demand response and/or thermal storage systems to report annually the quantity of grid-enabled water heaters activated for their programs.

E. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The rule fits within the category of actions because it is a rulemaking that clarifies the applicability of energy conservation standards for consumer products, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this proposed rule is available at *http://cxnepa.energy.gov/.*

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's 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) No further action is required by Executive Order 13132.

G. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 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; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). 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 section 3(a) and section 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.

H. 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 likely to result 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. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel*.

This final rule does not contain a Federal intergovernmental mandate, and will not require expenditures of $100 million or more on the private sector. Accordingly, no further action is required under the UMRA.

I. 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 would 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.

J. Review Under Executive Order 12630

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

K. Review Under the 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 Federal 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.

L. 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 OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates 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 should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

M. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions. 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html*.

IV. Approval of the Office of the Secretary

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

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on August 4, 2015.

Kathleen B. Hogan,

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

For the reasons set forth in the preamble, DOE amends part 430 of chapter II, of title 10 of the Code of Federal Regulations, to read as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.2 is amended by adding the definitions of ''activation lock'' and ''grid-enabled water heater'' in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Activation lock means a control mechanism (either by a physical device directly on the water heater or a control

system integrated into the water heater) that is locked by default and contains a physical, software, or digital communication that must be activated with an activation key to enable to the product to operate at its designed specifications and capabilities and without which the activation of the product will provide not greater than 50 percent of the rated first hour delivery of hot water certified by the manufacturer.

* * * * *

Grid-enabled water heater means an electric resistance water heater that—

(1) Has a rated storage tank volume of more than 75 gallons;

(2) Is manufactured on or after April 16, 2015;

(3) Is equipped at the point of manufacture with an activation lock and;

(4) Bears a permanent label applied by the manufacturer that—

(i) Is made of material not adversely affected by water;

(ii) Is attached by means of non-water-soluble adhesive; and

(iii) Advises purchasers and end-users of the intended and appropriate use of the product with the following notice printed in 16.5 point Arial Narrow Bold font: ''IMPORTANT INFORMATION: This water heater is intended only for use as part of an electric thermal storage or demand response program. It will not provide adequate hot water unless enrolled in such a program and activated by your utility company or another program operator. Confirm the availability of a program in your local area before purchasing or installing this product.''

* * * * *

■ 3. Section 430.32 is amended by revising paragraph (d) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(d) *Water heaters and grid-enabled water heaters*—(1) *Water heaters.* The energy factor of water heaters shall not be less than the following for products manufactured on or after the indicated dates.

Product class	Storage volume	Energy factor as of January 20, 2004	Energy factor as of April 16, 2015
Gas-fired Storage Water Heater.	≥20 gallons and ≤100 gallons.	0.67 − (0.0019 × Rated Storage Volume in gallons).	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.675 − (0.0015 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 0.8012 − (0.00078 × Rated Storage Volume in gallons).
Oil-fired Storage Water Heater.	≤50 gallons	0.59 − (0.0019 × Rated Storage Volume in gallons).	EF = 0.68 − (0.0019 × Rated Storage Volume in gallons).
Electric Storage Water Heater.	≥20 gallons and ≤120 gallons.	0.97 − (0.00132 × Rated Storage Volume in gallons).	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.960 − (0.0003 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 2.057 − (0.00113 × Rated Storage Volume in gallons).
Tabletop Water Heater	≥20 gallons and ≤120 gallons.	0.93 − (0.00132 × Rated Storage Volume in gallons).	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).
Instantaneous Gas-fired Water Heater.	<2 gallons	0.62 − (0.0019 × Rated Storage Volume in gallons).	EF = 0.82 − (0.0019 × Rated Storage Volume in gallons).
Instantaneous Electric Water Heater.	<2 gallons	0.93 − (0.00132 × Rated Storage Volume in gallons).	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).

Note: The Rated Storage Volume equals the water storage capacity of a water heater, in gallons, as certified by the manufacturer.

Exclusions: The energy conservation standards shown in this paragraph do not apply to the following types of water heaters: Gas-fired, oil-fired, and electric water heaters at or above 2 gallons storage volume and below 20 gallons storage volume; gas-fired water heaters above 100 gallons storage volume; oil-fired water heaters above 50 gallons storage volume; electric water heaters above 120 gallons storage volume; gas-fired instantaneous water heaters at or below 50,000 Btu/h; and grid-enabled water heaters.

(2) *Grid-enabled water heaters.* The energy factor of grid-enabled water heaters, as of April 30, 2015, shall not be less than 1.06 − (0.00168 × Rated Storage Volume in gallons).

* * * * *

[FR Doc. 2015–19643 Filed 8–10–15; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 702

RIN 3133–AE44

Capital Planning and Stress Testing—Schedule Shift

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is issuing amendments to the regulation governing credit union capital planning and stress testing. The amendments adjust the timing of certain events in the capital planning and stress testing cycles. The revisions to the regulation become effective January 1, 2016.

DATES: The final rule is effective January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Marvin Shaw, Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314 or telephone (703) 518–6553; or Jeremy Taylor or Dale Klein, Senior Capital Markets Specialists, Office of National Examinations and Supervision, at the above address or telephone (703) 518–6640.

SUPPLEMENTARY INFORMATION:

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I. Background

In April 2014, the Board issued a final rule requiring capital planning and stress testing for federally insured credit unions (FICUs) with assets of $10

billion or more.[1] Capital planning requires covered credit unions to assess their financial condition and risks over the planning horizon under both expected and unfavorable conditions. Annual supervisory stress testing allows NCUA to obtain an independent test of these credit unions under stress scenarios. By setting a regulatory minimum capital ratio under stress, the April 2014 final rule requires covered credit unions to take corrective action before they become undercapitalized to an extent that may cause a risk of loss to the National Credit Union Share Insurance Fund (NCUSIF).

The April 2014 final rule provided several timeframes for the formulation and submission of capital plans and for the stress testing of covered credit unions. One critical date in the stress testing process is the date NCUA releases the baseline, adverse, and severely adverse economic scenarios that serve as basis for the testing. NCUA plans to base the scenarios on those developed by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively, the banking agencies) for their regulated institutions.[2] At the time the Board issued NCUA's April 2014 final rule, the banking agencies were scheduled to provide scenarios for their regulated institutions by November 15 each year.[3] The banking agencies subsequently moved their scenario release dates three months later, to the following February 15.[4] The Board believes it is important that scenarios used for credit union stress testing conform to those used by the banking agencies, both in substance and timing. The new schedule on which the banking agencies' scenarios are published, therefore, necessitates that NCUA modify its stress testing schedule.

On January 26, 2015, the Board issued a proposal to adjust the timing of certain events in NCUA's capital planning and stress testing cycles.[5] In the proposal, the Board amended the capital planning and stress testing rule to change NCUA's scenario release date from December 1 to February 28. In addition, the Board proposed to apply a more uniform fixed annual timeline for both capital planning and stress testing required under the rule. It also proposed to reword several provisions in the rule to clarify their meaning. The Board requested comment on all aspects of the proposal.

NCUA received eight comments on the proposal to modify the capital planning and stress testing requirements, including comments from national trade associations, a state credit union league, federal credit unions, and federally insured, state-chartered credit unions. All commenters stated that they understood the need for the rule and that it is appropriate for NCUA to be consistent with the banking agencies' capital planning and stress testing requirements.

Nevertheless, commenters objected to what they considered to be a ''compressed'' capital planning schedule set out in the proposal. The commenters objected on various grounds, including that the capital planning process is complex and that a credit union would need input from senior management and the credit union's board of directors on stress testing and capital planning. Further, commenters stated that an as-of date of December 31, a date which triggers numerous other reporting requirements, would result in logistical and resource allocation problems. Commenters' primary objection was that they believed the schedule would be compressed if capital plans were due on April 30 (*i.e.*, four months after the as-of date instead of five months after the as-of date).

Seven commenters also noted that the proposed April 30 due date for capital plans is only two months after the scenario release date of February 28. These commenters contended that much capital planning activity could only begin after the scenario release date. However, capital planning is an activity distinct from stress testing and thus a credit union subject to part 702 can and should begin its capital planning activities well before the release of the stress test scenarios. A covered credit union's capital planning should be part of long-term strategic planning formulated on the basis of the credit union's business purposes and risk exposures.

Nevertheless, the Board understands that covered credit unions may want to know what scenarios concern regulators before completing their annual capital planning process. Accordingly, after reviewing the comments, this final rule amends the capital planning and stress testing rule in part 702 to establish a due date of May 31 rather than April 30 for covered credit unions to submit their capital plans. This change will provide covered credit unions with five months from the as-of date (and three months from the scenario release date) to prepare their capital plans, as commenters requested.

The Board acknowledges that covered credit unions may encounter resource constraints prior to putting in place independent risk management and reporting functions. NCUA also expects that some credit unions currently under the $10 billion threshold will grow larger than $10 billion, and the Board does not want to impose undue regulatory burden on these newly covered credit unions.

One commenter requested that the Board move the scenario release date to be earlier than February 28. However, this would not allow NCUA reasonable time to review the scenarios released by the banking agencies. The Board has therefore retained the February 28 release date.

Several commenters requested that other milestone dates in capital planning and stress testing be modified to reflect the new May 31 deadline for the capital plan submission. The Board agrees with these comments and has adjusted the revised annual capital planning and stress testing timelines in Table 1 to reflect the shift from April 30 to May 31. Each other date in the timeline is adjusted accordingly.

The following table summarizes the changes to the annual timelines provided in the capital and stress testing rule.

TABLE 1—REVISED ANNUAL CAPITAL PLANNING AND STRESS TESTING TIMELINES

Action required	Current rule	Final rule
As-of date for covered credit union's capital plan and NCUA stress test data	September 30	December 31.
NCUA releases stress test scenarios	December 1	February 28.
Covered credit union submits capital plan to NCUA (incorporating credit union-run stress tests, if authorized).	February 28	May 31.

[1] 12 CFR part 702, subpart E; 79 FR 24311 (Apr. 30, 2014). The rule refers to FICUs with assets of $10 billion or more as ''covered credit unions.''

[2] 78 FR 65583, 65584 (Nov. 1, 2013).

[3] 12 CFR 46.5, 252.144, 252.154, and 325.204.

[4] 79 FR 64026 (Oct. 27, 2014); 79 FR 69365 (Nov. 21, 2014); 79 FR 71630 (Dec. 3, 2014).

[5] 80 FR 3918 (January 26, 2015).

TABLE 1—REVISED ANNUAL CAPITAL PLANNING AND STRESS TESTING TIMELINES—Continued

Action required	Current rule	Final rule
NCUA provides NCUA-run stress test results to covered credit union	May 31	August 31.
NCUA accepts or rejects covered credit union's capital plan	Within 90 days of plan's submission	August 31.
Covered credit union submits stress test capital enhancement plan, if required	Within 90 days of receipt of test results	November 30.
Covered credit union submits revised capital plan, if required	Within 90 days of NCUA rejection	November 30.
Covered credit union requests authority to conduct stress tests	July 31	November 30.
NCUA approves or declines covered credit union's request to conduct stress tests	August 31	December 31.

III. Regulatory Procedures

a. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact any regulation may have on a substantial number of small entities (primarily those under $50 million in assets). Because this final rule only applies to FICUs with $10 billion or more in assets, it will not have any economic impact on small credit unions.

b. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or increases an existing burden.[6] For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. The changes to part 702 only alter the dates on which already required information is required and acted on, and do not impose any new information collection requirements. There is no new burden.

c. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that the rule does not constitute a policy that has federalism implications for purposes of the executive order.

d. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

[6] 44 U.S.C. 3507(d); 5 CFR part 1320.

List of Subjects in 12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on July 23, 2015.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration amends 12 CFR part 702 as follows:

PART 702—CAPITAL ADEQUACY

■ 1. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

■ 2. Amend § 702.502 by adding in alphabetical order the definition ''Capital planning process'' and revising the definition ''Covered credit union'' to read as follows:

§ 702.502 Definitions.

* * * * *

Capital planning process means development of a capital policy and formulation of a capital plan that conforms to this part.

Covered credit union means a federally insured credit union whose assets are $10 billion or more. A credit union that crosses the asset threshold as of March 31 of a given calendar year is subject to the capital planning and stress testing requirements of this subpart in the following calendar year.

* * * * *

■ 3. Amend § 702.504 by revising paragraph (a) to read as follows:

§ 702.504 Capital planning.

(a) *Annual capital planning.* (1) A covered credit union must develop and maintain a capital plan. It must submit this plan and its capital policy to NCUA by May 31 each year, or such later date as directed by NCUA. The plan must be based on the credit union's financial data as of December 31 of the preceding calendar year, or such other date as directed by NCUA. NCUA will assess whether the capital planning and analysis process is sufficiently robust in determining whether to accept a credit union's capital plan.

* * * * *

■ 4. Amend § 702.505 by revising paragraphs (a), (b)(5), and (d) to read as follows:

§ 702.505 NCUA action on capital plans.

(a) *Timing.* NCUA will notify the covered credit union of the acceptance or rejection of its capital plan by August 31 of the year in which the credit union submitted its plan.

(b) * * *

(5) unacceptable weakness in the capital plan or policy, the capital planning analysis, or any critical system or process supporting capital analysis;

* * * * *

(d) *Resubmission of a capital plan.* If NCUA rejects a credit union's capital plan, the credit union must update and resubmit an acceptable capital plan to NCUA by November 30 of the year in which the credit union submitted its plan. The resubmitted capital plan must, at a minimum, address: (1) NCUA-noted deficiencies in the credit union's original capital plan or policy; and (2) Remediation plans for unresolved supervisory issues contributing to the rejection of the credit union's original capital plan.

* * * * *

■ 5. Amend § 702.506 by:
■ a. Revising the first two sentences of paragraph (a);
■ b. Revising paragraph (c);
■ c. Removing paragraph (d);
■ d. Redesignating paragraphs (e) through (i) as (d) through (h), respectively; and
■ e. Revising newly redesignated paragraphs (d) through (g).

The revisions read as follows:

§ 702.506 Annual supervisory stress testing.

(a) *General requirements.* The supervisory stress tests consist of baseline, adverse, and severely adverse scenarios, which NCUA will provide by February 28 of each year. The tests will be based on the credit union's financial data as of December 31 of the preceding

calendar year, or such other date as directed by NCUA. * * *

* * * * *

(c) *Credit union-run tests under NCUA supervision.* After NCUA has completed three consecutive supervisory stress tests of a covered credit union, the covered credit union may, with NCUA approval, conduct the tests described in this subpart. A covered credit union must submit its request to NCUA to conduct its own stress test by November 30 for the following annual cycle. NCUA will approve or decline the credit union's request by December 31 of the year in which the credit union submitted its request. NCUA reserves the right to conduct the tests described in this section on any covered credit union at any time. Where both NCUA and a covered credit union have conducted the tests, the results of NCUA's tests will determine whether the covered credit union has met the requirements of this subpart.

(d) *Potential impact on capital.* In conducting stress tests under this subpart, NCUA or the covered credit union will estimate the following for each scenario during each quarter of the stress test horizon:

(1) Losses, pre-provision net revenues, loan and lease loss provisions, and net income; and

(2) The potential impact on the stress test capital ratio, incorporating the effects of any capital action over the 9-quarter stress test horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the horizon. NCUA or the covered credit union will conduct the stress tests without assuming any risk mitigation actions on the part of the covered credit union, except those existing and identified as part of the covered credit union's balance sheet, or off-balance sheet positions, such as asset sales or derivatives positions, on the date of the stress test.

(e) *Information collection.* Upon request, the covered credit union must provide NCUA with any relevant qualitative or quantitative information requested by NCUA pertinent to the stress tests under this subpart.

(f) *Stress test results.* NCUA will provide each covered credit union with the results of the stress tests by August 31 of the year in which it conducted the tests. A credit union conducting its own stress tests must incorporate the test results in its capital plan.

(g) *Supervisory actions.* If NCUA-run stress tests show that a covered credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the 9-quarter horizon, the credit union must provide NCUA, by November 30 of the calendar year in which NCUA conducted the tests, a stress test capital enhancement plan showing how it will meet that target. If credit union-run stress tests show that a covered credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the 9-quarter horizon, the credit union must incorporate a stress test capital enhancement plan into its capital plan. Any affected credit union operating without a stress test capital enhancement plan accepted by NCUA may be subject to supervisory actions.

* * * * *

[FR Doc. 2015–19526 Filed 8–10–15; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0487; Directorate Identifier 2014–NM–026–AD; Amendment 39–18226; AD 2015–16–01]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2012–19–11 for certain The Boeing Company Model 737 airplanes. AD 2012–19–11 required incorporating design changes to improve the reliability of the cabin altitude warning system by installing a redundant cabin altitude pressure switch, replacing the aural warning module (AWM) with a new or reworked AWM, and changing certain wire bundles or connecting certain previously capped and stowed wires as necessary. For certain airplanes, AD 2012–19–11 also required prior or concurrent incorporation of related design changes by modifying the instrument panels, installing light assemblies, modifying the wire bundles, and installing a new circuit breaker, as necessary. This AD was prompted by the report of a flightcrew not receiving an aural warning during a lack-of-cabin pressurization event. We are issuing this AD to prevent the loss of cabin altitude warning, which could delay flightcrew recognition of a lack of cabin pressurization, and could result in incapacitation of the flightcrew due to hypoxia (a lack of oxygen in the body), and consequent loss of control of the airplane.

DATES: This AD is effective September 15, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 15, 2015.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of November 7, 2012 (77 FR 60296, October 3, 2012).

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

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–2014–0487; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Francis Smith, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–917–6596; fax: 425–917–6590; email: *Francis.Smith@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012). AD 2012–19–11

applied to certain The Boeing Company Model 737 airplanes. The NPRM published in the **Federal Register** on July 29, 2014 (79 FR 43983).

The NPRM was prompted by the report of a flightcrew not receiving an aural warning during a lack of cabin pressurization event. The NPRM proposed to continue to require incorporating design changes to improve the reliability of the cabin altitude warning system by installing a redundant cabin altitude pressure switch, replacing the AWM with a new or reworked AWM, and changing certain wire bundles or connecting certain previously capped and stowed wires as necessary.

For certain airplanes, the NPRM proposed to continue to require prior or concurrent incorporation of related design changes by modifying the instrument panels, installing light assemblies, modifying the wire bundles, and installing a new circuit breaker, as necessary. The NPRM also proposed to require, for certain airplanes, incorporating related design changes. The NPRM also proposed, for certain airplanes, to no longer give credit for the prior accomplishment of certain actions. We are issuing this AD to prevent the loss of cabin altitude warning, which could delay flightcrew recognition of a lack of cabin pressurization, and could result in incapacitation of the flightcrew due to hypoxia (a lack of oxygen in the body), and consequent loss of control of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 43983, July 29, 2014) and the FAA's response to each comment.

Request To Use the Latest Service Information

Boeing requested that the proposed rule (79 FR 43983, July 29, 2014) incorporate Boeing Special Attention Service Bulletin 737–21–1165, Revision 3, dated July 16, 2014, and Boeing Alert Service Bulletin 737–31A1325, Revision 2, dated June 5, 2014. Boeing stated that it has released new service information and the service information should be reflected in the proposed rule.

We agree with the commenter's request to reference the latest service information. We have revised this final rule accordingly.

Boeing Alert Service Bulletin 737–31A1325, Revision 2, dated June 5, 2014, updates reference document names, corrects typographical errors, and includes airplanes that were removed in error in an earlier revision of the service information. The procedures remain unchanged. In addition, we have added paragraph (j)(2) of this AD, to give credit for previous actions, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–31A1325, dated January 11, 2010, and Boeing Alert Service Bulletin 737–31A1325, Revision 1, dated July 5, 2012.

Boeing Special Attention Service Bulletin 737–21–1165, Revision 3, dated July 16, 2014, includes configuration differences found by operators during incorporation of earlier revisions of the service information. The procedures otherwise remain unchanged.

Request To Add an Exception to the Proposed Rule (79 FR 43983, July 29, 2014)

An anonymous commenter requested to add an exception to the proposed rule (79 FR 43983, July 29, 2014). The commenter stated that paragraphs (j)(2) and (j)(3) of the proposed AD should include the same exceptions for group 24 through 25 airplanes, and group 27 through 33 airplanes, as identified in Boeing Alert Service Bulletin 737–31A1332, Revision 4, dated October 31, 2013.

The commenter also stated that paragraphs (i)(2) and (i)(3) of AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012), did not give credit for previous actions for group 24 through 25 airplanes, and group 27 through 33 airplanes, as identified in Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012. The commenter stated that this is because paragraph 1.C. of Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012, explicitly states that changes given in figures 48 through 50 affect wiring changes previously accomplished in Boeing Service Bulletin 737–24A1141; also figures 15 through 17, and airplane line numbers 1 through 740, are moved to a new group 24 through 25 airplanes, and group 27 through 33 airplanes.

The commenter stated that if an airplane is identified in groups 24 through 25 airplanes, and group 27 through 33 airplanes, of Boeing Alert Service Bulletin 737–31A1332, Revision 4, dated October 31, 2013, the operator can take credit for previous actions accomplished using Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011, and Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010. Therefore, the commenter stated that the operator must, per the exceptions of paragraphs (i)(2) or (i)(3) of AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012), re-comply with the proposed AD once the additional actions are taken.

We disagree with the commenter's request. This AD corrects an error in paragraph (i) of AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012). In AD 2012–19–11, airplanes were identified incorrectly as having wiring instructions that may conflict with the corrective actions of AD 2009–16–07, Amendment 39–15990 (74 FR 41607, August 18, 2009). Further, this AD supersedes (*i.e.,* ''replaces'') AD 2012–19–11, and therefore compliance is required with this new AD only. In addition, there are still exclusions in this AD, but they are now identified by line numbers—not by groups—as shown in paragraphs (j)(1)(ii) and (j)(1)(iii) of this AD. We have not changed this AD in this regard.

Request To Extend the Compliance Time

United Airlines (UAL) requested that the compliance time for the proposed rule (79 FR 43983, July 29, 2014) be extended a minimum of 1 year for all airplanes. UAL stated that this is due to the increased scope of required testing not documented in Boeing Special Attention Service Bulletin 737–21–1165, Revision 1, dated July 16, 2010, as revised by Boeing Special Attention Service Bulletin 737–21–1165, Revision 2, dated April 30, 2012. UAL commented that Boeing Special Attention Service Bulletin 737–21–1165, Revision 2, dated April 30, 2012, is for the removal of the junction box 46, and additional administrative time is required during the accomplishment of each airplane for obtaining an alternate method of compliance (AMOC).

UAL commented that due to the removal of junction box 46, 43 additional operational checks must be accomplished and are estimated to take an additional 30 hours of elapsed time for each airplane. UAL stated that the estimated costs of the proposed rule (79 FR 43983, July 29, 2014) should be revised to include an additional 30 hours for testing.

UAL also stated that multiple AMOCs have been required for the concurrent requirements and for airplanes affected by AD 2013–02–05, Amendment 39–17326 (78 FR 6202, January 30, 2013) due to errors in the Boeing data. UAL stated that the time necessary to seek approved AMOCs extends the completion time of each airplane beyond the time allotted in the estimated costs and can result in the airplanes being out of service.

We disagree with the commenter's request. Boeing has provided its work estimates based on average times for accomplishing its service information specifically to correct the unsafe condition. The time spent to perform additional functional checks and testing to systems incidentally associated with the unsafe condition in this AD and any associated administrative actions in carrying out all work (related to this AD) will vary among operators. Additionally, we do not consider the time spent processing AMOCs when we determine estimated costs of an AD because of the variable occurrences, scope of technical deviations, and elective nature of many AMOC requests.

The estimate of labor hours provides only a guideline for operators, and operators are encouraged to review all relevant work steps to create time and cost estimates specific to their schedules and work processes. Operators that request AMOCs while their airplane is in maintenance do not have to wait for the Seattle Aircraft Certification Office (ACO) approval before they can return the airplane to service, provided the 72-month compliance time has not passed, and operators do not claim compliance credit in their maintenance records until the AMOC is received. As long as the 72-month compliance time has not been exceeded, an AMOC is not needed; therefore, requests for compliance time extensions and Seattle ACO responses to early AMOC requests have no effect on returning an airplane to service from an operator's maintenance cycle.

We base AD compliance times primarily on our assessment of safety risk. We consider the overall risk to the fleet, including the severity of the failure and the likelihood of the failure's occurrence in development of the compliance time for the ADs. We work with the respective manufacturers to ensure that all appropriate instructions and parts are available at the appropriate time to meet our collective safety goals, and that those goals are based on safety of the fleet. We have not changed this AD in this regard.

Effect of Winglets on AD

Aviation Partners Boeing stated that the installation of winglets per STC ST01219SE or ST00830SE does not affect the accomplishment of the manufacturer's service instructions.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 43983, July 29, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 43983, July 29, 2014).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed the following service information:

- Boeing Alert Service Bulletin 737–31A1325, Revision 2, dated June 5, 2014.
- Boeing Alert Service Bulletin 737–31A1332, Revision 4, dated October 31, 2013.
- Boeing Special Attention Service Bulletin 737–21–1164, Revision 2, dated August 23, 2013.
- Boeing Special Attention Service Bulletin 737–21–1165, Revision 3, dated July 16, 2014.

The service information describe procedures for incorporating design changes to improve the reliability of the cabin altitude warning system by installing a redundant cabin altitude pressure switch, replacing the AWM with a new or reworked AWM, and changing certain wire bundles or connecting certain previously capped and stowed wires as necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD affects 1,618 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Install a redundant cabin altitude pressure switch, replace the AWM with a new or reworked AWM, change certain wire bundles or connect certain capped and stowed wires [retained actions from AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012), for 1,618 airplanes].	Up to 62 work-hours × $85 per hour = up to $5,270.	$33,576	Up to $38,846	Up to $62,852,828
Modify the instrument panels, install light assemblies, modify the wire bundles, and install a new circuit breaker (concurrent requirements) [retained actions from AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012), for 1,596 airplanes].	Up to 92 work-hours × $85 per hour = up to $7,820.	5,292	Up to $13,112	Up to $20,926,752
Modify the instrument panels, install light assemblies, modify the wire bundles, and install a new circuit breaker (concurrent requirements) [new actions for 22 airplanes].	Up to 92 work-hours × $85 per hour = up to $7,820.	5,292	Up to $13,112	Up to $288,464

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII,

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012), and adding the following new AD:

2015–16–01 The Boeing Company: Amendment 39–18226; Docket No. FAA–2014–0487; Directorate Identifier 2014–NM–026–AD.

(a) Effective Date

This AD is effective September 15, 2015.

(b) Affected ADs

This AD replaces AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012).

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model 737–100, –200, –200C, –300,—400, and –500 series airplanes, as identified in Boeing Special Attention Service Bulletin 737–21–1164, Revision 2, dated August 23, 2013.

(2) Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, as identified in Boeing Special Attention Service Bulletin 737–21–1165, Revision 3, dated July 16, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air Conditioning.

(e) Unsafe Condition

This AD was prompted by the report of a flightcrew not receiving an aural warning during a lack of cabin pressurization event. We are issuing this AD to prevent the loss of cabin altitude warning, which could delay flightcrew recognition of a lack of cabin pressurization, and could result in incapacitation of the flightcrew due to hypoxia (a lack of oxygen in the body), and consequent loss of control of the airplane.

(f) Compliance

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

(g) Retained Installation

This paragraph restates the actions required by paragraph (g) of AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012), with revised service information. Within 72 months after November 7, 2012 (the effective date of AD 2012–19–11), install a redundant cabin altitude pressure switch, replace the aural warning module (AWM) with a new or reworked AWM, and change certain wire bundles or connect certain capped and stowed wires, as applicable, in accordance with the Accomplishment Instructions of the applicable service information in paragraphs (g)(1) and (g)(2) of this AD; except as provided by paragraph (k)(1) of this AD.

(1) Boeing Special Attention Service Bulletin 737–21–1164, Revision 1, dated May 17, 2012; or Boeing Special Attention Service Bulletin 737–21–1164, Revision 2, dated August 23, 2013 (for Model 737–100, –200, –200C, –300, –400, and –500 series airplanes). As of the effective date of this AD, use Boeing Special Attention Service Bulletin 737–21–1164, Revision 2, dated August 23, 2013, for the actions specified in paragraph (g) of this AD.

(2) Boeing Special Attention Service Bulletin 737–21–1165, Revision 1, dated July 16, 2010, as revised by Boeing Special Attention Service Bulletin 737–21–1165, Revision 2, dated April 30, 2012; or Boeing Special Attention Service Bulletin 737–21–1165, Revision 3, dated July 16, 2014 (for Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes). As of the effective date of this AD use Boeing Special Attention Service Bulletin 737–21–1165, Revision 3, dated July 16, 2014.

(h) Retained Concurrent Actions

This paragraph restates the concurrent actions required by paragraph (h) of AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012), with revised service information. For airplanes identified in Boeing Alert Service Bulletin 737–31A1325, dated January 11, 2010 (for Model 737–100, –200, –200C, –300, –400, and –500 series airplanes); and Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012 (for Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes); except as provided by paragraph (i) of this AD: Before or concurrently with accomplishment of the actions specified in paragraph (g) of this AD, as applicable, modify the instrument panels, install light assemblies, modify the wire bundles, and install a new circuit breaker, in accordance with the Accomplishment Instructions of the applicable service information in paragraphs (h)(1) and (h)(2) of this AD; except as provided by paragraph (k)(2) of this AD.

(1) The service information for Model 737–100, –200, –200C, –300, –400, and –500 series airplanes as identified in paragraphs (h)(1)(i), (h)(1)(ii), and (h)(1)(iii), of this AD. As of the effective date of this AD, use Boeing Alert Service Bulletin 737–31A1325, Revision 2, dated June 5, 2014 (for Model 737–100, –200, –200C, –300, –400, and –500 series airplanes), for the actions specified in paragraph (h) of this AD.

(i) Boeing Alert Service Bulletin 737–31A1325, dated January 11, 2010.

(ii) Boeing Alert Service Bulletin 737–31A1325, Revision 1, dated July 5, 2012.

(iii) Boeing Alert Service Bulletin 737–31A1325, Revision 2, dated June 5, 2014.

(2) Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012; or Boeing Alert Service Bulletin 737–31A1332, Revision 4, dated October 31, 2013 (for Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes). As of the effective date of this AD, use Boeing Alert Service Bulletin 737–31A1332, Revision 4, dated October 31, 2013 (for Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes), for the actions specified in paragraph (h) of this AD.

(i) New Concurrent Requirement

For airplanes having variable numbers YA001 through YA008 inclusive, YA251, YA501 through YA508 inclusive, and YC321 through YC325 inclusive: Before or concurrently with accomplishment of the actions specified in paragraph (g) of this AD, or within 18 months after the effective date of this AD, whichever occurs later, modify the instrument panels, install light assemblies, modify the wire bundles, and install a new circuit breaker, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–31A1332, Revision 4, dated October 31, 2013.

(j) Credit for Previous Actions

(1) This paragraph restates the credit for previous actions stated in paragraph (i) of AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012), with correct paragraph reference and revised exempted airplanes.

(i) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before November 7, 2012 (the effective date of AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012)), using Boeing Special Attention Service Bulletin 737–21–1165, Revision 1, dated July 16, 2010, which was incorporated by reference in AD 2012–19–11.

(ii) For airplanes identified in Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010; except airplanes having variable numbers YA001 through YA019 inclusive, YA201 through YA203 inclusive, YA231 through YA242 inclusive, YA251, YA252, YA271, YA272, YA301, YA302, YA311, YA312, YA501 through YA508 inclusive, YA541, YA701, YA702, YC001 through YC007 inclusive, YC051, YC052, YC101, YC102, YC111, YC121, YC301, YC302, YC321 through YC330 inclusive, YC381, YC401 through YC403 inclusive, YC501, YC502, and YE001 through YE003 inclusive: This paragraph provides credit for the actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010, which was incorporated by reference in AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012).

(iii) For airplanes identified in Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011; except airplanes identified in paragraph (j)(4) of this AD and airplanes having variable numbers YA001 through YA019 inclusive, YA201 through YA203 inclusive, YA231 through YA242 inclusive, YA251, YA252, YA271, YA272, YA301, YA302, YA311, YA312, YA501 through YA508 inclusive, YA541, YA701, YA702, YC001 through YC007 inclusive, YC051, YC052, YC101, YC102, YC111, YC121, YC301, YC302, YC321 through YC330 inclusive, YC381, YC401 through YC403 inclusive, YC501, YC502, and YE001 through YE003 inclusive: This paragraph provides credit for the actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011, which was incorporated by reference in AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012).

(iv) For Group 21, Configuration 2 airplanes identified in Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012: This paragraph provides credit for the actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011, which was incorporated by reference in AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012); and provided that the actions specified in Boeing Service Bulletin 737–21–1171, dated February 12, 2009 (which is not incorporated by reference in this AD), were accomplished prior to or concurrently with the actions specified in Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011.

(2) This paragraph provides credit for the actions specified in paragraph (h) of this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraph (j)(2)(i) or (j)(2)(ii) of this AD.

(i) Boeing Alert Service Bulletin 737–31A1325, dated January 11, 2010, which was incorporated by reference in AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012).

(ii) Boeing Alert Service Bulletin 737–31A1325, Revision 1, dated July 5, 2012, which is not incorporated by reference in this AD.

(k) New Requirements to This AD: Exceptions to the Service Information

(1) Where Boeing Special Attention Service Bulletin 737–21–1164, Revision 2, dated August 23, 2013, specifies to contact Boeing for instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(2) Where Boeing Alert Service Bulletin 737–31A1325, Revision 2, dated June 5, 2014, specifies to contact Boeing for instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(l) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved for AD 2012–19–11, Amendment 39–17206 (77 FR 60296, October 3, 2012), are approved as AMOCs for the corresponding provisions of this AD.

(m) Related Information

(1) For more information about this AD, contact Francis Smith, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6596; fax: 425–917–6590; email: *Francis.Smith@faa.gov*.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (n)(5) and (n)(6) of this AD.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on September 15, 2015.

(i) Boeing Alert Service Bulletin 737–31A1325, Revision 2, dated June 5, 2014.

(ii) Boeing Alert Service Bulletin 737–31A1332, Revision 4, dated October 31, 2013.

(iii) Boeing Special Attention Service Bulletin 737–21–1164, Revision 2, dated August 23, 2013.

(iv) Boeing Special Attention Service Bulletin 737–21–1165, Revision 3, dated July 16, 2014.

(4) The following service information was approved for IBR on November 7, 2012 (77 FR 60296, October 3, 2012).

(i) Boeing Alert Service Bulletin 737–31A1325, dated January 11, 2010.

(ii) Boeing Alert Service Bulletin 737–31A1332, Revision 1, dated June 24, 2010.

(iii) Boeing Alert Service Bulletin 737–31A1332, Revision 2, dated August 18, 2011.

(iv) Boeing Alert Service Bulletin 737–31A1332, Revision 3, dated March 28, 2012.

(v) Boeing Special Attention Service Bulletin 737–21–1164, Revision 1, dated May 17, 2012.

(vi) Boeing Special Attention Service Bulletin 737–21–1165, Revision 1, dated July 16, 2010.

(vii) Boeing Special Attention Service Bulletin 737–21–1165, Revision 2, dated April 30, 2012.

(5) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*.

(6) 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.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Renton, Washington, on July 22, 2015.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–19316 Filed 8–10–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0095; Directorate Identifier 2015–NE–01–AD; Amendment 39–18228; AD 2015–16–03]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Rolls-Royce plc (RR) RB211–524B–02, RB211–524B2–19, RB211–524B3–02, RB211–524B4–02, RB211–524B4–D–02, RB211–524C2–19, RB211–524D4–19, RB211–524D4–39, and RB211–524D4X–19 turbofan engines. This AD requires removing affected high-pressure turbine (HPT) blades. This AD was prompted by several failures of affected HPT blades. We are issuing this AD to prevent failure of the HPT blade, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

DATES: This AD becomes effective September 15, 2015.

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–2015–0095; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Katheryn Malatek, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7747; fax: 781–238–7199; email: *katheryn.malatek@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on April 29, 2015 (80 FR 23741). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> There were a number of pre-MOD/SB 72–7730 High Pressure Turbine (HPT) blade failures, with some occurring within a relatively short time. Engineering analysis carried out by RR on those occurrences indicates that certain pre-MOD/SB 72–7730 blades, Part Number (P/N) UL32958 and P/N UL21691 (hereafter referred to as 'affected HPT blade'), with an accumulated life of 6500 flight hours (FH) since new or more, have an increased risk of in-service failure.
>
> This condition, if not corrected, could lead to HPT blade failure, release of debris and consequent (partial or complete) loss of engine power, possibly resulting in reduced control of the aeroplane.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 23741, April 29, 2015).

Conclusion

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

Costs of Compliance

We estimate that this AD affects 6 engines installed on airplanes of U.S. registry. We also estimate that it will take about 4 hours per engine to comply with this AD. The average labor rate is $85 per hour. Pro-rated cost of required parts is about $250,000 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,502,040.

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 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 to the extent that it justifies making a regulatory distinction, and

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

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):

2015–16–03 Rolls-Royce plc: Amendment 39–18228; Docket No. FAA–2015–0095; Directorate Identifier 2015–NE–01–AD.

(a) Effective Date

This AD becomes effective September 15, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) RB211–524B–02, RB211–524B2–19, RB211–524B3–02, RB211–524B4–02, RB211–524B4–D–02, RB211–524C2–19, RB211–524D4–19, RB211–524D4–39, and RB211–524D4X–19 turbofan engines with high-pressure turbine (HPT) blades, part numbers (P/Ns) UL32958 and UL21691, installed.

(d) Reason

This AD was prompted by several failures of affected HPT blades. We are issuing this AD to prevent failure of the HPT blade, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

(e) Actions and Compliance

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

(2) After the effective date of this AD, within 2 months or before exceeding 6,500 flight hours since first installation of HPT blades, P/Ns UL32958 and UL21691, on an engine, whichever occurs later, remove all affected HPT blades from service.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE–AD–AMOC@faa.gov.*

(g) Related Information

(1) For more information about this AD, contact Katheryn Malatek, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7747; fax: 781–238–7199; email: *katheryn.malatek@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2014–0250, dated November 19, 2014, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2015–0095.

(h) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on July 30, 2015.

Ann C. Mollica,

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

[FR Doc. 2015–19321 Filed 8–10–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0834; Directorate Identifier 2012–NM–045–AD; Amendment 39–18227; AD 2015–16–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directives (AD) 2003–14–11, AD 2004–11–08, AD 2004–13–25, AD 2004–18–14, AD 2007–05–12, AD 2008–06–07, AD 2009–18–20, AD 2010–15–02, and AD 2012–04–07 that apply to certain Airbus Model A330 and A340 series airplanes. AD 2003–14–11, AD 2004–11–08, AD 2004–13–25, AD 2004–18–14, AD 2007–05–12, AD 2008–06–07, AD 2009–18–20, AD 2010–15–02, and AD 2012–04–07 required revising the maintenance program to incorporate certain maintenance requirements and airworthiness limitations; replacing certain flap rotary actuators; repetitively inspecting elevator servo-controllers and pressure relief valves of the spoiler servo controls; repetitively testing the elevator servo control loops, modifying the elevator servo controls, and repetitively replacing certain retraction brackets of the main landing gear; and revising the airplane flight manual. This new AD requires revising the maintenance program or inspection program to incorporate certain maintenance requirements and airworthiness limitations. This new AD also removes Airbus Model A340–200, –300, –500, and –600 series airplanes from the applicability and adds Airbus Model A330–323 airplanes to the applicability. This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to address the aging effects of aircraft systems. Such aging effects could change the characteristics of those systems, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity of the airplane or reduce the controllability of the airplane.

DATES: This AD becomes effective September 15, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of September 15, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0834;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0834.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to revise the following airworthiness directives that applied to certain Airbus Model A330 and A340 series airplanes.

- AD 2003–14–11, Amendment 39–13230 (68 FR 41521, July 14, 2003).
- AD 2004–11–08, Amendment 39–13654 (69 FR 31874, June 8, 2004).
- AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004).
- AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004).
- AD 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007).
- AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)).
- AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009).
- AD 2010–15–02, Amendment 39–16368 (75 FR 42589, July 22, 2010).
- AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012).

The SNPRM published in the **Federal Register** on March 9, 2015 (80 FR 12360). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on November 7, 2013 (78 FR 66861). The NPRM was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations were necessary. The NPRM proposed to supersede AD 2003–14–11, Amendment 39–13230 (68 FR 41521, July 14, 2003); AD 2004–11–08, Amendment 39–13654 (69 FR 31874, June 8, 2004); AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004); AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004); AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)); and AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012) to require actions intended to address the aging effects of aircraft systems. The NPRM proposed to require revising the maintenance program or inspection program, as applicable, to incorporate certain maintenance requirements and airworthiness limitations.

The SNPRM (80 FR 12360, March 9, 2015) proposed to supersede AD 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007); AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009); and AD 2010–15–02, Amendment 39–16368 (75 FR 42589, July 22, 2010); in addition to those ADs already identified in the NPRM (78 FR 66861, November 7, 2013), as well as to require more restrictive limitations and to add Airbus Model A330–323 airplanes to the applicability. We are issuing this AD to address the aging effects of aircraft systems. Such aging effects could change the characteristics of those systems, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity of the airplane or reduce the controllability of the airplane.

The European Aviation Safety Agency (EASA) which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2013–0268, dated November 7, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on certain Airbus Model A330 series airplanes. EASA AD 2013–0268 supersedes and retains the requirements of four EASA ADs and requires accomplishment of the actions specified in Airbus A330 Airworthiness Limitations Section (ALS) Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013. The MCAI states:

> The airworthiness limitations for Airbus aeroplanes are currently published in Airworthiness Limitations Section (ALS) documents.
>
> The airworthiness limitations applicable to the Ageing Systems Maintenance (ASM) are given in Airbus A330 ALS Part 4, which is approved by EASA.
>
> Revision 04 of Airbus A330 ALS Part 4 introduces more restrictive maintenance requirements and/or airworthiness limitations. Failure to comply with these instructions could result in an unsafe condition.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2012–0020 [*http://ad.easa.europa.eu/ad/2012-0020*], which is superseded, and requires accomplishment of the actions specified in Airbus A330 ALS Part 4 at Revision 04.
>
> In addition, this [EASA] AD also supersedes EASA AD 2006–0159 [*http://ad.easa.europa.eu/ad/2006-0159*], EASA AD 2008–0026 [*http://ad.easa.europa.eu/ad/2008-0026*] and EASA AD 2008–0160 [*http://ad.easa.europa.eu/ad/2008-0160*] [which correspond to FAA ADs 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007); 2010–15–02, Amendment 39–16368 (75 FR 42589, July 22, 2010); and 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009), respectively], whose requirements applicable to A330 aeroplanes have been transferred into Airbus A330 ALS Part 4.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0834.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. An anonymous commenter supported the SNPRM (80 FR 12360, March 9, 2015).

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM (80 FR 12360, March 9, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (80 FR 12360, March 9, 2015).

Related Service Information Under 1 CFR Part 51

Airbus issued A330 Airworthiness Limitations Section (ALS) Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, and Airbus A330 ALS Part 4—Aging Systems Maintenance (ASM), Variation 4.1 and Variation 4.2, both dated July 23, 2014. This service information describes preventative maintenance requirements and associated airworthiness limitations applicable to aircraft systems susceptible to aging effects. 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 AD.

Costs of Compliance

We estimate that this AD affects 79 airplanes of U.S. registry.

We estimate that it will take about 2 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $13,430, or $170 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.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0834;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

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

■ a. Removing Airworthiness Directive (AD) 2003–14–11, Amendment 39–13230 (68 FR 41521, July 14, 2003); AD 2004–11–08, Amendment 39–13654 (69 FR 31874, June 8, 2004); AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004); AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004); AD 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007); AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)); AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009); AD 2010–15–02, Amendment 39–16368 (75 FR 42589, July 22, 2010); AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012); and

■ b. Adding the following new AD:

2015–16–02 Airbus: Amendment 39–18227. Docket No. FAA–2013–0834; Directorate Identifier 2012–NM–045–AD.

(a) Effective Date

This AD becomes effective September 15, 2015.

(b) Affected ADs

This AD replaces the ADs specified in paragraphs (b)(1) through (b)(9) of this AD.

(1) AD 2003–14–11, Amendment 39–13230 (68 FR 41521, July 14, 2003).

(2) AD 2004–11–08, Amendment 39–13654 (69 FR 31874, June 8, 2004).

(3) AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004).

(4) AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004).

(5) AD 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007).

(6) AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)).

(7) AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009).

(8) AD 2010–15–02, Amendment 39–16368 (75 FR 42589, July 22, 2010).

(9) AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012).

(c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –243, –223F, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to address the aging effects of aircraft systems. Such aging effects could change the characteristics of those systems, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity of the airplane or reduce the controllability of the airplane.

(f) Compliance

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

(g) Maintenance Program Revision and Actions

Within 6 months after the effective date of this AD, revise the maintenance program or inspection program, as applicable, by incorporating Airbus A330 Airworthiness Limitations Section (ALS) Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, and Airbus A330 ALS Part 4—Aging Systems Maintenance (ASM), Variation 4.1 and Variation 4.2, both dated July 23, 2014. The initial compliance times for the actions are within the applicable compliance times specified in the Record of Revisions pages of Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, Airbus A330 ALS Part 4—Aging Systems Maintenance (ASM), Variation 4.1 and Variation 4.2, both dated July 23, 2014, or within 6 months after the effective date of this AD, whichever is later, except as required by paragraph (h) of this AD.

(h) Exceptions to Initial Compliance Times

(1) Where Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, defines a calendar compliance time for elevator servo-controls having part number (P/N) SC4800–2, SC4800–3, SC4800–4, SC4800–6, SC4800–7, or SC4800–8 as ''August 31, 2004,'' the calendar compliance time is June 13, 2007 (34 months after August 13, 2004 (the effective date of AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004))).

(2) Where Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, defines a calendar compliance time for spoiler servo-controls (SSCs) having P/N 1386A0000–01, P/N 1386B0000–01, P/N 1387A0000–01 or P/N 1387B0000–01 as ''December 31, 2003,'' the calendar compliance time is November 19, 2005 (13 months after October 19, 2004 (the effective date of AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004))).

(3) Where Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, defines a calendar compliance time for elevator servo-controls having P/N SC4800–73, SC4800–93, SC4800–103 and SC4800–113 as ''June 30, 2008,'' the calendar compliance time is September 16, 2009 (17 months after April 16, 2008 (the effective date of AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)))).

(4) The initial compliance time for replacement of the retraction brackets of the main landing gear (MLG) having a part number specified in paragraphs (h)(4)(i) through (h)(4)(xvi) of this AD is before the accumulation of 19,800 total landings on the affected retraction brackets of the MLG, or within 900 flight hours after April 9, 2012 (the effective date of AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012), whichever occurs later.

(i) 201478303
(ii) 201478304
(iii) 201478305
(iv) 201478306
(v) 201478307
(vi) 201478308
(vii) 201428380
(viii) 201428381
(ix) 201428382
(x) 201428383
(xi) 201428384
(xii) 201428385
(xiii) 201428378
(xiv) 201428379

(xv) 201428351

(xvi) 201428352

(5) Where Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, defines a calendar compliance time for the modification of SSCs on three hydraulic circuits having part numbers MZ4339390–01X, MZ4306000–01X, MZ4339390–02X, MZ4306000–02X, MZ4339390–10X, or MZ4306000–10X as ''March 5, 2010,'' the calendar compliance time is April 14, 2011 (18 months after October 14, 2009 (the effective date of AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009))).

(6) Where Note (6) of ''ATA 27–64–00 Flight Control—Spoiler Hydraulic Actuation,'' of Sub-part 4–2–1, ''Life Limits,'' of Sub-part 4–2, ''Systems Life Limited Components,'' of Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, defines a calendar date of ''September 5, 2008,'' as a date for the determination of accumulated flight cycles since the aircraft initial entry into service, the date is October 14, 2009 (the effective date of AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009)).

(7) Where Note (6) of ''ATA 27–64–00 Flight Control—Spoiler Hydraulic Actuation,'' of Sub-part 4–2–1, ''Life Limits,'' of Sub-part 4–2, ''Systems Life Limited Components,'' of Airbus A330 ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013, defines a calendar compliance time as ''March 5, 2010,'' for the modification of affected servo controls, the calendar compliance time is April 14, 2011 (18 months after October 14, 2009 (the effective date of AD 2009–18–20, Amendment 39–16017 (74 FR 46313, September 9, 2009))).

(i) No Alternative Actions or Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-ACO-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 Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) AD 2013–0268, dated November 7, 2013, 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–2013–0834.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus A330 Airworthiness Limitations Section ALS Part 4—Aging Systems Maintenance, Revision 04, dated August 27, 2013.

(ii) Airbus A330 ALS Part 4—Aging Systems Maintenance (ASM), Variation 4.1, dated July 23, 2014.

(iii) Airbus A330 ALS Part 4—Aging Systems Maintenance (ASM), Variation 4.2, dated July 23, 2014.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(4) 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.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on July 28, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–19182 Filed 8–10–15; 08:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0751; Directorate Identifier 2013–NM–188–AD; Amendment 39–18229; AD 2015–16–04]

RIN 2120–AA64

Airworthiness Directives; Kidde Graviner

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Kidde Graviner hand-operated fire extinguishers. This AD was prompted by a report that a fire extinguisher failed to operate when the activation lever was pressed. This AD requires modifying the affected fire extinguishers. We are issuing this AD to prevent fire extinguishers from failing to operate in the event of a fire, which could jeopardize occupants' safety and continuation of safe flight and landing.

DATES: This AD becomes effective September 15, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 15, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0751* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Kidde Graviner Limited, Mathisen Way, Colnbrook, Slough, Berkshire, SL3 0HB, United Kingdom; telephone +44 (0) 1753 583245; fax +44 (0) 1753 685040. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0751.

FOR FURTHER INFORMATION CONTACT: Ian Lucas, Aerospace Engineer, Boston Aircraft Certification Office (ACO), ANE–150, FAA, Engine and Propeller Directorate, 12 New England Executive

Park, Burlington, MA 01803; phone: 781–238–7757; fax: 781–238–7170; email: *ian.lucas@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Kidde Graviner hand-operated fire extinguishers. The NPRM published in the **Federal Register** on October 16, 2014 (79 FR 62070).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2012–0037, dated March 9, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Kidde Graviner hand-operated fire extinguishers. The MCAI states:

> An instance occurred where an operator tried to use the fire extinguisher, but the extinguisher failed to operate when the activation lever was pressed.
>
> This condition, if not detected and corrected, could lead, in case of need to use the device to extinguish a fire on an aircraft, to jeopardize the occupants' safety as well as the flight continuation and safe landing.
>
> The part manufacturer Kidde Graviner has introduced a design change to remove the root cause of the possible failure.
>
> This [EASA] AD requires to modify all potentially defective fire extinguishers [including applying adhesive to the gland nut].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0751-0004.*

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 62070, October 16, 2014) and the FAA's response to each comment. One anonymous commenter supported the NPRM.

Request To Refer to ''Aircraft'' Instead of ''Various Transport and Small Airplanes''

One anonymous commenter requested that we revise paragraph (c) of the proposed AD (79 FR 62070, October 16, 2014) to refer to ''aircraft'' instead of ''various transport and small airplanes.'' The commenter stated that the change is in the interest of improving accuracy and for clarification. The commenter added the request is based on the fact that the key to addressing the unsafe condition is finding suspected products, defined by the manufacturer's part numbers, and the category under which the aircraft operates is not material.

We agree with the request to refer to ''aircraft'' instead of ''various transport and small airplanes'' for the reasons stated by the commenter. We have replaced the text ''various transport and small airplanes'' with the word ''aircraft'' in paragraph (c) of this AD.

Change to Manufacturer's Name

We have revised paragraph (c)(3) of this AD to identify the manufacturer name for the Model C–212–CB, C–212–CC, C–212–CD, C–212–CE, C–212–CF, C–212–DE, and C–212–DF airplanes as Airbus Defense and Space S.A. (Type Certificate previously held by EADS CASA; Construcciones Aeronauticas, S.A.). Airbus Defense and Space S.A. (Type Certificate previously held by EADS CASA; Construcciones Aeronauticas, S.A.) is the manufacturer name published in the most recent type certificate data sheet for those models.

Clarification of Parts Installation Prohibition

We have added a reference to ''paragraph (h) of this AD'' within paragraph (i) of this AD to clarify which modified parts may be installed.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 62070, October 16, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 62070, October 16, 2014).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

Kidde Graviner has issued Alert Service Bulletin A26–081, Revision 1, dated January 31, 2012. The service information describes procedures for modifying fire extinguishers. 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 AD.

Costs of Compliance

We estimate that this AD affects 400 appliances installed on, but not limited to, various aircraft of U.S. registry.

We also estimate that it will take about 25 work-hours 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 $850,000, or $2,125 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.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0751;* or in person at the Docket Management

Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

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):

2015–16–04 Kidde Graviner: Amendment 39–18229. Docket No. FAA–2014–0751; Directorate Identifier 2013–NM–188–AD.

(a) Effective Date

This AD becomes effective September 15, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Kidde Graviner hand-operated fire extinguishers having part numbers 56412–001 (34H), 56411–001 (35H), and 56412–002 (38H). These fire extinguishers may be installed on, but not limited to, aircraft, certificated in any category, specified in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), and (c)(6) of this AD.

(1) BAE Systems (Operations) Limited Model ATP airplanes.

(2) BAE Systems (Operations) Limited Model 4101 airplanes.

(3) Airbus Defense and Space S.A. (Type Certificate previously held by EADS CASA; Construcciones Aeronauticas, S.A.) Model C–212–CB, C–212–CC, C–212–CD, C–212–CE, C–212–CF, C–212–DE, and C–212–DF airplanes.

(4) Fokker Services B.V. Model F.27 Mark 050, 100, 200, 300, 400, 500, 600, and 700 airplanes.

(5) Short Brothers PLC Model SD3–60 SHERPA, SD3–SHERPA, SD3–30, and SD3–60 airplanes.

(6) SHORT BROTHERS & HARLAND LTD SC–7 Series 2 and SC–7 Series 3 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire Protection.

(e) Reason

This AD was prompted by a report that a fire extinguisher failed to operate when the activation lever was pressed. We are issuing this AD to prevent fire extinguishers from failing to operate in the event of a fire, which could jeopardize occupants' safety and continuation of safe flight and landing.

(f) Compliance

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

(g) Modification

Within 6 months after the effective date of this AD, modify all Kidde Graviner hand-operated fire extinguishers having part numbers 56412–001 (34H), 56411–001 (35H), and 56412–002 (38H), in accordance with the Accomplishment Instructions of Kidde Graviner Alert Service Bulletin A26–081, Revision 1, dated January 31, 2012.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Kidde Graviner Alert Service Bulletin A26–081, dated August 23, 2011, which is not incorporated by reference in this AD.

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install any Kidde Graviner hand-operated fire extinguisher having part number 56412–001 (34H), 56411–001 (35H), or 56412–002 (38H) on any airplane unless the fire extinguisher has been modified as specified in paragraph (g) or (h) of this AD.

(j) Other FAA AD Provision

The following provision for Alternative Methods of Compliances (AMOCs) also applies to this AD: The manager of the office having certificate responsibility for the affected product 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. The Manager, Boston Aircraft Certification Office (ACO), FAA, will coordinate requests for approval of AMOCs with the manager of the appropriate office for the affected product. Send information to ATTN: Ian Lucas, Aerospace Engineer, Boston ACO, ANE–150, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7757; fax: 781–238–7170; email: *ian.lucas@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.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) Airworthiness Directive 2012–0037, dated March 9, 2012, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA–2014–0751–0004.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Kidde Graviner Alert Service Bulletin A26–081, Revision 1, dated January 31, 2012. Page 2 of this document is dated August 23, 2011.

(ii) Reserved.

(3) For service information identified in this AD, contact Kidde Graviner Limited, Mathisen Way, Colnbrook, Slough, Berkshire, SL3 0HB, United Kingdom; telephone +44 (0) 1753 583245; fax +44 (0) 1753 685040.

(4) 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.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on July 29, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–19474 Filed 8–10–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200 and 232

[Docket No. FR–5632–F–02]

RIN 2502–AJ27

Federal Housing Administration (FHA): Updating Regulations Governing HUD Fees and the Financing of the Purchase and Installation of Fire Safety Equipment in FHA-Insured Healthcare Facilities

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule updates HUD fees for multifamily housing and residential healthcare facilities, and updates and

streamlines the Section 232 program regulations that govern the financing of the purchase and installation of fire safety equipment in insured healthcare facilities, which have not been substantially updated in over 20 years. This final rule gives HUD flexibility in raising or lowering fees, and for residential healthcare facilities, streamlines the loan application process by eliminating unnecessary requirements, conforming needed requirements to current industry practices, and allowing for HUD to centralize the loan application process.

DATES: *Effective Date:* September 10, 2015.

FOR FURTHER INFORMATION CONTACT: For information about: HUD's Multifamily Housing program, contact Dan Sullivan, Deputy Director, Office of Multifamily Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6148, Washington, DC 20410–8000; telephone number 202–708–1142; HUD's Healthcare program, contact Vance Morris, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6134, Washington, DC 20410–8000; telephone number 202–402–2419. The telephone numbers listed above are not toll-free numbers. Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background—the January 14, 2015, Proposed Rule

On January 14, 2015, HUD published a proposed rule in the **Federal Register**, at 80 FR 1855, to update HUD fees for multifamily housing and residential healthcare facilities, and update and streamline the Section 232 program regulations that govern the financing of the purchase and installation of fire safety equipment in insured healthcare facilities. See the January 14, 2015, proposed rule for a more detailed listing of the proposed changes.

Update HUD Fees

HUD's January 14, 2015, rule proposed to amend HUD's general fee regulations in 24 CFR 200.40, which contain the fees that apply to most mortgages insured by FHA, including Section 232 mortgages. To bring consistency and conformity to HUD's regulations, the amount of the application fee for Section 232 programs would be moved to a new § 200.40(d)(2), and only cross-referenced in the Section 232 program regulations. The current § 200.40(d), setting the general application fee, would be redesignated as § 200.40(d)(1). In addition, paragraphs (d)(1) and (d)(2) would allow the Secretary flexibility in setting the respective fees, up to a maximum fee of $5.00 per thousand dollars of the requested mortgage amount to be insured.

The rule proposed to eliminate the commitment fee in HUD's regulations at 24 CFR part 232, subpart C, and therefore also proposed to eliminate the requirement in § 232.515 that the commitment fee be refunded. The provisions allowing for refund of the application fee remained unchanged. In addition, instead of being set out in the Section 232 program regulations, the maximum fees and charges and the inspection fee in §§ 232.520 and 232.522, respectively, would cross-reference the §§ 200.40 and 200.41 regulations.

Update and Streamline 24 CFR 232, Subpart C, Regulations

HUD's January 14, 2015, rule proposed to update and streamline the requirements of HUD's regulations at 24 CFR part 232, subpart C, and primarily focused on removing or revising several fees required in these regulations that HUD has determined are no longer needed or, alternatively, are not set at sufficient levels.

Health and Human Services (HHS) requirements and involvement. The rule proposed to streamline HUD's regulations by eliminating duplicative and unnecessary involvement by HHS. For example, the rule proposed to revise the definition of ''equipment cost'' in § 232.500(e) to eliminate the involvement of the Secretary of HHS in estimating the reasonable cost of the fire safety equipment installation. HUD has determined that the estimate by the Secretary of HHS is an unnecessary step.

The rule proposed to remove the requirement at § 232.505(a) that an application for insurance of a fire safety loan under part 232 be considered in connection with a proposal approved by the Secretary of HHS. Section 232.615 would still require, however, that the facility requesting the loan meet HHS fire safety requirements.

In § 232.510(b), the rule proposed to replace the responsibility of the Secretary of HHS to determine the satisfactory completion of installation of fire safety equipment with that of the Commissioner.

In § 232.570, the rule proposed to eliminate the requirement that the Secretary of HHS submit a statement that the fire safety equipment has been satisfactorily installed. The rule proposed to replace this provision with a requirement of a certification that the improvements were installed as required by § 232.500(c). As stated earlier in regard to other proposed changes, § 232.615 would still require the facility to meet HHS fire safety requirements in order for HUD to insure the loan.

The rule proposed to eliminate the requirement in § 232.620 that an application for insurance under 24 CFR part 232, subpart C, be accompanied by a statement from HHS or the HHS Secretary's designee, such as a State, that the facility will meet pertinent health and safety requirements of HHS—other than the fire safety equipment requirements—once the fire safety equipment has been installed. Instead of this requirement, the rule proposed to substitute a reference to certification of compliance with HHS, Federal, State, and local requirements for fire safety equipment to be provided prior to endorsement.

Definitions. The rule proposed to update the outdated standard in § 232.500(c)(1) which required ''fire safety equipment'' to meet the standards for applicable occupancy of any edition of the Life Safety Code [1] (LSC) of the National Fire Protection Association after 1966 (§ 232.500(c)(1)(i)); or a standard mandated by a State, under the provisions of section 1616(e) of the Social Security Act (§ 232.500(c)(1)(ii)); or any appropriate requirement approved by the Secretary of HHS for providers of services under title XVIII or title XIX of the Social Security Act (§ 232.500(c)(1)(iii)). For § 232.500(c)(1)(i), the rule proposed instead to require that ''fire safety equipment'' meet the applicable provisions of the edition of the LSC adopted by the Secretary of HHS. For § 232.500(c)(1)(ii), HUD proposed no change. HUD proposed to remove § 232.500(c)(1)(iii), because approval by the Secretary of HHS is achieved through the change to § 232.500(c)(1)(i).

The rule also proposed to revise the definition of ''eligible borrower'' in § 232.615 to eliminate all references to the requirement that the facility meet

[1] The Life Safety Code addresses those construction, protection, and occupancy features necessary to minimize danger to life from the effects of fire, including smoke, heat, and toxic gases created during a fire. The code also addresses protective features and systems, building services, operating features, maintenance activities, and other provisions in recognition of the fact that achieving an acceptable degree of life safety depends on additional safeguards to provide adequate egress time or protection for people exposed to fire.

HHS health and safety requirements, although the facility would still have to meet HHS fire safety requirements.

Applications. HUD proposed to remove the requirement in § 232.505(b) to submit applications to HUD's local offices.

Method of loan payment and amortization period. Instead of being set out in the 232 program regulations, the method of loan payment and amortization period in § 232.540 would cross-reference § 200.82.

Maximum loan amount. In § 232.565, the rule proposed to revise the maximum loan amount to allow for the financing of fees, similar to the regulations governing fees in other Section 232 loan insurance programs.

Contract requirements. The rule proposed to remove the limitation in § 232.605 that contracts be either lump sum or cost plus contracts and instead proposed to allow such contracts as may be specified by the FHA Commissioner.

Certification of cost requirements. In § 232.610, the rule proposed to require that a certification of actual cost be made for all forms of contract, instead of only when a cost plus form of contract is used. Further, it proposed to eliminate the requirement that the amount of the loan be adjusted to reflect the actual cost to the borrower of the improvements.

II. This Final Rule

This final rule follows publication of the January 14, 2015, proposed rule and adopts that proposed rule without change. The public comment period for the proposed rule closed on March 16, 2015, and HUD received one public comment.

Comment: This rulemaking is the appropriate solution to an outdated and burdensome loan application process. Commenter is supportive of HUD's proposed rule to update outdated and burdensome requirements. Commenter states that updating the rules that govern the financing of the purchase and installation of fire safety equipment in insured healthcare facilities will save lives and streamlining the loan application process will reduce administrative burdens and costs.

HUD Response: HUD appreciates the commenter's support for this rule and adopts the proposed rule without change.

III. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

At the proposed rule stage, this document was determined not to be a ''significant regulatory action'' as defined in section 3(f) of the Executive order. Because this final rule adopts the January 14, 2015, proposed rule, without change, the final rule is also not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted to the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and approved under OMB control numbers 2502–0605 and 2502–0541. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Environmental Review

A Finding of No Significant Impact (FONSI) with respect to the environment for this rule was made at the proposed rule stage, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI remains applicable, and is available for public inspection between 8 a.m. and 5 p.m., weekdays, in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–5000. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The final rule imposes no requirements on small businesses. In fact, streamlining the Fire Safety Equipment Loan Program requirements should ease an existing burden on those small businesses seeking to accommodate acute care patients and those needing to upgrade or install fire safety equipment to meet HHS requirements.

Accordingly, the undersigned certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either (i) imposes substantial direct compliance costs on State and local governments and is not required by statute or (ii) preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance Number for the Mortgage Insurance Nursing Homes, Intermediate Care Facilities, Board and Care Homes and Assisted Living Facilities is 14.129; for Mortgage Insurance-Rental Housing

is 14.134; for Mortgage Insurance for the Purchase or Refinancing of Existing Multifamily Housing Projects is 14.155.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

Accordingly, for the reasons discussed in this preamble, HUD amends 24 CFR parts 200 and 232 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

■ 1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

■ 2. Amend § 200.40 to:

■ a. Redesignate paragraph (d) as paragraph (d)(1);

■ b. Revise the paragraph heading and first sentence of newly redesignated (d)(1); and

■ c. Add paragraph (d)(2).

The revisions and addition read as follows:

§ 200.40 HUD fees.

* * * * *

(d)(1) *Application fee—firm commitment: General.* An application for firm commitment shall be accompanied by an application-commitment fee in an amount determined by the Secretary, which when added to any prior fees received in connection with the same application, shall not exceed $5.00 per thousand dollars of the requested mortgage amount to be insured.

* * *

(2) *Application fee—Section 232 Programs.* For purposes of mortgages insured under HUD's regulations in 24 CFR part 232, subpart C, an application for firm commitment shall be accompanied by an application fee in an amount determined by the Secretary, which shall not exceed $5.00 per thousand dollars of the requested mortgage amount to be insured.

* * * * *

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, BOARD AND CARE HOMES, AND ASSISTED LIVING FACILITIES

■ 3. The authority citation for 24 CFR part 232 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715w; 42 U.S.C. 3535(d).

Subpart C—Eligibility Requirements—Supplemental Loans To Finance Purchase and Installation of Fire Safety Equipment

■ 4. In § 232.500, revise paragraphs (c)(1)(i) and (ii) and (e) to read as follows:

§ 232.500 Definitions.

* * * * *

(c) * * *

(1) * * *

(i) The edition of The Life Safety Code of the National Fire Protection Association as accepted by the Department of Health and Human Services in 42 CFR 483.70; or

(ii) A standard mandated by a State under the provisions of section 1616(e) of the Social Security Act.

* * * * *

(e) *Equipment cost* means the reasonable cost of fire safety equipment fully installed as determined by the Commissioner.

* * * * *

■ 5. Revise § 232.505 to read as follows:

§ 232.505 Application and application fee.

(a) *Filing of application.* An application for insurance of a fire safety loan for a nursing home, intermediate care facility, assisted living facility or board and care home shall be submitted on an approved HUD form by an approved lender and by the owners of the project to the HUD office.

(b) *Application fee.* See 24 CFR 200.40(d)(2).

■ 6. Amend § 232.510 to:

■ a. Revise paragraphs (b), (c), and (d);

■ b. Remove paragraph (e); and

■ c. Redesignate paragraph (f) as paragraph (e) and revise newly designated paragraph (e) to read as follows:

§ 232.510 Commitment and commitment fee.

* * * * *

(b) *Type of commitment.* The commitment will provide for the insurance of the loan after satisfactory completion of installation of the fire safety equipment, as determined by the Commissioner.

(c) *Term of commitment.* A commitment shall have a term as the Commissioner deems necessary for satisfactory completion of installation.

(d) *Commitment fee.* See 24 CFR 200.40(d)(2).

(e) *Increase in commitment prior to endorsement.* An application, filed prior to endorsement, for an increase in the amount of an outstanding firm commitment shall be accompanied by an additional application fee. The additional application fee shall be in an amount determined by the Secretary as equal to the amount determined under 24 CFR 200.40(d)(2), which shall not exceed $5.00 per thousand dollars of the amount of the requested increase. If an inspection fee was required in the original commitment, an additional inspection fee shall be paid in an amount computed at the same dollar rate per thousand dollars of the amount of increase in commitment as was used for the inspection fee required in the original commitment. The additional inspection fee shall be paid prior to the date installation of fire safety equipment is begun, or, if installation has begun, it shall be paid with the application for increase.

■ 7. Revise § 232.515 to read as follows:

§ 232.515 Refund of fees.

If the amount of the commitment issued or an increase in the loan amount prior to endorsement is less than the amount applied for, the Commissioner shall refund the excess amount of the application fee submitted by the applicant. If an application is rejected before it is assigned for processing, or in such other instances as the Commissioner may determine, the entire application fee or any portion thereof may be returned to the applicant.

■ 8. Revise § 232.520 to read as follows:

§ 232.520 Maximum fees and charges by lender.

See 24 CFR 200.40 titled ''HUD fees'' and 200.41 titled ''Maximum mortgage fees and charges'' for maximum fees and charges applicable to mortgages insured under 24 CFR part 232.

■ 9. Revise § 232.522 to read as follows:

§ 232.522 Inspection fee.

See 24 CFR 200.40 titled ''HUD fees'' and 200.41 titled ''Maximum mortgage fees and charges'' for maximum fees and charges applicable to mortgages insured under 24 CFR part 232.

■ 10. Revise § 232.540 to read as follows:

§ 232.540 Method of loan payment and amortization period.

See 24 CFR 200.82 titled ''Maturity'' for loan payment and amortization period requirements applicable to mortgages insured under 24 CFR part 232.

■ 11. In § 232.565, revise the first sentence to read as follows:

§ 232.565 Maximum loan amount.

The principal amount of the loan shall not exceed the lower of the Commissioner's estimate of the cost of the fire safety equipment, including the cost of installation and eligible fees, or the amount supported by ninety percent (90%) of the residual income, which is ninety percent (90%) of the amount of net income remaining after payment of all existing debt service requirements, as determined by the Commissioner. * * *

■ 12. In § 232.570, revise paragraph (c) to read as follows:

§ 232.570 Endorsement of credit instrument.

* * * * *

(c) Certification that fire safety equipment was installed as required by § 232.500(c).

■ 13. Revise § 232.605 to read as follows:

§ 232.605 Contract requirements.

The contract between the mortgagor and the general contractor may be in the form of a lump sum contract, a cost plus contract, or different or alternative forms of contract specified by the Commissioner.

■ 14. In § 232.610, revise paragraph (a) to read as follows:

§ 232.610 Certification of cost requirements.

(a) *Certificate and adjustment.* No loan shall be insured unless a certification of actual cost is made by the contractor.

* * * * *

■ 15. In § 232.615, revise paragraph (a) to read as follows:

§ 232.615 Eligible borrowers.

(a) In order to be eligible as a borrower under this subpart the applicant shall be a profit or non-profit entity, which owns a nursing home or intermediate care facility for which the Secretary of Health and Human Services has determined that the installation of fire safety equipment in such facility is necessary to meet the applicable requirements of the Secretary of Health and Human Services for providers of services under Title XVIII and Title XIX of the Social Security Act and that upon completion of the installation of such equipment the nursing home or intermediate care facility will meet the applicable fire safety requirements of HHS. Until the termination of all obligations of the Commissioner under an insurance contract under this subpart and during such further period of time as the Commissioner shall be the owner, holder, or reinsurer of the loan, the borrower shall be regulated or restricted by the Commissioner as to methods of operation including requirements for maintenance of fire safety equipment.

* * * * *

■ 16. Revise § 232.620 to read as follows:

§ 232.620 Determination of compliance with fire safety equipment requirements.

Prior to Endorsement, applicant must provide certification that the installed improvements will meet HHS, as well as all other Federal, state and local requirements for fire safety equipment, if applicable.

Dated: August 6, 2015.

Edward L. Golding,

Principal Deputy, Assistant Secretary for Housing.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2015–19714 Filed 8–10–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2015–OSERS–0048; CFDA Number: 84.263B.]

Final Priority—Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority under the Experimental and Innovative Training program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2015 and later years. We take this action to focus Federal financial assistance on an identified national need. We intend the priority to support a Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance (PEQA).

DATES: This priority is effective September 10, 2015.

FOR FURTHER INFORMATION CONTACT: Don Bunuan, U.S. Department of Education, 400 Maryland Avenue SW., Room 5046, Potomac Center Plaza (PCP), Washington, DC 20202–2800. Telephone: (202) 245–6616 or by email: *don.bunuan@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: This program is designed to (a) develop new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of these new types of training programs for rehabilitation personnel in providing rehabilitation services to individuals with disabilities; and (b) develop new and improved methods of training rehabilitation personnel, so that there may be a more effective delivery of rehabilitation services by State and other rehabilitation agencies.

Program Authority: 29 U.S.C. 772(a)(1).

Applicable Program Regulations: 34 CFR part 385 and 387.

We published a notice of proposed priority for this competition in the **Federal Register** on May 28, 2015 (80 FR 30399). That notice contained background information and our reasons for proposing the particular priority. There are differences between the proposed priority and the final priority, and we explain those differences in the *Analysis of Comments and Changes* section of this notice.

Public Comment: In response to our invitation in the notice of proposed priority, four parties submitted comments.

Generally, we do not address technical and other minor changes. In addition, we do not address comments that raise concerns not directly related to the proposed priority.

Analysis of the Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Comment: One commenter observed that the priority should provide for continuing personnel development for those who have completed the Basic Certification Program and approach the intermediate level of competency. The commenter recommended allowing those who have completed the Basic Certification Training to qualify as intermediate-level program evaluators in order to access the Special Topical Trainings. In addition, two commenters

recommended adding a technical assistance (TA) component that addresses quality improvement in the work of all vocational rehabilitation (VR) personnel, not just the VR agency's program evaluators. The commenters noted that quality improvement is an issue relevant to work at all levels of a VR agency; therefore, other VR staff need to understand the principles of program evaluation, quality assurance, and continuous improvement.

Discussion: We agree that a wide array of State VR agency personnel could benefit from a greater understanding of program evaluation and quality assurance principles. However, the focus of this priority is to advance the knowledge and skills of VR program evaluation personnel through specialized professional education and training. The priority is not intended as a vehicle for providing technical assistance to a broader range of VR personnel on general program evaluation and quality assurance principles.

Thus, the Basic Certification Program described in this priority is designed as an intensive, structured training program to increase the numbers and qualifications of VR program evaluators. The Special Topical Trainings are targeted to more advanced program evaluators, and we want to ensure that those individuals have first priority in attending those sessions. However, if additional space in a Special Topical Training is available, we believe it would be an appropriate and efficient use of resources to open enrollment to individuals who have completed the Basic Certification Program, and then, if seats still remain, to other State VR agency personnel whose current work responsibilities are closely aligned with the specific topic area of the training.

Changes: We have inserted a new paragraph (b) in the Special Topical Training section of the priority that would allow the PEQA, after ensuring that intermediate-level program evaluators have been given priority to register for a specific training session, to open registration to individuals who have completed the Basic Certification Program, and then to other VR personnel whose current work responsibilities are closely aligned with the specific topic area of the training, if additional space in such training is available.

Comment: One commenter recommended that the center support, strengthen, and augment existing communities of practice that focus on program evaluation, rather than establish new communities of practice to perform these functions.

Discussion: We agree that creating new communities of practice is not always necessary. Coordinating with, and enhancing the efforts of, existing communities of practice focused on program evaluation could also be beneficial in sharing information, exchanging ideas, and accomplishing the activities in paragraph (a) of the Coordination Activities section of the priority.

Changes: The communities of practice requirement in paragraph (a) of Coordination Activities under the Project Activities section has been revised to also permit the PEQA to support, strengthen, and augment existing communities of practice, and to establish new communities of practice, as needed, to act as vehicles for communication, exchange of information among program evaluation professionals, and a forum for sharing the results of capstone projects that are in progress or have been completed.

Comment: Two commenters mentioned a preference for substituting the term ''continuous improvement'' for ''quality assurance'' throughout the priority. Commenters cited the extensive use of ''continuous improvement'' in the proposed regulations implementing the Workforce Innovation and Opportunity Act (WIOA) that were published in the **Federal Register** on April 16, 2015 (80 FR 21059).

Discussion: We recognize the significance of the term ''continuous improvement'' and its use throughout WIOA. However, we believe that ''quality assurance'' and ''program evaluation,'' as described in this priority, represent key elements of the overall process of ''continuous improvement.''

Changes: We have revised the initial paragraph of the priority to emphasize that continuous improvement is the overall goal of program evaluation and quality assurance. However, we have retained the priority's focus on skill development in the area of program evaluation and quality assurance. We have also added footnotes referencing the terms ''program evaluation'' and ''quality assurance'' as these terms are used in the field in order to clarify the use of those terms.

Comment: One commenter expressed concern about the process by which information and resources are disseminated from the TA Center in a timely manner for use by State VR agencies.

Discussion: Consistent with the provisions in the ''Coordination Activities'' section of the priority, we agree that timely dissemination of information and resources for use by State VR agencies is important, and mechanisms to ensure the timely dissemination of such materials will be included in the cooperative agreement.

Changes: None.

Comment: One commenter requested that the new center provide TA to tribal VR programs funded through the Rehabilitation Services Administration (RSA), observing that this would be particularly beneficial since tribal VR programs have many of the same requirements to demonstrate continuous improvement as State VR agencies.

Discussion: This priority is intended to assist State VR agencies to build their capacity to meet the performance accountability demands of core programs under WIOA's workforce system. Specifically, this priority is designed to assist State VR agencies to implement high-quality program evaluation and quality assurance programs through the education and training of VR evaluation personnel. Other programs of the Department address these and other needs of tribal VR agencies. Amendments made by WIOA to section 121 of the Rehabilitation Act require RSA to reserve funds from the set-aside for the American Indian Vocational Rehabilitation Services (AIVRS) program under section 110(c) to provide training and TA to assist governing bodies of Indian tribes in developing, conducting, administering, and evaluating their AIVRS projects.

Changes: None.

Comment: Two commenters requested that grant funds under this priority be used to provide logistical and technical support for an existing annual conference focused on program evaluation. Both commenters indicated that an opportunity for in-person interaction and networking would benefit the field as well as support the efforts of objectives of the priority.

Discussion: Nothing in the priority precludes an applicant from proposing to provide logistical and technical support for an existing annual conference focused on program evaluation and quality assurance, as long as such a proposal is consistent with paragraph (a) of the Coordination Activities section of the proposed Center.

Changes: None.

Comment: Two commenters recommended that funding be provided for travel for the cohorts of participants in the Basic Certification Program.

Discussion: Nothing in the priority would preclude an applicant from proposing to use grant funds to support participant travel for the in-person

component of the Basic Certification Program, consistent with 34 CFR 387.41.

Changes: None.

Comment: One commenter asked whether the trainings detailed under paragraphs (a) and (b) of the Special Topical Training section describe the same or different trainings.

Discussion: Paragraphs (a) and (b) refer to the same trainings. Paragraph (a) of the Special Topical Training section requires the Center to develop topical trainings, and paragraph (b) requires that those same trainings be conducted no fewer than four times a year.

Changes: None.

Comment: One commenter asked whether the Basic Certification Program is an academic or a professional certificate program.

Discussion: The project is required to develop a basic certification program. Nothing in the priority precludes an applicant from proposing a program that also provides academic credit to participants. However, we note that the priority requires that the Basic Certification Program be offered at no cost to participants. As such, we believe it is unlikely that a project will offer academic credit to all participants, though applicants, with support from an institution of higher education, are welcome to propose such arrangements.

Changes: None.

Final Priority

The purpose of this priority is to fund a cooperative agreement for a training and technical assistance center that will assist State vocational rehabilitation (VR) agencies to improve performance management by building their capacity to carry out high-quality program evaluations [1] and quality assurance [2] practices that promote continuous program improvement.

The Technical Assistance Center for Program Evaluation and Quality Assurance (PEQA) will assist State VR agencies in building capacity through professional education and training of VR evaluators. To this end, PEQA will:

(a) Provide educational opportunities for State VR staff from recognized experts in program evaluation and quality assurance;

(b) Develop interagency collaboration networks and work teams committed to the improvement of quality assurance systems and tools; and

(c) Deliver technical, professional, and continuing educational support to State VR program evaluators.

Project Activities

To meet the requirements of this priority, the PEQA must, at a minimum, conduct the following activities:

Basic Certification Program

(a) Develop a one-year certificate program in VR program evaluation that will result in increasing the numbers and qualifications of program evaluators in State VR agencies. At a minimum, this certificate program must:

(1) Be designed to develop key competencies necessary for successful implementation of program evaluation and quality assurance activities, including, but not limited to:

(i) Knowledge of the State-Federal VR program;

(ii) Data collection methodologies;

(iii) Data analysis and interpretation;

(iv) Making evaluative judgments and recommendations;

(v) Effective communication of results (including presentations, drafting reports, and building partnerships); and

(vi) Ethical practice.

(2) Be responsive to the prior knowledge and skills of participants;

(3) Incorporate adult learning principles and opportunities for practice into training;

(4) Be delivered through multiple modalities and in an accessible format;

(5) Assess, at regular intervals, the progress of training participants toward attainment of the key competencies; and

(6) Require the completion of a capstone project in order to successfully complete the program. The capstone project must:

(i) Be completed within one year of the completion of formal coursework for the certificate program;

(ii) Be conducted on a topic responsive to the needs of the State VR agency and agreed to by the PEQA, the participant, and the State VR agency; and

(iii) Be completed as part of the normal work duties of the participant in the State VR agency.

(7) Be provided at no cost to participants, excluding travel and per diem costs, which may be provided by the sponsoring agency.

(b) Provide training through the certificate program to a cohort of eight to ten working professionals in each year of the project.

(c) Select participants for the certificate program based, in part, on the considered recommendation of their employing State VR agencies.

Special Topical Training

(a) Develop a series of special training opportunities for intermediate-level program evaluators. These training opportunities must, at a minimum:

(1) Be designed to develop higher-level knowledge, skills, and abilities of program participants;

(2) Be focused on a range of topics determined by the PEQA with input from State VR agencies and other relevant groups or organizations;

(3) Provide opportunities for hands-on application of the competencies discussed in the trainings;

(4) Be of sufficient duration and intensity to ensure that participants obtain the competencies discussed in the trainings; and

(5) Assess the progress of program participants in attaining the competencies discussed in the trainings.

(b) If, after ensuring that intermediate-level program evaluators have priority in registering for Special Topical Training provided under paragraph (a), the PEQA determines that additional space is available, the Center may open registration to individuals who have completed the Basic Certification Program described in this priority. In addition, if additional space in such training opportunities is still available after intermediate-level program evaluators and individuals who have completed the Basic Certification Program have been allowed to register, the Center may open registration to State VR agency personnel whose current work responsibilities are closely aligned with the specific topic area of the particular training opportunity.

Note: For purposes of this priority, an ''intermediate-level program evaluator'' is a program evaluator working for a State VR agency with the knowledge, skills, and abilities typically expected of a professional who has been in such a position for at least five years.

(c) Conduct no fewer than four special training opportunities each year of the project.

Coordination Activities

(a) Support, strengthen, and augment existing communities of practice, and establish new communities of practice, as needed, to act as vehicles for communication, exchange of information among program evaluation

[1] ''Program evaluation'' is ''the appropriate, timely, and systematic collection, analysis, and reporting of data to facilitate stakeholder judgement concerning program worth in regards to its design, demands, size and type of effect, match between effect and need, cost effectiveness, strength of casual connections and utility.'' Leahy, M.J., Thielsen, V.A., Millington, M.J., Austin, B., & Fleming, A. (2009). Quality assurance and program evaluation: Terms, models, and applications. Journal of Rehabilitation Administration, 33(2), 69–82.

[2] ''Quality assurance'' is ''a systematic process designed to identify, analyze, and eliminate variations in processes or outcomes.'' Leahy, M.J., Thielsen, V.A., Millington, M.J., Austin, B., & Fleming, A. (2009). Quality assurance and program evaluation: Terms, models, and applications. Journal of Rehabilitation Administration, 33(2), 69–82.

professionals, and a forum for sharing the results of capstone projects that are in progress or have been completed. These communities of practice must be focused on challenges facing program evaluation professionals and the development of key competencies to address such challenges;

(b) Maintain a Web site that, at a minimum:

(1) Provides a central location for later reference and use of capstone projects, resources from special training opportunities, and other relevant materials; and

(2) Ensures peer-to-peer access between State VR project evaluation professionals;

(c) Communicate and coordinate, on an ongoing basis, with other relevant Department-funded projects and those supported by the Departments of Labor, Commerce, and Health and Human Services; and

(d) Maintain ongoing communication with the RSA project officer and other RSA staff as required.

Application Requirements.

To be funded under this priority, applicants must meet the application and administrative requirements in this priority. RSA encourages innovative approaches to meet these requirements, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address State VR agencies' capacity to conduct high quality program evaluation and data analysis activities. To address this requirement, the applicant must:

(i) Demonstrate knowledge of emerging and best practices in program evaluation and quality assurance;

(ii) Demonstrate knowledge of current State VR and other efforts designed to improve evaluation and performance management practices.

(2) Increase the number of program evaluators working in State VR agencies who have obtained a certificate in their field of work and the number and quality of program evaluation activities performed by State VR agencies.

(b) Demonstrate, in the narrative section of the application under ''Quality of Project Services,'' how the proposed project will—

(1) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes;

(ii) A plan for how the proposed project will achieve its intended outcomes; and

(iii) A plan for communicating and coordinating with relevant training programs and communities of practice, State VR agencies, and other RSA partners.

(2) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework.

(3) Be based on current research and make use of evidence-based practices. To meet this requirement, the applicant must describe:

(i) How the current research about adult learning principles and implementation science will inform the proposed training; and

(ii) How the proposed project will incorporate current research and evidence-based practices in the development and delivery of its products and services.

(4) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) Its proposed curriculum for a certificate program for VR evaluation professionals;

(ii) Its proposed plan for recruiting and selecting trainees for the certification program;

(iii) Its proposed plan for collecting information on the impact of capstone projects;

(iv) Its proposed plan for identifying, selecting and addressing the special topical program evaluation and quality assurance related training needs of State VR agency staff;

(v) Its proposed plan for annual follow-up with participants in special training opportunities;

(5) Develop products and implement services to maximize the project's efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes; and

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration.

(c) Demonstrate, in the narrative section of the application under ''Quality of the Evaluation Plan,'' how the proposed project will—

(1) Measure and track the effectiveness of the training provided. To meet this requirement, the applicant must describe its proposed approach to—

(i) Collecting data on the effectiveness of training activities;

(ii) Analyzing and reporting data on the effectiveness of training, including any proposed standards or targets for determining effectiveness;

(2) Collect and analyze data on specific and measurable goals, objectives, and intended outcomes of the project, including measuring and tracking the effectiveness of the training provided. To address this requirement, the applicant must describe—

(i) Its proposed evaluation methodologies, including instruments, data collection methods, and analyses;

(ii) Its proposed standards or targets for determining effectiveness;

(iii) How it will use the evaluation results to examine the effectiveness of its implementation and its progress toward achieving the intended outcomes; and

(iv) How the methods of evaluation will produce quantitative and qualitative data that demonstrate whether the project and individual training activities achieved their intended outcomes.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks.

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these

allocations are appropriate and adequate to achieve the project's intended outcomes, including an assurance that such personnel will have adequate availability to ensure timely communications with stakeholders and RSA;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including those of State and local personnel, technical assistance providers, researchers, and policy makers, among others, in its development and operation.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities. The benefits of the Rehabilitation Training program have been well established over the years through the successful completion of similar projects funded for the purpose of improving the skills of State VR agency staff. The priority would specifically improve the skills of State VR agency evaluators. A project of this type will be particularly beneficial to State VR agencies in this era of increased emphasis on accountability and program results.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is

the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: August 5, 2015.

Michael K. Yudin,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2015–19617 Filed 8–10–15; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2007–0112; FRL–9932–21–Region 10]

Approval and Promulgation of Air Quality Implementation Plans; Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) revisions submitted by the State of Washington, Department of Ecology (Ecology). These revisions pertain to the plan to maintain the 1997 8-hour national ambient air quality standard (NAAQS) for ozone in the Vancouver portion of the Portland/Vancouver Air Quality Maintenance Area (Pdx/Van AQMA). The maintenance plan for this area meets Clean Air Act (CAA) requirements and demonstrates that the Vancouver portion of the Pdx/Van AQMA will be able to remain in attainment for the 1997 ozone NAAQS through 2015. The EPA is approving the maintenance plan and minor revisions to the motor vehicle inspection and maintenance (I/M) regulations in the statewide Emission Check Program.

DATES: This action is effective on September 10, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R10–OAR–2007–0112. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Claudia Vergnani Vaupel, (206) 553–6121, or by email at *vaupel.claudia@epa.gov*.

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

I. Background

The background for this action is discussed in more detail in our May 5, 2010 proposal. *See* 75 FR 24542. In that action, the EPA proposed to approve the CAA 110(a)(1) 8-hour ozone maintenance plan that the State of Washington submitted to demonstrate the continued attainment of the 1997 8-hour ozone NAAQS (the 8-hour ozone NAAQS) in the Vancouver portion of the Pdx/Van AQMA. Areas like the Vancouver portion of the Pdx/Van AQMA, that had been designated attainment (unclassifiable/attainment) for the 8-hour ozone NAAQS and had CAA 175A maintenance plans in place for the 1-hour ozone NAAQS, were required under 40 CFR 51.905, to submit 110(a)(1) plans for antibacksliding purposes to provide for maintenance of the 8-hour ozone NAAQS for at least 10 years after designation for the 8-hour ozone NAAQS. In the May 5, 2010 proposed action, the EPA found that the maintenance plan and its supporting rules met the requirements of the CAA.

The EPA also proposed to approve revisions to the I/M regulations in the statewide Emission Check Program. The revisions enhance the clarity of the rules and update them to reflect changing technology in automobiles, including allowing late model vehicles to be tested with their on-board diagnostic systems instead of with a tail-pipe test. The revisions also remove inspection fee provisions that had been previously approved into the SIP.

II. Response to Comments

The EPA received one comment on our May 5, 2010 proposed approval (75 FR 24542). The comment from the Sierra Club raised concerns about affirmative defense provisions applicable to violations that occur due to excess emissions during startup, shutdown, maintenance and upsets (SSM) in the existing Washington SIP.

The Sierra Club commented that the existence of the affirmative defense provisions in the underlying SIP compromises the ability of the maintenance plan to achieve its goals and threatens to cause or contribute to NAAQS violations in the Pdx/Van AQMA and downwind. Specifically, the Sierra Club described three concerns with the affirmative defense provisions in Southwest Clean Air Agency (SWCAA) and Ecology regulations, SWCAA 400–107(4)–(6) and Washington Administrative Code (WAC) 173–400–107(4)–(6). The commenter argued that the affirmative defense for excess emissions during startup and shutdown should be removed because the provisions ''lack justification'' and because excess emissions ''are already taken into consideration when setting emission standards and limits'' and the regulatory provisions are inconsistent with EPA guidance for compliance with CAA requirements for SIP provisions as expressed in the Memorandum of Steven A. Herman and Robert Perciasepe, Policy on Excess Emissions During Malfunctions, Startup and Shutdown (August 11, 1999) (the ''Herman Memo''). The commenter also argued that the affirmative defense for excess emissions during scheduled maintenance should be eliminated ''because routine maintenance is part of normal operations and should not, by itself, justify excess emissions'' and that the regulatory provisions are inconsistent with the interpretation of the CAA in the Herman Memo. Finally, the commenter argued that the affirmative defense for excess emissions during upsets (*i.e.,* malfunctions) is not consistent with the EPA interpretation of the requirements of the CAA in the Herman Memo for such provisions.

The SWCAA and Ecology regulations that provide for an affirmative defense for emissions during certain events that

the commenter identified as objectionable are not a part of the specific SIP submission that was the subject of the EPA's proposed action but were, rather, approved into the Washington SIP in 1995. The EPA acknowledges that these specific provisions are not consistent with CAA requirements, in light of more recent court decisions and regulatory actions. However, the EPA does not agree that the affirmative defense provisions in the Washington SIP provide a basis for disapproval of the maintenance plan submission. The EPA's review for this submission is limited to whether the specific maintenance requirements in CAA section 110(a)(1) and the provisions of the EPA's Phase 1 Implementation Rule (40 CFR 51.905(a)(3) and (4)) as explained in our May 20, 2005 guidance),[1] have been met. While the EPA understands the commenter's concerns about the existing SWCAA and Ecology SIP provisions, in the context of a 110(a)(1) maintenance plan approval the EPA is not required to re-evaluate the validity of all previously approved SIP provisions.

Although it is not required to address existing affirmative defense provisions in the context of this action on a maintenance plan, the EPA does have other authority to address alleged deficiencies in existing SIP provisions. In particular, the EPA has authority under section 110(k)(5) to address existing SIP deficiencies whenever it determines that a SIP provision is substantially inadequate. The EPA notes that since receipt of the comments discussed above on this action, the EPA finalized a call for SIP revisions (SSM SIP Call) as necessary to remove the identified affirmative defense provisions from the Washington SIP. *See* 80 FR 33840, June 12, 2015. Thus, the EPA has addressed the concerns regarding the affirmative defense provisions in the SWCAA and Ecology regulations raised by the commenter in a separate action.[2]

The EPA emphasizes that its approval of a maintenance plan does not mean that the SIP for the state in question fully meets each and every requirement of the CAA. More specifically, this approval does not constitute a finding that Washington's SIP, including the affirmative defense provisions, meets all CAA requirements. Nor does this final action contradict the EPA's separate finding in the SSM SIP Call that certain provisions in the Washington SIP, including the SWCAA rules, are substantially inadequate and therefore must be addressed to be consistent with CAA requirements. Rather, the nature of today's final action is a finding addressing the adequacy of the SIP to meet certain identified maintenance requirements. As discussed in our proposed action, the following is a summary of our evaluation of the submission against the five maintenance requirements in CAA section 110(a)(1) and the provisions of the EPA's Phase 1 Implementation Rule (40 CFR 51.905(a)(3) and (4)):

1. An attainment inventory, which is based on actual typical summer day emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_X) from a base year chosen by the state.

Ecology provided a comprehensive and current emissions inventory for NO_X and VOCs for the 2002 base year from which it projected emissions. The inventory is based on emissions from a ''typical summer day.''

2. A maintenance demonstration which shows how the area will remain in compliance with the 8-hour ozone standard for 10 years after the effective date of the designation.

Ecology projected that the total emissions of ozone precursors from Vancouver will decrease through 2015, which is further than 10 years from the effective date of the initial designations for the 1997 8-hour ozone standard (*See* 69 FR 23858, April 30, 2004). Ecology used air quality modeling to assess the comprehensive impacts of growth through 2015 on ozone levels in the area and demonstrated to the EPA that the highest predicted design value for Vancouver is 0.072 parts per million, which is below the 1997 and the 2008 ozone NAAQS.

3. A commitment to continue to operate ambient air quality monitors to verify maintenance of the 8-hour ozone standard.

Ecology commits to continue operating air quality monitoring stations in accordance with 40 CFR part 58 throughout the maintenance period to verify maintenance of the 1997 8-hour ozone standard, and will submit quality assured ozone data to the EPA through the Air Quality System.

4. A contingency plan that will ensure that any violation of the 8-hour ozone NAAQS will be promptly corrected.

The provisions in the contingency plan are linked to ambient concentrations of ozone and would be triggered if measured ozone levels at any of the ozone monitoring sites exceed early-warning thresholds or if a violation of the 8-hour ozone standard occurs. The contingency measures include a range of response actions that may be selected for implementation.

5. An explanation of how the state will verify continued attainment of the standard under the maintenance plan.

Ecology will continue to monitor ambient air quality ozone levels in the Vancouver portion of the Pdx/Van AQMA and will update countywide emission inventories every three years. If ambient ozone levels increase, Ecology will evaluate the emissions inventory against the 2002 and 2015 inventories in the maintenance plan.

Because the commenter's concerns with the affirmative defense provisions of Washington's SIP have been addressed through the SSM SIP Call and the instant action does not directly affect these existing provisions in Washington's SIP, the EPA is taking final action to approve the ozone maintenance plan as originally proposed.

The EPA emphasizes that approval of the maintenance plan does not relieve SWCAA or Ecology of the responsibility to remove legally deficient SIP provisions pursuant to a SIP call. To the contrary, the EPA maintains that affirmative defense provisions are contrary to CAA requirements and has taken separate action to require correction of those deficiencies. For an explanation of the EPA's interpretation of the CAA with respect to affirmative defense provisions in SIPs, see 80 FR 33840, 33981 (June 12, 2015).

III. Final Action

The EPA is approving the 110(a)(1) ozone maintenance plan for the Vancouver portion of the Pdx/Van AQMA and the new industrial growth allowances that have been used in the maintenance demonstration for this submission. Additionally, the EPA is incorporating by reference into the federally enforceable SIP the revisions to the I/M provisions (WAC Chapter 173–422) that merely reflect the changes as a result of technology upgrades in automobiles and remove inspection fee provisions that had been previously approved into the SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the

[1] May 20, 2005 memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act.*

[2] Furthermore, the commenter's characterization of the EPA's interpretation of the CAA with respect to affirmative defense provisions in SIPs is no longer current. Readers interested in the EPA's position on affirmative defense provisions should refer to the SSM SIP Call at 80 FR 33840 (June 12, 2015).

Ecology regulations (WAC Chapter 173–422) 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).

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the 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 the 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 it 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. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 13, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: July 30, 2015.

Dennis J. McLerran,

Regional Administrator, EPA Region 10.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

§ 52.2470 [Amended]

■ 2. Section 52.2470 is amended:

■ a. In paragraph (c) Table 1—Regulations Approved Statewide by:

■ i. Revising the entries 173–422–020, 173–422–030, 173–422–031, 173–422–060, and 173–422–065, 173–422–070, 173–422–075, 173–422–160, 173–422–190, 173–422–195; and

■ ii. Removing the entry 173–422–130.

■ b. In paragraph (e) in Table 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS by adding an entry for ''8-Hour Ozone 110(a)(1) Maintenance Plan'' at the end of the table.

The revisions and addition read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 1—REGULATIONS APPROVED STATEWIDE

State citation	Title/subject	State effective date	EPA approval date	Explanations
Washington Administrative Code, Chapter 173–422 Motor Vehicle Emission Inspection				
*	*	*	*	*
173–422–020	Definitions	7/4/02	8/11/15 [Insert **Federal Register** citation].	
173–422–030	Vehicle emission inspection requirement.	7/4/02	8/11/15 [Insert **Federal Register** citation].	

TABLE 1—REGULATIONS APPROVED STATEWIDE—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
173–422–031	Vehicle emission inspection schedules.	7/4/02	8/11/15 [Insert **Federal Register** citation].	
*	* *	*	* *	* *
173–422–060	Gasoline vehicle emission standards.	7/4/02	8/11/15 [Insert **Federal Register** citation].	
173–422–065	Diesel vehicle exhaust emission standards.	7/4/02	8/11/15 [Insert **Federal Register** citation].	
173–422–070	Gasoline vehicle exhaust emission testing procedures.	7/4/02	8/11/15 [Insert **Federal Register** citation].	
173–422–075	Diesel vehicle inspection procedure.	7/4/02	8/11/15 [Insert **Federal Register** citation].	
*	* *	*	* *	* *
173–422–160	Fleet and diesel owner vehicle testing requirements.	3/31/95	8/11/15 [Insert **Federal Register** citation].	Except: The part of 173–422–160(3) that says ''of twelve or less dollars''.
*	* *	*	* *	* *
173–422–190	Emission specialist authorization.	7/4/02	8/11/15 [Insert **Federal Register** citation].	
173–422–195	Listing of authorized emission specialists.	7/4/02	8/11/15 [Insert **Federal Register** citation].	
*	* *	*	* *	* *

* * * * * (e) * * *

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Comments
* * * *	*		*	*
8-Hour Ozone 110(a)(1) Maintenance Plan	Vancouver	1/17/2007	8/11/2015 [Insert page number where the document begins].	

[FR Doc. 2015–19724 Filed 8–10–15; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0248; FRL–9932–20–Region 4]

Approval and Promulgation of Implementation Plans; Georgia; Atlanta; Requirements for the 2008 8-Hour Ozone Standard

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 Georgia, through Georgia Environmental Protection Division (GA EPD) on February 6, 2015, to address the base year emissions inventory and emissions statements requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS) for the Atlanta, Georgia 2008 8-hour ozone nonattainment area (hereinafter referred to as the ''Atlanta Area''). These requirements apply to all ozone nonattainment areas. The Atlanta Area is comprised of 15 counties in Atlanta (Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale). This action is being taken pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: This direct final rule is effective October 13, 2015 without further notice, unless EPA receives adverse comment by September 10, 2015. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2015–0248, by one of the following methods:

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

2. *Email: R4-ARMS@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2015–0248, ''Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2015–0248. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information may not be publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bell can be reached at (404) 562–9088 and via electronic mail at *bell.tiereny@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Atlanta Area was designated nonattainment for the 2008 8-hour ozone NAAQS on April 30, 2012 (effective July 20, 2012) using 2009–2011 ambient air quality data. *See* 77 FR 30088 (May 21, 2012). At the time of designation, the Atlanta Area was classified as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. On March 6, 2015, EPA finalized a rule entitled ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements'' (SIP Requirements Rule) that establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS.[1] *See* 80 FR 12264. This rule establishes nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA, including an attainment date three years after the July 20, 2012, effective date, for areas classified as marginal for the 2008 8-hour ozone NAAQS. Therefore, the attainment date for the Atlanta Area is July 20, 2015.

Based on the nonattainment designation, Georgia was required to develop a SIP revision addressing certain CAA requirements for areas designated nonattainment. Specifically, pursuant to CAA sections 182(a)(1) and 182(a)(3)(B), Georgia was required to submit a SIP revision addressing the emissions inventory and emissions statements requirements, respectively.

Ground level ozone is not emitted directly into the air, but is created by chemical reactions between oxides of nitrogen (NO_X) and volatile organic compounds (VOC) in the presence of sunlight. Emissions from industrial facilities and electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_X and VOC. Section 182(a)(3)(B) of the CAA requires each state with ozone nonattainment areas to submit a SIP revision requiring annual emissions statements to be submitted to the state by the owner or operator of

[1] The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The rule also revokes the 1997 ozone NAAQS and establishes anti-backsliding requirements.

each NO_X or VOC stationary source [2] located within a nonattainment area showing the actual emissions of NO_X and VOC from that source. The first statement is due three years from the area's nonattainment designation, and subsequent statements are due at least annually thereafter. Section 182(a)(1) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit a SIP revision providing a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. NO_X and VOCs are the relevant pollutants because they are the precursors of ozone.

On February 6, 2015, Georgia submitted a SIP revision addressing the emissions inventory and emissions statements requirements related to the 2008 8-hour ozone NAAQS for the Atlanta Area.[3] EPA is now taking action to approve this SIP revision as meeting the requirements of sections 110, 182(a)(1), and 182(a)(3)(B) of the CAA.[4] More information on EPA's analysis of Georgia SIP revision and how this SIP revision addresses these requirements is provided below.

II. Analysis of State's Submittal

a. Base Year Emission Inventory

As discussed above, section 182(a)(1) of the CAA requires areas to submit a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in each ozone non-attainment area. The section 182(a)(1) base year inventory is defined in the SIP Requirements Rule as ''a comprehensive, accurate, current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1).'' *See* 40 CFR 51.1100(bb). The inventory year must be selected consistent with the baseline year for the RFP plan as required by 40 CFR 51.1110(b),[5] and the inventory must include actual ozone season day emissions as defined in 40 CFR 51.1100(cc) [6] and contain data elements consistent with the detail required by 40 CFR part 51, subpart A. *See* 40 CFR 51.1115(a), (c), (e). In addition, the point source emissions included in the inventory must be reported according to the point source emissions thresholds of the Air Emissions Reporting Requirements (AERR) in 40 CFR part 51, subpart A. 40 CFR 51.1115(d).

Georgia selected 2011 as the base year for the emissions inventory which is the year corresponding with the first triennial inventory under 40 CFR part 51, subpart A. This base year is one of the three years of ambient data used to designate the Area as a nonattainment area and therefore represents emissions associated with nonattainment conditions. The emissions inventory is based on data developed and submitted by GA EPD to EPA's 2011 National Emissions Inventory (NEI), and it contains data elements consistent with the detail required by 40 CFR part 51, subpart A.[7]

Georgia's emissions inventory for the Atlanta Area provides 2011 typical average summer day emissions for NO_X and VOCs for the following general source categories: Electric generating unit (EGU) point sources, non-EGU point sources, nonpoint sources, on-road mobile sources, non-road mobile sources, fire events, and biogenics. The summer day emissions were calculated as the average of emissions during weekdays in July 2011. A detailed discussion of the inventory development is located at pages 1 through 7 of the document entitled ''Atlanta Nonattainment Area Emissions Inventory for the 2008 8-Hour Ozone NAAQS'' (Inventory Document) in the State's February 6, 2015 submittal and Appendix A of that submittal which is provided in the docket for this action. The table below provides a summary of the emissions inventory.

TABLE 1—2011 EMISSIONS FOR THE ATLANTA AREA

[Tons per summer day]

County	Point-EGU		Point-non-EGU		Nonpoint		On-road		Non-road	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Bartow	16.85	0.70	0.54	0.36	0.17	4.09	11.18	4.52	3.48	2.22
Cherokee	0.00	0.00	0.09	0.24	0.12	5.36	8.53	4.73	3.49	2.72
Clayton	0.00	0.00	0.28	0.73	0.19	7.01	11.60	5.86	15.84	4.33
Cobb	8.84	0.10	0.57	0.74	0.69	20.49	26.86	15.83	11.15	10.26
Coweta	19.45	0.21	0.09	0.16	0.12	3.71	6.67	2.94	2.39	1.17
DeKalb	0.00	0.00	0.35	3.00	0.65	20.51	29.24	14.29	7.68	4.25
Douglas	0.00	0.00	0.00	0.00	0.08	4.12	6.39	3.09	1.56	0.80
Fayette	0.00	0.00	0.02	0.07	0.09	2.92	3.86	2.42	1.96	1.67
Forsyth	0.00	0.00	0.07	0.25	0.11	4.72	7.62	3.89	3.36	4.27
Fulton	0.00	0.00	1.18	0.68	1.38	26.97	47.49	21.46	17.53	10.06

[2] A state may waive the emission statement requirement for any class or category of stationary sources which emit less than 25 tons per year of VOCs or NO_X if the state meets the requirements of section 182(a)(3)(B)(ii).

[3] Georgia's SIP revision also certifies that its SIP-approved state regulation addressing nonattainment new source review for all new stationary sources and modified existing stationary sources in the Atlanta Area, 391–3–1–.03(8)—*Permit Requirements,* exceeds the requirements of section 182(a)(2)(C) for the 2008 8-hour ozone NAAQS. However, EPA does not believe that the two-year deadline contained in CAA section 182(a)(2)(C)(i) applies to nonattainment NSR SIPs for implementing the 8-hour ozone NAAQS. *See* 80 FR 12264, 12267 (March 6, 2015); 70 FR 71682, 71683 (November 29, 2005). The submission of NSR SIPs due on November 15, 1992, satisfied the section 182(a)(2)(C)(i) requirement for states to submit NSR SIP revisions to meet the requirements of CAA sections 172(c)(5) and 173 within two years after the date of enactment of the 1990 CAA Amendments. Id.

[5] 40 CFR 51.1110(b) states that ''at the time of designation for the 2008 ozone NAAQS the baseline emissions inventory shall be the emissions inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to EPA under the provisions of subpart A of this part. States may use an alternative baseline emissions inventory provided the state demonstrates why it is appropriate to use the alternative baseline year, and provided that the year selected is between the years 2008 to 2012.''

[6] ''Ozone season day emissions'' is defined as ''an average day's emissions for a typical ozone season work weekday. The state shall select, subject to EPA approval, the particular month(s) in the ozone season and the day(s) in the work week to be represented, considering the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity.'' 40 CFR 51.1100(cc).

[7] Data downloaded from the EPA Emissions Inventory System (EIS) from the 2011 NEI was subjected to quality assurance procedures described under quality assurance details under *2011 NEI Version 1 Documentation* located at *http://www.epa.gov/ttn/chief/net/2011inventory.html#inventorydoc.* The quality assurance and quality control procedures and measures associated with this data are outlined in the State's EPA-approved Emission Inventory Quality Assurance Project Plan.

TABLE 1—2011 EMISSIONS FOR THE ATLANTA AREA—Continued

[Tons per summer day]

County	Point-EGU		Point-non-EGU		Nonpoint		On-road		Non-road	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Gwinnett	0.00	0.00	0.00	0.16	0.67	24.03	30.64	16.74	14.37	13.97
Henry	0.00	0.00	6.11	1.54	0.11	4.67	9.86	4.61	4.03	1.87
Newton	0.00	0.00	0.07	1.06	0.10	3.08	6.49	3.71	1.70	1.15
Paulding	0.00	0.00	0.00	0.00	0.07	3.05	4.41	2.61	2.20	0.95
Rockdale	0.00	0.00	0.14	0.35	0.09	2.34	4.14	1.92	1.19	0.88
Total	45.14	1.01	9.49	9.35	4.63	137.06	214.98	108.62	91.92	60.56

The emissions reported for the Atlanta Area reflect the emissions for the 15 counties in the nonattainment area. The inventory contains point source emissions data for facilities located within the Area based on Geographic Information Systems (GIS) mapping. More detail on the emissions for individual sources categories is provided below and in Appendix A of the Georgia submittal.

Point sources are large, stationary, identifiable sources of emissions that release pollutants into the atmosphere. The EGU point sources emissions inventory was developed from facility-specific emissions data. NO_X emissions were calculated using continuous emissions monitoring system data which included hourly measurements. For VOC emissions, GA EPD used facility-specific emissions data reported to the 2011 NEI. These sources are required to submit inventory data according to the AERR. The non-EGU point source emissions inventory for the Atlanta Area was developed from non-EGU facility-specific data reported to the 2011 NEI. These sources are required to submit inventory data according to the AERR. The point source emissions data meets the point source emissions thresholds of 40 CFR part 51, subpart A. A detailed account of the non-EGU point sources can be found on pages 8 through 12 of the Inventory Document in the Georgia submittal.

Nonpoint sources are small emission stationary sources which, due to their large number, collectively have significant emissions (*e.g.,* dry cleaners, service stations). Emissions for these sources were obtained from the 2011 NEI. A detailed account of the nonpoint sources can be found in Appendix B and page 2 of the Inventory Document in the Georgia submittal.

On-road mobile sources include vehicles used on roads for transportation of passengers or freight. Georgia developed its on-road emissions inventory using EPA's Motor Vehicle Emissions Simulator (MOVES) model for each ozone nonattainment county.[8] County level on-road modeling was conducted using county-specific vehicle population and other local data. A detailed account of the on-road sources can be found in Appendix D and page 3 of the Inventory Document in the Georgia submittal.

Non-road mobile sources include vehicles, engines, and equipment used for construction, agriculture, recreation and other purposes that do not use the roadways (*e.g.,* lawn mowers, construction equipment, railroad locomotives and aircraft). Georgia obtained emissions for the non-road mobile sources from the 2011 NEI. Those emissions were estimated using National Mobile Inventory Model (NMIM) with updated NMIM County Database (NCD) files from GA EPD. A detailed account of the non-road mobile sources can be found in Appendix D of the February 6, 2015, submittal.

Georgia included 2011 actual emissions from fire events and biogenic sources in its emissions inventory. Wildland fires are unplanned, unwanted wild land fires including unauthorized human-caused fires, escaped prescribed fire projects, or other inadvertent fire situations where the objective is to put the fire out. Prescribed fires are any fires ignited by management actions to meet specific objectives related to the reduction of the biomass potentially available for wildfires. Fire event emissions were developed by GA EPD using fire records collected from the Georgia Forestry Commission (GFC), when fire activities were not included in the GFC database, military bases and federal agencies (USFS and FWS) records were used. In addition, GA EPD collected detailed burning records for the Okefenokee area which showed burned area per day. A detailed account of fire event sources can be found in Appendix A and on page 4 of the Inventory Document in the Georgia submittal.

Biogenic emission sources are emissions that come from natural sources. GA EPD obtained biogenic emissions for 2011 from the 2011 NEI and used the summary of county-specific daily biogenic emissions.[9] A detailed account of biogenic sources can be found in Appendix A and on page 4 of the Inventory Document in the Georgia submittal. The table below provides a summary of the 2011 fire event and biogenic emissions for the Atlanta Area.

TABLE 2–2011—FIRE EVENT AND BIOGENIC EMISSIONS FOR THE ATLANTA AREA

[Tons per summer]

County	Fire events		Biogenic	
	NO_X	VOC	NO_X	VOC
Bartow	0.00	0.00	0.34	88.53
Cherokee	0.00	0.00	0.17	85.92
Clayton	0.00	0.00	0.19	32.40

[8] Georgia used MOVES version 2010b because this was the latest version available at the time that the State submitted its SIP revision.

[9] The emissions were calculated from the Biogenic Emission Inventory System (BEIS) version 3.14 model in the Sparse Matrix Operator Kernel Emissions model (SMOKE) with 2011 meteorological data from the Weather Research Forecasting (WRF) Model.

TABLE 2–2011—FIRE EVENT AND BIOGENIC EMISSIONS FOR THE ATLANTA AREA—Continued

[Tons per summer]

County	Fire events		Biogenic	
	NO_X	VOC	NO_X	VOC
Cobb	0.00	0.00	0.31	63.54
Coweta	0.00	0.00	0.26	83.79
DeKalb	0.00	0.00	0.20	46.69
Douglas	0.00	0.00	0.15	49.86
Fayette	0.00	0.00	0.18	46.12
Forsyth	0.00	0.00	0.18	47.93
Fulton	0.00	0.00	0.30	77.42
Gwinnett	0.00	0.00	0.38	76.09
Henry	0.00	0.00	0.25	53.31
Newton	0.00	0.00	0.20	56.67
Paulding	0.00	0.00	0.17	66.80
Rockdale	0.00	0.00	0.18	39.80
Total	0.00	0.00	3.45	914.88

For the reasons discussed above, EPA has determined that Georgia's emissions inventory meets the requirements under CAA section 182(a)(1) and the SIP Requirements Rule for the 2008 8-hour ozone NAAQS.

b. Emissions Statements

Pursuant to section 182(a)(3)(B), states with ozone nonattainment areas must require annual emissions statements from NO_X and VOC stationary sources within those nonattainment areas. In 1996, EPA incorporated Georgia's regulation 391–3–1–.02(6)(a)4, *Emissions Statements,* into the SIP. *See* 61 FR 3819 (February 2, 1996). At that time, this regulation applied to stationary sources within Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale Counties. Georgia subsequently amended the regulation to, among other things, include Bartow and Newton Counties thereby covering the entire Atlanta Area. EPA incorporated these amendments into the SIP in 2009. *See* 74 FR 62249 (November 27, 2009). In its February 6, 2015, SIP revision, Georgia certified that this SIP-approved regulation 391–3–1–.02(6)(a)(4) meets the requirements of section 182(a)(3)(B) for the Area.[10]

III. Final Action

EPA is approving the SIP revision submitted by Georgia on February 6, 2015, addressing the base year emissions inventory and emissions statement requirements for the 2008 8-hour ozone NAAQS for the Atlanta Area. EPA has concluded that the State's submission meets the requirements of sections 110 and 182 of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective October 13, 2015 without further notice unless the Agency receives adverse comments by September 10, 2015.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 13, 2015 and no further action will be taken on the proposed rule.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the Agency may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

[10] As discussed in the preamble to the SIP Requirements Rule, a state may rely on emissions statement rules in force and approved by EPA for the 1997 ozone NAAQS or the 1-hour ozone NAAQS provided that the rules remain adequate and cover all portions of the 2008 ozone NAAQS nonattainment areas. *See* 80 FR 12291.

application of those requirements would be inconsistent with the CAA; and

• does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 13, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 30, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart L—Georgia

■ 2. Section 52.570(e), is amended by adding an entry for ''Atlanta 2008 8-hour Ozone Marginal Area Requirements'' at the end of the table to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA Approval date	Explanation
* *	* * *		*	*
Atlanta 2008 8-hour Ozone Marginal Area Requirements.	Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale Counties.	2/6/15	8/11/15; [Insert citation of publication].	.....

[FR Doc. 2015–19728 Filed 8–10–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120403249–2492–02]

RIN 0648–XE087

Snapper-Grouper Fishery of the South Atlantic; 2015 Recreational Accountability Measure and Closure for South Atlantic Golden Tilefish

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the golden tilefish recreational sector in the exclusive economic zone (EEZ) of the South Atlantic for the 2015 fishing year through this temporary rule. NMFS estimates recreational landings of golden tilefish in 2015 have exceeded the recreational annual catch limit (ACL). Therefore, NMFS closes the golden tilefish recreational sector in the South Atlantic EEZ on August 11, 2015. This closure is necessary to protect the golden tilefish resource.

DATES: This rule is effective 12:01 a.m., local time, August 11, 2015, until 12:01 a.m., local time, January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Britni LaVine, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *britni.lavine@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes golden tilefish 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 recreational ACL for golden tilefish is 3,019 fish. In accordance with regulations at 50 CFR 622.193(a)(2), if recreational landings of golden tilefish exceed the recreational ACL, the Assistant Administrator, NMFS (AA), will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year. 2015 landings data from the NMFS Southeast Fisheries Science Center indicate that the golden tilefish recreational ACL has been exceeded. Therefore, this temporary rule implements an AM to close the golden tilefish recreational sector of the snapper-grouper fishery for the remainder of the 2015 fishing year. As a result, the recreational sector for golden tilefish in the South Atlantic EEZ will be closed effective 12:01 a.m., local time August 11, 2015.

During the closure, the bag and possession limits for golden tilefish in or from the South Atlantic EEZ are zero. Additionally, during the following fishing year in 2016, NMFS will monitor recreational landings for a persistence in increased landings and, if necessary, reduce the length of the 2016 fishing season by the amount necessary to ensure landings do not exceed the recreational ACL, in accordance with 50 CFR 622.193(a)(2). The recreational sector for golden tilefish will reopen on January 1, 2016, the beginning of the 2016 recreational fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of golden tilefish 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(a)(2) 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 recreational sector for golden tilefish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the AMs established by Regulatory Amendment 12 to the FMP (77 FR 61295, October 9, 2012) and located at 50 CFR 622.193(a)(2) have already been subject to notice and comment. The AMs authorize the AA to file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year if recreational landings reach, or are projected to reach, the recreational ACL. All that remains is to notify the public of the recreational closure for golden tilefish for the remainder of the 2015 fishing year. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect the golden tilefish resource, since time for notice and public comment will allow for continued recreational harvest and further exceedance of the recreational ACL.

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

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

Dated: August 6, 2015.

Jennifer M. Wallace,

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

[FR Doc. 2015–19701 Filed 8–6–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 154
Tuesday, August 11, 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.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

[Docket No. CPSC–2015–0020]

Petition Requesting Rulemaking on Supplemental Mattresses for Play Yards With Non-Rigid Sides

AGENCY: Consumer Product Safety Commission.

ACTION: Request for comments.

SUMMARY: The Consumer Product Safety Commission (''CPSC'' or ''Commission'') has received a petition requesting a ban on supplemental mattresses for play yards with non-rigid sides, which are currently marketed to be used with non-full-size cribs, play yards, portable cribs, and play pens. The Commission invites written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by October 13, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2015–0020, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov*. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov*. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

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

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number, CPSC–2015–0020, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Rocky Hammond, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–6833, email: *rhammond@cpsc.gov*.

SUPPLEMENTARY INFORMATION: On June 16, 2015, Keeping Babies Safe (referred to as ''KBS'' or ''petitioner''), submitted a petition to the Commission to initiate a rulemaking to ban supplemental mattresses for play yards with non-rigid sides, which are currently marketed to be used with non-full-size cribs, play yards, portable cribs, and play pens under the Commission's authority under section 8 of the Consumer Product Safety Act (''CPSA''), 15 U.S.C. 2057. KBS states that these supplemental mattresses should be deemed banned hazardous products because they present an unreasonable risk of injury and death to infants, and that no feasible consumer product safety standard would adequately protect infants from the unreasonable risk of injury and death associated with the product.[1]

In support, the petitioner asserts that KBS analyzed the death and injuries associated with supplemental mattresses, based on CPSC incident data. According to KBS, between 2000 and 2013, 15 incidents involving supplemental mattresses occurred in domestic settings and six incidents occurred in a child care setting. The petitioner states that all of the incidents involved a child being wedged between gaps created when a supplemental mattress was added to a play yard or portable crib. The petitioner additionally states that the data indicate that most of the supplemental mattresses involved in deaths exceeded 1½ inches in thickness.

The petitioner also asserts that the current standard (ASTM F406–13, Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards) does not adequately address the risk of injury posed by supplemental mattresses. KBS states that although ASTM F406–13 requires each product to be sold with a mattress provided by the manufacturer with a total thickness not to exceed 1½ inches, and contain warnings never to add a mattress, supplemental mattresses continue to be marketed to consumers for use in portable cribs and play yards. According to the petitioner, modifying the existing language in the current ASTM standard is not adequate to educate consumers about the unreasonable risk of injury that these mattresses pose to consumers. KBS states that, because supplemental mattresses continue to be sold to consumers, the most effective way to address the risk of injury caused by supplemental mattresses is to ban the product so that consumers do not have access to the product.

Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; email: *cpsc-os@cpsc.gov;* telephone (301) 504–6833. The petition is also available at *http://www.regulations.gov* under Docket No. CPSC–2015–0020, Supporting and Related Materials.

Dated: August 6, 2015.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2015–19680 Filed 8–10–15; 8:45 am]

BILLING CODE 6355–01–P

[1] KBS excludes from its request replacement mattresses offered for sale by manufacturers of play yards who offer mattresses as a replacement part for those mattresses that were originally included with the play yard.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–419N]

Schedules of Controlled Substances: Placement of Eluxadoline Into Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration proposes to place the substance eluxadoline (5-[[[(*2S*)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(*1S*)-1-(4-phenyl-1*H*-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid), including its salts, isomers, and salts of isomers, into schedule IV of the Controlled Substances Act (CSA). This proposed scheduling action is pursuant to the CSA which requires that such actions be made on the record after opportunity for a hearing through formal rulemaking. If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule IV controlled substances on persons who handle (manufacture, distribute, dispense, import, export, engage in research, conduct instructional activities, or possess), or propose to handle eluxadoline.

DATES: Interested persons may file written comments on this proposal in accordance with 21 CFR 1308.43(g). Electronic comments must be submitted, and written comments must be postmarked, on or before September 10, 2015. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Interested persons, defined at 21 CFR 1300.01 as those ''adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811),'' may file a request for hearing, notice of appearance, or waiver of hearing pursuant to 21 CFR 1308.44 and in accordance with 21 CFR 1316.45, 1316.47, 1316.48, or 1316.49, as applicable. Requests for hearing, notices of appearance, and waivers of an opportunity for a hearing or to participate in a hearing must be received on or before September 10, 2015.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–419N'' on all correspondence, including any attachments.

- *Electronic comments:* The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the Web page or to attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on Regulations.gov. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.
- *Paper comments:* Paper comments that duplicate the electronic submission are not necessary and are discouraged. Should you wish to mail a paper comment *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, Virginia 22152.
- *Hearing requests:* All requests for hearing and waivers of participation must be sent to: Drug Enforcement Administration, Attn: Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing and waivers of participation should also be sent to: Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: John R. Scherbenske, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record. They will, unless reasonable cause is given, be made available by the Drug Enforcement Administration (DEA) for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act (FOIA) applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment.

Comments containing personal identifying information and confidential business information identified as directed above will generally be made publicly available in redacted form. If a comment has so much confidential business information or personal identifying information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *http://www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document and supplemental information to this proposed rule are available at *http://www.regulations.gov* for easy reference.

Request for Hearing, Notice of Appearance at Hearing, Waiver of an Opportunity for a Hearing or To Participate in a Hearing

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA), 5 U.S.C. 551–559. 21 CFR 1308.41–1308.45; 21 CFR part 1316, subpart D. In accordance with 21 CFR 1308.44(a)–(c), requests for hearing, notices of appearance, and waivers of an opportunity for a hearing or to participate in a hearing may be submitted only by interested persons, defined as those ''adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811).'' 21 CFR 1300.01. Such requests or notices must conform to the requirements of 21 CFR 1308.44(a) or (b), and 1316.47 or 1316.48, as applicable, and include a

statement of interest of the person in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. Any waiver must conform to the requirements of 21 CFR 1308.44(c) and 1316.49, including a written statement regarding the interested person's position on the matters of fact and law involved in any hearing.

Please note that pursuant to 21 U.S.C. 811(a), the purpose and subject matter of a hearing is restricted to: ''find[ing] that such drug or other substance has a potential for abuse, and * * * mak[ing] with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed * * *.'' All requests for hearing and waivers of participation must be sent to the DEA using the address information provided above.

Legal Authority

The DEA implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. 21 U.S.C. 801–971. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purpose of this action. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring an adequate supply is available for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, each controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308.

Pursuant to 21 U.S.C. 811(a)(1), the Attorney General may, by rule, ''add to such a schedule or transfer between such schedules any drug or other substance if he * * * finds that such drug or other substance has a potential for abuse, and * * * makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed * * *.'' The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

The CSA provides that scheduling of any drug or other substance may be initiated by the Attorney General (1) on her own motion; (2) at the request of the Secretary of Health and Human Services (HHS); or (3) on the petition of any interested party. 21 U.S.C. 811(a). If finalized, this action would impose the regulatory controls and administrative, civil, and criminal sanctions of schedule IV controlled substances for any person who handles eluxadoline.

Background

Eluxadoline is a new molecular entity with central nervous system opioid properties. It has not been marketed in any country. Eluxadoline has mixed mu opioid receptor (MOR) and kappa opioid receptor (KOR) agonist and delta opioid receptor (DOR) antagonist properties. Recently, the Food and Drug Administration (FDA) approved eluxadoline as a prescription drug for the treatment of irritable bowel syndrome with diarrhea (IBS-d). Eluxadoline will be marketed as 75 and 100 milligrams (mg) oral tablets under the trade name of Viberzi.

Proposed Determination To Schedule Eluxadoline

Pursuant to 21 U.S.C. 811(a)(1), proceedings to add a drug or substance to those controlled under the CSA may be initiated by request of the Secretary of the HHS.[1] The HHS provided the DEA with a scientific and medical evaluation document (dated May 5, 2015) prepared by the FDA entitled ''Basis for the Recommendation to Place Eluxadoline and Its Salts into schedule IV of the Controlled Substances Act'' and a scheduling recommendation. Pursuant to 21 U.S.C. 811(b), this document contained an eight-factor analysis of the abuse potential of eluxadoline as a new drug, along with the HHS' recommendation to control eluxadoline under schedule IV of the CSA.

In response, the DEA reviewed the scientific and medical evaluation and scheduling recommendation provided by the HHS, and all other relevant data, and completed its own eight-factor review document pursuant to 21 U.S.C. 811(c). Included below is a brief summary of each factor as analyzed by the HHS and the DEA, and as considered by the DEA in its proposed scheduling decision. Please note that both the DEA and the HHS analyses are available in their entirety under ''Supporting and Related Material'' in the public docket for this proposed rule at *http://www.regulations.gov,* under Docket Number ''DEA–419N''. Full analysis of, and citations to, the information referenced in the summary may also be found in the supporting and related material.

1. *The Drug's Actual or Relative Potential for Abuse:* Eluxadoline is a new chemical entity that has not been marketed in the U.S. or in any other country. As such, there is no information available which details actual abuse of eluxadoline. However, the legislative history of the CSA suggests that the DEA consider the following criteria in determining whether a particular drug or substance has a potential for abuse: [2]

(1) There is evidence that individuals are taking the drug or drugs containing such a substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or to the community;

(2) There is significant diversion of the drug or substance from legitimate drug channels;

(3) Individuals are taking the substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice; or

(4) The drug or drugs containing such a substance are new drugs so related in their action to a drug or drugs already listed as having a potential for abuse to make it likely that they will have the same potentiality for abuse as such substance, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.

Both the HHS and the DEA note that three of the above mentioned four criteria (1, 2, and 3) do not apply to eluxadoline for the following reasons. Eluxadoline is a new molecular entity

[1] As set forth in a memorandum of understanding entered into by the HHS, the Food and Drug Administration (FDA), and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of the NIDA. 50 FR 9518, Mar. 8, 1985. In addition, because the Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations, for purposes of this document, all subsequent references to ''Secretary'' have been replaced with ''Assistant Secretary.''

[2] Comprehensive Drug Abuse Prevention and Control Act of 1970, H.R. Rep. No. 91–1444, 91st Cong., Sess. 1 (1970); 1970 U.S.C.C.A.N. 4566, 4601.

and has not been marketed in any country. Accordingly, it has not been diverted from legitimate sources, and individuals have not taken this substance in amounts sufficient to create a hazard to public health or safety. Therefore, criterion 4 is the only one that applies to eluxadoline.

Eluxadoline acts as a high affinity agonist at MORs and KORs and as an antagonist at DORs. Eluxadoline produced opioid agonistic effects such as centrally mediated analgesia, sedation, motor impairment, respiratory depression, and death in some animals. Eluxadoline generalized to morphine in a drug discrimination study in monkeys suggesting its MOR agonist properties. Monkeys self-administered eluxadoline indicating its rewarding properties.

Receptor binding and functional profile studies demonstrate that eluxadoline has KOR agonistic activity. Pentazocine (schedule IV opioid analgesic) and butorphanol (schedule IV opioid analgesic) are the two currently marketed opioid drugs with KOR agonist activity. Pentazocine and butorphanol were initially approved for market as non-controlled drugs. However, subsequent reports of their actual abuse supported control as schedule IV drugs under the CSA. Clinical studies indicated that pentazocine and butorphanol have been shown to cause greater dysphoria and to be less abusable than the schedule II opioids.

In human abuse potential studies, eluxadoline produced both positive and negative responses. The maximal effects of eluxadoline on Drug Liking are greater than that of placebo, but less than that of oxycodone (schedule II). Eluxadoline produced small statistically significant increases in several positive subjective responses such as visual analog scale (VAS) scores for Take Drug Again, Subjective Drug Value, Good Drug Effects, High, and the Addiction Research Center Inventory-Morphine Benzedrine Group (ARCI–MBG, Euphoria). The positive subjective responses to eluxadoline were most often statistically significantly less than those produced by oxycodone. Eluxadoline produced a high rate of euphoria in human abuse potential studies. However, these euphoric effects of eluxadoline are less than that of oxycodone.

Eluxadoline at all doses elicited a small but significant increase in the VAS score for Drug Disliking. Eluxadoline also produced a statistically significant increase in VAS Bad Drug Effects, ARCI Lysergic Acid Diethylamide (ARCI–LSD, Dysphoria), but did not cause a significant increase in Drowsiness and Sedation. These results are also similar to those produced by pentazocine in a published study which reported a statistically significant increase in the VAS score for Bad Drug Effects and the score for ARCI–LSD (Dysphoria). Eluxadoline produced dysphoric effects consistent with kappa agonist activity related effects produced by pentazocine and butorphanol.

In summary, eluxadoline appears to be so related in its action to substances already listed as having potential for abuse, and which have been controlled in schedule IV of the CSA, to make it likely that eluxadoline will have the same potential for abuse as those substances.

2. Scientific Evidence of Its Pharmacological Effects, If Known: The HHS, in its scientific and medical evaluation document, reviewed data from pre-clinical and clinical studies on eluxadoline. The HHS' findings are summarized below.

Pre-Clinical *In Vitro* Pharmacological Studies

Eluxadoline has high affinity at the MOR, KOR, and DOR. Eluxadoline lacked significant affinity for other binding sites including those associated with abuse potential. Similar to butorphanol (schedule IV), eluxadoline acted as an agonist at both MOR and KOR, but acted as an antagonist at DOR. Pentazocine (schedule IV) also has agonist activity at KOR.

Pre-Clinical *In Vivo* Studies

In the Irwin test (a test of general behavioral responses), there were no noticeable behavioral changes produced by eluxadoline at three subcutaneous doses of 500, 1000, or 2000 mg/kg in mice. Similarly, there were no changes in motor activity, reflexes, excitation, body tone, righting reflex, and rotorod tests or in body temperature in rats following oral administration of eluxadoline (30 or 300 mg/kg). However, intravenous administration of eluxadoline HCl (5, 10 and 20 mg/kg/day) in rats for 14 days followed by a 14-day recovery period produced classic opioid-related behaviors including general arousal, handling reactivity, stereotypy, tail pinch response, touch response, changes in posture, gait, mobility, righting reflex, respiration, and hindlimb splay. In a toxicity study in Cynomolgus monkeys, animals treated with eluxadoline (50, 100, and 200 mg/kg/day) or vehicle via oral gavage for nine months, followed by a four-week recovery period (for the vehicle and 200 mg/kg groups), exhibited no changes in behavior during the 39-week treatment period. In a dose-finding study, daily intravenous administration of 20 mg/kg eluxadoline for seven days produced opioid-associated behaviors (decreased respiration and periods of unconsciousness). These effects were severely pronounced following 40 mg/kg dose. All animals in the highest dose group (40 mg/kg reduced to 30 mg/kg on the second day of the dosing after one animal died) exhibited opioid overdose symptoms such as decreased activity, unresponsiveness, decreased body temperature and respiration rates. Opioid antagonist naloxone (0.1 mg/kg) was administered either subcutaneously or intravenously to more or less severely affected animals, respectively. Upon reducing the eluxadoline dose from 40 mg/kg to 30 mg/kg, all animals continued to respond with opioid overdose symptoms.

In a hot-plate test for studying anti-nociceptive effects in mice, oral administration of eluxadoline up to doses of 1000 mg/kg showed no significant analgesic responses. However, subcutaneous administration of both 10 and 50 mg/kg eluxadoline caused significant increases in hot plate latencies and produced concurrent opioid-associated behaviors such as Straub tail and increased limb tone.

As mentioned in the HHS scientific and medical evaluation and scheduling recommendation, drug discrimination tests in animals serve as an important experimental method for predicting whether the effects of a given test drug will be similar to that of a standard training drug used in the study. In drug discrimination studies conducted in Rhesus monkeys trained to discriminate between subcutaneously administered morphine (1 mg/kg) and vehicle using shock stimulus termination procedure, intravenous administration of 17.8 mg/kg dose of eluxadoline HCl produced full generalization to morphine (1 mg/kg) in the only monkey tested. When this same monkey was tested at 10 mg/kg, there was no generalization. However, the 10 mg/kg dose of eluxadoline produced full generalization in a different monkey. The lowest doses of eluxadoline at 1.0 (n = 1) and 3.2 mg/kg (n = 2) produced no generalization (<20%) to morphine. Eluxadoline, as a mu and kappa opioid agonist, produces an interoceptive cue similar to that of mu opioid agonist, morphine (schedule II). These data are similar to those from several published human studies in which butorphanol (schedule IV, mu and kappa opioid agonist), pentazocine (schedule IV, kappa opioid agonist) and tramadol (schedule IV, mu opioid agonist

prodrug) generalized to hydromorphone (schedule II, mu opioid agonist). Thus, these drug discrimination data demonstrate that mu opioid agonists will be recognized by animals and humans as having similar pharmacological properties to each other.

Drug self-administration tests in animals are used to evaluate the rewarding effects of drugs. There is a good correlation between those drugs that are self-administered by animals and those that are abused by humans. The data from self-administration studies provide a measure for abuse potential. In a self-administration study with monkeys (n = 5) trained to self-administer heroin (0.032 mg/kg/infusion in two monkeys or 0.01 mg/kg/infusion in three monkeys), the 0.32 and 1.0 mg/kg/infusion doses of eluxadoline HCl did not produce self-administration in one monkey trained to self-administer the higher 0.032 mg/kg/infusion dose of heroin, or in three other monkeys trained to self-administer the lower 0.001 mg/kg/infusion dose of heroin. When the highest dose of eluxadoline HCl (3.2 mg/kg/infusion) was tested first in the two monkeys trained at the 0.032 mg/kg/infusion dose of heroin, the self-administration rate of eluxadoline HCl (10–19 infusions/session) was less than that of heroin, but more than that of saline (2–4 infusions/session). The self-administration of eluxadoline in animals seems similar to that of the mu and kappa opioid agonist, butorphanol (schedule IV), a kappa opioid agonist, pentazocine (schedule IV) and another mu opioid agonist prodrug, tramadol (schedule IV).

Human Behavioral Studies

In a clinical study, the abuse potential, safety, tolerability, and pharmacokinetics of orally administered eluxadoline (100, 300 and 1000 mg) were compared with positive control drug, oxycodone (30 and 60 mg) in healthy non-dependent recreational opioid users. Of the subjects who received any study treatment, a total of 33 subjects completed the study. On the primary subjective measure of VAS Drug Liking, eluxadoline at the two supratherapeutic doses (300 and 1000 mg) produced statistically significant higher maximum (Emax) scores on Drug Liking compared to placebo. When compared to that of either dose of oxycodone on Drug Liking, all three tested doses of eluxadoline (100, 300 and 1000 mg) showed statistically significant lower Emax scores. Eighteen of the 36 subjects who received eluxadoline showed a statistically significant positive response on Drug Liking with at least one of the eluxadoline doses tested. Data from the secondary subjective measures showed that oxycodone (30 and 60 mg) statistically significantly increased scores on other positive subjective responses such as the VAS for Overall Drug Liking, Take Drug Again, Subjective Drug Value, Good Drug Effects, High, and ARCI–MBG (Euphoria). At supratherapeutic oral doses (300 and/or 1000 mg), eluxadoline elicited statistically significant increases as compared to the placebo in positive subjective responses such as VAS for Take Drug Again, Subjective Drug Value, Good Drug Effects, High, and ARCI–MBG (Euphoria). The positive subjective responses to eluxadoline were most often statistically significantly less than those produced by either dose of oxycodone (30 and 60 mg). The HHS states that these results are similar to those produced by a kappa opioid agonist, pentazocine (schedule IV). Eluxadoline at all doses elicited a small but significant increase in the VAS score for Drug Disliking, but it happened one to two hours before the peak Drug Liking response. Furthermore, there were no statistically significant differences in Drug Disliking between eluxadoline and oxycodone (60 mg). Eluxadoline also produced a statistically significant increase in VAS Bad Drug Effects, and ARCI–LSD (Dysphoria), but did not cause a significant increase in Drowsiness and Sedation. These results are also similar to those produced by pentazocine in a published study which reported a statistically significant increase in the VAS score for Bad Drug Effects and the score for ARCI–LSD (Dysphoria).

Oral administration of eluxadoline produced an increase in several classical opioid-like adverse events (AEs) associated with mu opioid agonists. Eluxadoline (ranging from 14–28%) produced euphoria in a dose-dependent manner and it was greater than that after placebo (5%) but less than that of oxycodone (ranging from 73–76%). Eluxadoline induced centrally-mediated responses such as somnolence (ranging from 19–42%), and it overlaps with the rate reported for oxycodone (38–41%) and placebo (19%). Peripheral opioid-associated AEs such as dry mouth were also mentioned (11–19% for eluxadoline and 11–13% for oxycodone). Pruritus was also reported with a range of 8–11% for eluxadoline and 54–70% for oxycodone. The above AEs support that eluxadoline produced typical opioid-like effects, although these are less frequent than reported for oxycodone.

Another clinical study evaluated the abuse potential and safety of intranasal administration of crushed eluxadoline (100 and 200 mg) in comparison to crushed oxycodone HCl (crushed, 15 and 30 mg) in 31 healthy adult, non-dependent recreational opioid users. On the primary subjective measure of Drug Liking VAS, eluxadoline (100 and 200 mg) failed to produce Emax scores on Drug Liking that were statistically different from that of placebo while oxycodone at both tested doses (15 and 30 mg) produced statistically significant higher maximum (Emax) scores compared to placebo. Results for the secondary subjective measures show oxycodone (15 and 30 mg) significantly increased scores on positive subjective responses including the VAS for Overall Drug Liking, Take Drug Again, Subjective Drug Value, Good Drug Effects, High, and ARCI–MBG (Euphoria). Eluxadoline (100 and 200 mg) produced significant increases compared to placebo in these positive subjective responses. The positive subjective responses to eluxadoline were most often significantly less than those produced by either dose of oxycodone. Intranasal eluxadoline produced a small but statistically significant increase in the VAS for Drug Disliking while oxycodone did not. Eluxadoline also produced a significant increase in VAS Bad Drug Effects, ARCI–LSD (Dysphoria), Drowsiness, and Sedation. Oxycodone at both doses increased each of these negative subjective measurements, to a degree significantly greater than that of placebo but similar to the high dose of eluxadoline. Subjects identified eluxadoline as an opioid to a degree that was less than that of oxycodone. Intranasal administration of eluxadoline caused adverse events such as euphoria after the 100 mg (22%) and the 200 mg doses (19%). Rate of euphoria following eluxadoline was less than that of oxycodone at 15 mg (44%) and 30 mg (67%), and greater than placebo (0%). All incidences of euphoria produced by eluxadoline were mild in intensity.

The clinical efficacy studies conducted with oral eluxadoline (75 and 100 mg/BID) reported abuse-related AEs. The AE of euphoric mood was reported by only two IBS-d patients in the pooled Phase 2 and 3 safety trials (0.2% of population). The dose of eluxadoline for both these subjects was 100 mg BID. Similarly, the AE of ''feeling drunk'' was reported by only two subjects (0.1% of subjects in the 75 mg group and 0.1% of subjects in the 100 mg group). Other than euphoria, anxiety (1.7%) and somnolence (0.7%)

were the most commonly reported abuse-related AEs. There were a few other central nervous system-associated AEs observed in clinical trials. These included headache (4.0–4.5%), dizziness (2.2–3.2%), and fatigue (1.9–2.6%). Thus there was a very low incidence of euphoria-related AEs in these clinical studies. It is not uncommon for patients participating in clinical studies to exhibit a low rate of euphoria-related AEs compared to participants in Phase I human abuse potential studies. This difference may be due to the underlying disease state of the patient population in clinical studies versus the healthy subject population in human abuse potential studies.

3. The State of Current Scientific Knowledge Regarding Eluxadoline: The chemical name of eluxadoline is 5-[[[(*2S*)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(*1S*)-1-(4-phenyl-1*H*-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid. The molecular formula of eluxadoline is $C_{32}H_{35}N_5O_5$ and its molecular weight is 569.65. Eluxadoline has two asymmetric carbons, and there are at least four different optical isomers. Because eluxadoline contains a primary amine and a carboxylic acid in its structure, the pH of the solution will determine whether the primary amine will be protonated (positively charged) and the carboxylic acid will be deprotonated (negatively charged). The synthesis of eluxadoline requires a high level of expertise and knowledge in organic chemistry. The tablets could be cracked and easily crushed by users with a tablet crusher or a mortar and pestle. However, the unique physicochemical properties of eluxadoline may present a challenge to isolate eluxadoline for purposes of abuse.

The half-life of eluxadoline is approximately five hours, with high inter-subject variability. Eluxadoline has a low oral bioavailability due to poor GI permeability and moderate hepatic first-pass extraction involving OATP1B1-mediated hepatic uptake of eluxadoline. Co-administration with food lowered systemic exposures. Biliary excretion accounted for over 80% of overall elimination, while there is a minimal elimination by renal excretion.

4. History and Current Pattern of Abuse: Because eluxadoline is a new molecular entity and has not been marketed in any country, information as to the history and current pattern of its abuse is not available. Data from pre-clinical and clinical studies indicated that eluxadoline shares pharmacological similarities with schedule IV drugs such as pentazocine and butorphanol and has similar abuse potential (see factors 1 and 2). Pentazocine and butorphanol were initially approved for market as non-controlled drugs. However, subsequent reports of actual abuse of pentazocine and butorphanol supported control as schedule IV drugs under the CSA. It is likely that eluxadoline, upon approval for marketing, will be abused for its rewarding effects.

Eluxadoline generalized to the stimulus effects of morphine (schedule II) in animal drug discrimination studies. These discriminative stimulus effects are similar to that for butorphanol, a schedule IV mu and kappa opioid receptor agonist and for pentazocine, a schedule IV kappa opioid receptor agonist. In two human abuse potential studies, eluxadoline produced both positive and negative subjective responses. The maximal effects of eluxadoline on Drug Liking are greater than that of placebo, but less than that of oxycodone (schedule II). Eluxadoline at all doses elicited a small but significant increase in the VAS score for Drug Disliking. The negative subjective responses of eluxadoline may be reflective of its kappa opioid receptor agonist properties and these are similar to those of schedule IV opioids, butorphanol and pentazocine. These dysphoric effects may indicate a lower abuse potential of a substance. In human abuse potential studies oral or intranasal administration of eluxadoline produced euphoria with a degree less than that of oxycodone.

As of May 20, 2015, no reports for eluxadoline were identified in either the National Forensic Laboratory Information System (NFLIS),[3] or System to Retrieve Information on Drug Evidence (STRIDE).[4]

5. The Scope, Duration, and Significance of Abuse: Because eluxadoline is a new molecular entity and has not been marketed in any country, information as to the scope, duration and significance of its abuse is not available. Both pre-clinical and clinical studies indicate that eluxadoline shares pharmacological similarities with schedule IV drugs such as butorphanol and pentazocine and has similar abuse potential. Pentazocine and butorphanol were initially marketed as uncontrolled drugs. However subsequent reports of abuse of butorphanol and pentazocine led to their control as schedule IV drugs under the CSA. Thus, if eluxadoline were to be marketed as a non-controlled drug, it is likely to be abused for its rewarding properties. If uncontrolled, it is also likely that individuals seeking opioids will abuse eluxadoline as a substitute for other opioids that are controlled under the CSA.

In human abuse potential studies, eluxadoline produced both positive and negative subjective responses. The maximal effects of eluxadoline on Drug Liking are greater than that of placebo, but less than that of oxycodone (schedule II). Eluxadoline at all doses elicited a small but significant increase in the VAS score for Drug Disliking. The negative subjective responses of eluxadoline may be reflective of its kappa opioid receptor agonist properties and these are similar to those of schedule IV opioids, butorphanol and pentazocine. These dysphoric effects may indicate a lower abuse potential of eluxadoline.

6. What, If Any, Risk There Is To the Public Health: Data from pre-clinical and clinical studies indicate that eluxadoline has abuse potential similar to schedule IV opioids such as butorphanol and pentazocine. Abuse potential of a drug is considered a risk to the public health. Available information suggests that if eluxadoline were to be marketed as a non-controlled drug, it would be abused for its rewarding properties. The major concern regarding eluxadoline's risk to public health is based on animal studies in monkeys treated with eluxadoline, where the animals exhibited opioid overdose symptoms such as decreased activity, unresponsiveness, decreased body temperature, and decreased respiration rates. Severe sedation and slumping were also observed in monkeys following self-administration with eluxadoline. Furthermore, opioid-like effects of eluxadoline may not be reversible unless adequate or repeated administration of opioid antagonists such as naloxone or naltrexone is performed.

7. Its Psychic or Physiological Dependence Liability: Several pre-clinical studies both on Cynomolgus monkeys and rats treated with different doses of eluxadoline followed by various recovery or drug discontinuation periods showed no behavioral changes during the treatment period. There were also no behaviors suggestive of withdrawal during the observed recovery periods. Thus, chronic administration of eluxadoline

[3] NFLIS is a program of the DEA that collects drug identification results from drug cases analyzed by other Federal, State, and local forensic laboratories.

[4] STRIDE collected the results of drug evidence analyzed at DEA laboratories and reflects evidence submitted by the DEA, other Federal law enforcement agencies, and some local law enforcement agencies. On October 1, 2014, STARLiMS replaced STRIDE as the DEA laboratory drug evidence data system of record.

did not result in withdrawal signs in laboratory monkeys and rats. However, monkeys self-administered eluxadoline. This suggests that eluxadoline has sufficient rewarding effects to induce reinforcement. In human subjects, the abuse-related AEs reported in clinical studies found that eluxadoline produced a low incidence of euphoria, ''feeling drunk,'' anxiety, somnolence, headache, abdominal pain, dizziness, and fatigue, which are suggestive of its ability to produce psychic dependence.

8. Whether the Substance is an Immediate Precursor of a Substance Already Controlled Under the CSA: Eluxadoline is not an immediate precursor of any substance controlled under the CSA.

Conclusion: Based on consideration of the scientific and medical evaluation conducted by the HHS and its recommendation, and after considering its own eight-factor analysis, the DEA has determined that these facts and all relevant data constitute substantial evidence of potential for abuse of eluxadoline. As such, the DEA hereby proposes to schedule eluxadoline as a controlled substance under the CSA.

Findings for Schedule Placement

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The statute outlines the findings required in placing a drug or other substance in any schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for Health of the HHS and review of all available data, the Administrator of the DEA, pursuant to 21 U.S.C. 812(b), finds that:

(1) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III. Eluxadoline has a low potential for abuse relative to the drugs or other substances in schedule III. The overall abuse potential of eluxadoline is comparable to the schedule IV substances such as pentazocine and butorphanol.

(2) The drug or other substance has a currently accepted medical use in treatment in the United States. Recently, the FDA approved eluxadoline as a prescription drug for the treatment of irritable bowel syndrome with diarrhea (IBS-d). Therefore, eluxadoline has a currently accepted medical use in treatment in the United States.

(3) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III. Abuse of eluxadoline may lead to limited psychological dependence similar to that of schedule IV drugs, but less than that of schedule III drugs.

Based on these findings, the Administrator of the DEA concludes that eluxadoline, including its salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible, warrants control in schedule IV of the CSA (21 U.S.C. 812(b)(4)).

Requirements for Handling Eluxadoline

If this rule is finalized as proposed, eluxadoline would be subject to the CSA's schedule IV regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, dispensing, importing, exporting, research, and conduct of instructional activities involving schedule IV substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, dispenses, imports, exports, engages in research, or conducts instructional activities with) eluxadoline, or who desires to handle eluxadoline, would be required to be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312. Any person who currently handles eluxadoline, and is not registered with the DEA, would need to submit an application for registration and may not continue to handle eluxadoline as of the effective date of the final rule, unless the DEA has approved that application for registration, pursuant to 21 U.S.C. 822, 823, 957, 958, and in accordance with 21 CFR parts 1301 and 1312.

2. *Security.* Eluxadoline would be subject to schedule III–V security requirements and would need to be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b) and in accordance with 21 CFR 1301.71–1301.93.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of eluxadoline on or after finalization of this proposed rule would need to comply with 21 U.S.C. 825 and 958(e), and be in accordance with 21 CFR part 1302.

4. *Inventory.* Every DEA registrant who possesses any quantity of eluxadoline on the effective date of the final rule would be required to take an inventory of all stocks of eluxadoline on hand as of the effective date of the rule, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (d).

Any person who becomes registered with the DEA after the effective date of the final rule must take an initial inventory of all stocks of controlled substances (including eluxadoline) on hand on the date the registrant first engages in the handling of controlled substances, pursuant to 21 U.S.C. 827 and 958 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11(a) and (b).

After the initial inventory, every DEA registrant would be required to take an inventory of all controlled substances (including eluxadoline) on hand, on a biennial basis, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

5. *Records.* All DEA registrants would be required to maintain records with respect to eluxadoline pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR parts 1304, 1307, and 1312.

6. *Prescriptions.* All prescriptions for eluxadoline or products containing eluxadoline would need to comply with 21 U.S.C. 829, and be issued in accordance with 21 CFR parts 1306 and 1311, subpart C.

7. *Importation and Exportation.* All importation and exportation of eluxadoline would need to be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

8. *Criminal Liability.* Any activity involving eluxadoline not authorized by, or in violation of, the CSA, occurring on or after finalization of this proposed rule, would be unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866 and 13563

In accordance with 21 U.S.C. 811(a), this proposed scheduling action is subject to formal rulemaking procedures performed ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the procedures and criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

Executive Order 12988

This proposed regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132

This proposed rulemaking does not have federalism implications warranting the application of Executive Order

13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This proposed rule will not have tribal implications warranting the application of Executive Order 13175. It does not have substantial direct effects 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.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. The purpose of this proposed rule is to place eluxadoline, including its salts, isomers, and salts of isomers, into schedule IV of the CSA. No less restrictive measures (*i.e.,* non-control, or control in schedule V) enable the DEA to meet its statutory obligations under the CSA. In preparing this certification, the DEA has assessed economic impact by size category and has considered costs with respect to the various DEA registrant business activity classes.

Eluxadoline is a new molecular entity which has not yet been marketed in the United States or any other country. Although the manufacturer is expected to enjoy market exclusivity for many years, the DEA has no basis to determine the level of contracted or outsourced manufacturing activities or the breadth of the distribution network. Furthermore, due to the wide variety of unidentifiable and unquantifiable variables that could potentially influence the dispensing and distribution rates of new pharmaceutical drugs, the DEA is unable to determine the number of potential small entities that might handle eluxadoline. However, the DEA estimates that all persons who would handle, or propose to handle, eluxadoline are currently registered with the DEA to handle schedule IV controlled substances, because it is a pharmaceutical controlled substance intended for medical treatment. Accordingly, the number of DEA registrations authorized to handle schedule IV controlled substances is a reasonable estimate for the maximum number of eluxadoline handlers. Therefore, the DEA estimates that 1.6 million (1,554,254 as of June 2015) controlled substance registrations, representing approximately 427,584 entities, would be the maximum number of entities affected by this rule. The DEA estimates that 418,141 (97.8%) of 427,584 affected entities are ''small entities'' in accordance with the RFA and SBA size standards.

The DEA anticipates that prospective eluxadoline handlers already handle other schedule IV controlled substances and that the cost impact as a result of placing eluxadoline in schedule IV would be nominal. As the anticipated eluxadoline handlers already handle other scheduled IV controlled substances, they already have DEA registrations and the required security and recordkeeping processes, equipment, and facilities in place, and would only require a nominal increase in security, inventory, recordkeeping and labeling costs.

As discussed above, while the DEA does not have a basis to estimate the number of affected entities, the DEA estimates that the maximum number of affected entities is 427,584 of which 418,141 are estimated to be small entities. Since the affected entities are expected to handle other schedule IV controlled substances and maintain security and recordkeeping facilities and processes consistent with schedule IV controlled substances, the DEA estimates any economic impact will be nominal. Because of these facts, this proposed rule will not result in a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* the DEA has determined and certifies that this action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted for inflation) in any one year.'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521. This action would 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.

List of Subjects in 21 CFR Part 1308

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

For the reasons set out above, the DEA proposes to amend 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

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

■ 2. Amend § 1308.14 by adding paragraph (g)(3) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(g) * * *

(3) Eluxadoline (5-[[[(*2S*)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(*1S*)-1-(4-phenyl-1*H*-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers (9725)

Dated: August 5, 2015.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2015–19655 Filed 8–10–15; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0248; FRL–9932–19–Region 4]

Approval and Promulgation of Implementation Plans; Georgia; Atlanta; Requirements for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan revision submitted by the State of Georgia, through Georgia Environmental Protection Division on February 6, 2015, to address the base year emissions inventory and emissions statements requirements for the 2008 8-hour ozone national ambient air quality standards for the Atlanta, Georgia 2008 8-hour ozone nonattainment area (hereinafter referred to as the ''Atlanta Area''). These requirements apply to all ozone nonattainment areas. The Atlanta Area is comprised of 15 counties in Atlanta (Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale). This proposed action is being taken pursuant to the Clean Air Act and its implementing regulations.

In the Final Rules 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 submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before September 10, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2015–0248 by one of the following methods:

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

2. *Email: R4-ARMS@epa.gov*.

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2015–0248,'' Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays. Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bell can be reached at (404) 562–9088 and via electronic mail at *bell.tiereny@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule and incorporated herein by reference. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: July 30, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–19727 Filed 8–10–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2015–0384; FRL–9932–22–Region 4]

Approval and Promulgation of Implementation Plans; Kentucky: New Sources in or Impacting Nonattainment Areas

AGENCY: Environmental Protection Agency

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Commonwealth of Kentucky's September 23, 2011, State Implementation Plan (SIP) revision, submitted through the Kentucky Division for Air Quality (KY DAQ), which modifies the SIP by making changes to Kentucky regulation, ''*Review of new sources in or impacting upon nonattainment areas.*'' EPA has preliminarily determined that Kentucky's requested SIP revision meets the applicable provisions of the Clean Air Act (CAA or Act) and EPA regulations regarding Nonattainment New Source Review (NNSR) permitting.

DATES: Written comments must be received on or before September 10, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R04–OAR–2015–0384 by one of the following methods:

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

2. *Email: R4-ARMS@epa.gov*.

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2015–0384'', Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such

deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2015–0384. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information may not be publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo of the Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Farngalo may be reached by phone at (404) 562–9152 or via electronic mail at *farngalo.zuri@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On September 23, 2011, KY DAQ submitted a SIP revision to EPA for approval that makes several changes to Kentucky's regulations at 401 Kentucky Administrative Regulations (KAR) 51:052, *Review of new sources in or impacting nonattainment areas*. These regulations establish air quality permitting requirements for the construction or modification of major stationary sources located within, or impacting upon, areas designated nonattainment for any primary national ambient air quality standard. To ensure improvement of air quality in those areas, the emissions resulting from construction or modification of a major stationary source must be offset with compensating emission reductions.

Kentucky's requested SIP revision would revise 401 KAR 51:052 by: (1) Changing Section 5, paragraph (6)(b) to authorize new or modified sources to offset their emission increases with emission reductions achieved by shutting down an existing unit or curtailing production or operating hours prior to the new source application date (if specified conditions are met), (2) adding new and more comprehensive language to Section 5, paragraph (6)(b) describing how to calculate offsetting emission reductions obtained from a source shutdown or curtailment (3) amending Section 4, paragraph (3)(a) to establish an offset ratio of at least 1:1 for pollutants other than volatile organic compounds (VOCs) and nitrogen oxides (NOx), and (4) making changes to the introductory paragraph to 401 KAR 51:052 and Section 5, paragraph (3)(e) that update and clarify these provisions.

II. Analysis of Kentucky's Submittal

EPA has reviewed Kentucky's requested changes to 401 KAR 51:052, *Review of new sources in or impacting nonattainment areas,* and preliminarily concluded that these changes are consistent with the applicable CAA provisions and EPA's NNSR permitting regulations at 40 CFR 51.165. Specifically, the changes to Section 5, paragraph (6)(b) of 401 KAR 51:052 authorizing new or modified sources to offset emission increases with emission reductions generated by source shutdowns or curtailments occurring before the filing of a permit application for a new project are consistent with 40 CFR 51.165(a)(3)(ii)(C)(1). Likewise, the new regulatory language in Section 5, paragraph (6)(b) of 401 KAR 51:052 describing how to calculate emission offsets generated from source shutdowns or permanent curtailments also is consistent with 40 CFR 51.165(a)(3)(ii)(C)(1). The change to Section 4, paragraph (3)(a) of 401 KAR 51:052 specifying that increases in emissions shall be offset by reductions in emissions using a ratio of emission decreases to emission increases of at least 1:1 is required by 40 CFR 51.165(a)(9)(i). Finally, the changes to the introductory paragraph to 401 KAR 51:052 and Section 5 paragraph (3)(e) simply update and clarify these provisions and do not affect the consistency of these provisions with federal law. EPA has preliminarily determined that these changes are approvable pursuant to CAA section 110 and EPA's NNSR permitting regulations at 40 CFR 51.165.

II. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Kentucky Rule 401 KAR 51:052, *Review of new sources in or impacting nonattainment areas*. 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).

III. Proposed Action

EPA is proposing to approve the Commonwealth of Kentucky's September 23, 2011, SIP revision. EPA has preliminarily determined that the changes to Kentucky's Rule 401 KAR 51:052, *Review of new sources in or impacting nonattainment areas,* are approvable because they are consistent with CAA section 110 and EPA's

regulations regarding NNSR permitting at 40 CFR 51.165.

IV. Statutory and Executive Order Reviews

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

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

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: July 30, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–19723 Filed 8–10–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 150506425–5425–01]

RIN 0648–XD941

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List the Smooth Hammerhead Shark as Threatened or Endangered Under the Endangered Species Act

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

ACTION: 90-day petition finding, request for information.

SUMMARY: We, NMFS, announce a 90-day finding on a petition to list the smooth hammerhead shark (*Sphyrna zygaena*) range-wide or, in the alternative, any identified distinct population segments (DPSs), as threatened or endangered under the Endangered Species Act (ESA), and to designate critical habitat concurrently with the listing. We find that the petition and information in our files present substantial scientific or commercial information indicating that the petitioned action may be warranted. We will conduct a status review of the species to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information pertaining to this species from any interested party.

DATES: Information and comments on the subject action must be received by October 13, 2015.

ADDRESSES: You may submit comments, information, or data on this document, identified by the code NOAA–NMFS–2015–0103, by either any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0103.* Click the ''Comment Now'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Maggie Miller, NMFS Office of Protected Resources (F/PR3), 1315 East West Highway, Silver Spring, MD 20910, USA.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of the petition and related materials are available on our Web site at *http://www.fisheries.noaa.gov/pr/species/fish/smooth-hammerhead-shark.html.*

FOR FURTHER INFORMATION CONTACT: Maggie Miller, Office of Protected Resources, 301–427–8403.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2015, we received a petition from Defenders of Wildlife to list the smooth hammerhead shark (*Sphyrna zygaena*) as threatened or endangered under the ESA throughout its entire range, or, as an alternative, to list any identified DPSs as threatened or endangered. To this end, the petitioners identified five populations that they indicate qualify for protection as DPSs: Northeast Atlantic and Mediterranean Sea, Northwest Atlantic, Southwest Atlantic, Eastern Pacific, and Indo-West Pacific. The petition also requests that critical habitat be designated for the smooth hammerhead shark under the ESA. In the case that the species does not warrant listing under the ESA, the petition requests that the species be listed based on its similarity of appearance to the listed DPSs of the scalloped hammerhead shark (*Sphyrna*

lewini). Copies of the petition are available upon request (see **ADDRESSES**).

ESA Statutory, Regulatory, and Policy Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When it is found that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, we conclude the review with a finding as to whether, in fact, the petitioned action is warranted within 12 months of receipt of the petition. Because the finding at the 12-month stage is based on a more thorough review of the available information, as compared to the narrow scope of review at the 90-day stage, a ''may be warranted'' finding does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a species, which is defined to also include subspecies and, for any vertebrate species, any DPS that interbreeds when mature (16 U.S.C. 1532(16)). A joint NMFS–U.S. Fish and Wildlife Service (USFWS) (jointly, ''the Services'') policy clarifies the agencies' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722; February 7, 1996). A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively, 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered based on any one or a combination of the following five section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define ''substantial information'' in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In evaluating whether substantial information is contained in a petition, the Secretary must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

At the 90-day finding stage, we evaluate the petitioners' request based upon the information in the petition including its references and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioners' sources and characterizations of the information presented if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude it supports the petitioners' assertions. In other words, conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a ''species'' eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species faces an extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species (*e.g.,* population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information indicating that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by nongovernmental organizations, such as the International Union on the Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but such classification alone may not provide the rationale for

a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species' conservation status do ''not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act'' because NatureServe assessments ''have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide'' *http://www.natureserve.org/prodServices/pdf/NatureServeStatusAssessmentsListing-Dec%202008.pdf.* Additionally, species classifications under IUCN and the ESA are not equivalent; data standards, criteria used to evaluate species, and treatment of uncertainty are also not necessarily the same. Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

Distribution and Life History of the Smooth Hammerhead Shark

The smooth hammerhead shark is a circumglobal species found in temperate to warm waters (Compagno, 1984). It occurs close inshore and in shallow waters, over continental shelves, in estuaries and bays, and around coral reefs, but it has also been observed offshore at depths as great as 65–650 feet (20–200 meters (m)) deep (Compagno, 1984; Bester, n.d.). Smooth hammerheads are highly mobile and, within the Sphyrnidae family, are the most tolerant of temperate waters (Compagno, 1984). In the western Atlantic Ocean, the range of the smooth hammerhead shark extends from Nova Scotia to Florida and into the Caribbean Sea, and in the south from southern Brazil to southern Argentina (Compagno, 1984; Bester, n.d). In the eastern Atlantic Ocean, smooth hammerhead sharks can be found from the British Isles to Guinea and farther south through parts of equatorial West Africa. They are also found throughout the Mediterranean Sea (Compagno, 1984; Bester, n.d). In the Indian Ocean, the shark occurs from South Africa, along the southern coast of India and Sri Lanka, to the coasts of Australia. Distribution in the Pacific extends from Vietnam to Japan and includes Australia and New Zealand in the west, the Hawaiian Islands in the central Pacific, and extends from Northern California to the Nayarit state of Mexico, and from Panama to southern Chile in the eastern Pacific (Compagno, 1984; Bester, n.d).

The smooth hammerhead shark gets its common name from its large, laterally expanded head that resembles a hammer (Bester, n.d.). The unique head shape allows for easy distinction of hammerheads of the Sphyrnidae family from other types of sharks. The smooth hammerhead is characterized by a ventrally located and strongly arched mouth with smooth or slightly serrated teeth (Compagno, 1984). The body of the shark is fusiform with a moderately hooked first dorsal fin and a lower second dorsal fin, and its color ranges from a dark olive to greyish-brown that fades into a white underside (Bester, n.d.).

The general life history characteristics of the smooth hammerhead shark are that of a long-lived, slow-growing, and late maturing species (Compagno, 1984; Casper *et al.,* 2005). The smooth hammerhead can reach a maximum length of 16 feet (5 m) and a maximum weight of 880 pounds (400 kilograms (kg)) (Bester, n.d.). Females are considered sexually mature at the age of 9, which correlates to size at sexual maturity of 8.7 feet (2.65 m) (Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 2013). Males are considered sexually mature slightly earlier in life than females, and at sizes from 8.2–8.7 feet (2.10–2.65 m.) (CITES, 2013). The smooth hammerhead shark is viviparous (*i.e.,* give birth to live young), with a gestation period of 10–11 months, and likely breeds every other year (ICCAT, 2012; Bester, n.d.). Litter sizes range from 20 to 40 live pups with a mean litter size of 33.5 pups. Average length at birth is estimated to be 50 cm (Bester, n.d.).

The smooth hammerhead shark is a high trophic level predator (Cortés, 1999) and opportunistic feeder that consumes a variety of teleosts, small sharks, skates and stingrays, crustaceans, and cephalopods (Compagno, 1984). The species has also been observed scavenging from nets and hooks.

Analysis of Petition and Information Readily Available in NMFS Files

The petition contains information on the species, including the taxonomy, species description, geographic distribution, habitat, population status and trends, and factors contributing to the species' decline. According to the petition, all five causal factors in section 4(a)(1) of the ESA are adversely affecting the continued existence of the smooth hammerhead shark: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence.

In the following sections, we evaluate the information provided in the petition and readily available in our files to determine if the petition presents substantial scientific or commercial information indicating that an endangered or threatened listing may be warranted as a result of any of these ESA factors. Because we were requested to list a global population and, alternatively, DPSs, we will first determine if the petition presents substantial information that the petitioned action is warranted for the global population. If it does, then we will make a positive finding on the petition and conduct a review of the species range-wide. If after this review we find that the species does not warrant listing range-wide, then we will consider whether the populations requested by the petitioners qualify as DPSs and warrant listing. If the petition does not present substantial information that the global population may warrant listing, and it has requested that we list any populations of the species as threatened or endangered, then we will consider whether the petition provides substantial information that the requested population(s) may qualify as DPSs under the discreteness and significance criteria of our joint DPS Policy, and if listing any of those DPSs may be warranted. Below, we summarize the information presented in the petition and in our files on the status of the species and the ESA section 4(a)(1) factors that may be affecting the species' risk of global extinction and determine whether a reasonable person would conclude that an endangered or threatened listing may be warranted as a result of any of these factors.

Smooth Hammerhead Shark Status and Trends

The petition does not provide an estimate of global population abundance or trends for the smooth hammerhead shark. The petition refers to the IUCN Redlist status assessment (Casper *et al.,* 2005) and its classification of the smooth hammerhead as globally ''vulnerable.'' The IUCN assessment cites overutilization by global fisheries as the main threat to the species, with smooth hammerheads both targeted and caught as bycatch and kept for their fins.

The petition provides evidence of population declines in a number of regions throughout the smooth

hammerhead's range that would indicate that smooth hammerhead sharks may be experiencing declines on a global scale. For example, a stock assessment of smooth hammerhead sharks in the Northwest Atlantic region, conducted by Hayes (2007), estimated a 91 percent decline of the population between 1981 and 2005. Similarly, another study (Myers *et al.,* 2007) used standardized catch per unit effort (CPUE) data from shark-targeted, fishery-independent surveys off the east coast of the United States and found a 99 percent decline of smooth hammerhead sharks from 1972–2003. Myers *et al.* (2007) remarks that the trends in abundance may be indicative of coast-wide population declines because the survey was situated ''where it intercepts sharks on their seasonal migrations.'' In the southwest Atlantic, Brazilian commercial fisheries report an 80 percent decline in CPUE of the hammerhead complex (including smooth hammerhead sharks) from 2000 to 2008, suggesting a significant decline in abundance of hammerhead sharks from this area (FAO, 2010). The State of Rio Grande do Sul, Brazil, experienced a 65 percent decrease in CPUE from 2000–2002, specifically of smooth hammerhead sharks (CITES, 2013). In the Mediterranean Sea, estimated declines of the *Sphyrna* complex (with *S. zygaena* comprising the main species) exceeded 99 percent over the last century, with hammerhead sharks considered to be functionally extinct in the region (Feretti *et al.,* 2008). In the Indian Ocean, tagging surveys conducted off the eastern coast of South Africa over the course of 25 years suggest smooth hammerhead abundance has declined, after reaching a peak in 1987 (n = 468, 34.9 percent of the total smooth hammerheads tagged over the course of the study; Diemer *et al.,* 2007). However, catches of smooth hammerhead sharks in beach protective nets set off the KwaZulu-Natal beaches in South Africa were highly variable from 1978–2003, with no clear trend that could indicate the status of the population (Dudley and Simpfendorfer, 2006). In the Eastern Pacific, incidental catches of smooth hammerhead sharks by tuna purse-seine vessels have exhibited a declining trend, from a peak of 1,205 sharks caught in 2004 to 436 individuals in 2011 (a decrease of around 64 percent) (CITES, 2013). Based on the available information from these regions, we find evidence suggesting that the population abundance of smooth hammerhead sharks has declined significantly and may still be in decline. While data are limited with respect to population size and trends, we find the information presented in the petition and readily available in our files to be substantial information on smooth hammerhead shark abundance, trends, and status.

Analysis of ESA Section 4(a)(1) Factors

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The petition contends that smooth hammerhead sharks are at risk of extinction throughout their range due to pollutants, especially those that are able to bioaccumulate and biomagnify to high concentrations at high trophic levels. Of particular concern to the petitioners are high mercury and polychlorinated biphenyl (PCB) concentrations in smooth hammerhead shark tissues. International agencies, such as the Food and Drug Administration and the World Health Organization, have set a recommended maximum of 1 μg/g concentration of mercury in seafood tissues (García-Hernández *et al.,* 2007) for human consumption. Storelli *et al.* (2003) tested tissue samples from four smooth hammerhead sharks from the Mediterranean Sea and found that, on average, tissue samples from the liver and muscle had concentrations of mercury that greatly exceeded recommended limits (mean mercury concentration in muscle samples: 12.15 ± 4.60 μg/g, mean mercury concentration in liver samples: 35.89 ± 3.58 μg/g). Additionally, these specimens showed high concentrations of more chlorinated (hexa- and hepta-chlorinated) PCBs. Similarly, García-Hernández *et al.* (2007) found high concentrations of mercury in tissues of four smooth hammerhead sharks from the Gulf of California, Mexico (mean mercury concentration in muscle tissue: 8.25 ± 9.05 μg/g). Escobar-Sánchez (2010) also studied mercury concentrations in the muscle tissues of smooth hammerhead sharks from the Mexican Pacific, but out of 37 studied sharks, only one shark had a mercury concentration that exceeded the recommended limits. As stated previously, we look for information in the petition and in our files to indicate that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion. Despite providing evidence that smooth hammerhead sharks accumulate pollutants in their tissues, the petitioners fail to provide evidence that these concentrations of mercury and PCBs are causing detrimental physiological effects to the species or may be contributing significantly to population declines in smooth hammerhead sharks to the point where the species may be at risk of extinction. As such, we conclude that the information presented in the petition on threats to the habitat of the smooth hammerhead shark does not provide substantial information indicating that listing may be warranted for the species.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Information from the petition and in our files suggests that the primary threat to the smooth hammerhead shark is from overutilization by fisheries. Smooth hammerhead sharks are both targeted and taken as bycatch in many global fisheries. Smooth hammerhead sharks face fishing pressure from commercial, artisanal, and recreational fisheries that use a variety of gear types to harvest these sharks: Pelagic and bottom longlines, handlines, gillnets, purse seines, and pelagic and bottom trawls (Camhi *et al.,* 2007). Smooth hammerhead sharks are mostly targeted for their large, high-quality fins for use in shark fin soup, which are then transported to Asian markets where they fetch a high market price ($88/kg in 2003) (Abercrombie *et al.,* 2005). In the Hong Kong fin market, which is the largest fin market in the world, *S. zygaena* and *S. lewini* are mainly traded under a combined market category called *Chun chi* (Abercrombie *et al.,* 2005; NMFS, 2014a). Based on data from 2000–2002, *Chun chi* is the second most traded category, comprising around 4–5 percent of the total fins traded in the Hong Kong market annually (Clarke *et al.,* 2006; Camhi *et al.,* 2007). This percentage of fins correlates to an estimated 1.3–2.7 million individuals of scalloped and smooth hammerhead sharks (equivalent to a biomass of 49,000–90,000 tons) traded in the Hong Kong market annually. Given their relatively high price and popularity in the Hong Kong market, there is concern that many smooth hammerhead sharks caught as incidental catch may be kept for the fin trade as opposed to released alive; however, as noted in the Great Hammerhead 12-month finding (79 FR 33509; June 11, 2014), there has also been a recent global push to decrease the demand of shark fins, especially for shark fin soup.

In the northwestern Atlantic, smooth hammerhead sharks are mainly caught as bycatch in the U.S. commercial longline and net fisheries and by U.S. recreational fishermen using rod and reel, albeit rarely (NMFS, 2014b). This

is likely a reflection of the low abundance of the species. Between 1981 and 2005, Hayes (2007) estimated that the Northwest Atlantic population of smooth hammerhead shark suffered a 91 percent decline in size. As of 2005, the population was estimated to be at 19–24 percent of the biomass that would produce maximum sustainable yield (MSY), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, and that the population was being fished at 150 percent of fishing mortality associated with MSY. Under 2005 catch levels, Hayes (2007) estimated that there was a 64 percent likelihood of smooth hammerhead shark recovery within 30 years. It is important to note that the term ''recovery'' as used by Hayes (2007) is defined under the Magnuson-Stevens Fishery Conservation and Management Act and is based on different criteria than threatened or endangered statuses under the ESA. As such, it does not necessarily indicate that a species may warrant listing under the ESA because it does not necessarily have any relationship to a species' extinction risk. Overutilization under the ESA means that a species has been or is being harvested at levels that pose a risk of extinction, not just at levels over MSY. However, we agree that the significant decline estimated for the population combined with the species' biological susceptibility to current fisheries and high at-vessel mortality rates (see *Other natural or manmade factors affecting its continued existence* section) may be of concern as it relates to the extinction risk of the species. In addition, we note that, as pointed out in the NMFS Great Hammerhead Shark Status Review (Miller *et al.,* 2014), Hayes (2007) (cited as Hayes 2008 in the status review) identified many uncertainties in the data and catch estimates from his stock assessment model that may have affected population decline estimates and should be taken into consideration. We will evaluate these uncertainties and the adequacy of existing regulatory measures in preventing further declines in the species during the status review phase.

In the southwestern Atlantic, industrial landings of the hammerhead complex (mainly *S. lewini* and *S. zygaena*) off the coast of Santa Catarina, Brazil increased from 6.7 tons in 1989 to a peak of 570 tons in 1994, due to fast development of industrial net fishing during this time (CITES, 2013). However, catches of hammerheads from the industrial net fishery fell to 44 tons in 2008, despite continued fishing effort. Industrial deep fishing with bottom gillnets off the coast of Brazil is a threat to recruiting coastal hammerheads, especially during their mating and birthing seasons (CITES, 2013). Data from a bottom gillnet fishery targeting hammerheads off the coast of Brazil noted an 80 percent decline in CPUE of the hammerhead complex from 2000–2008 (FAO, 2010). The targeted hammerhead fishery was abandoned after 2008 when the species became too rare to make the fishery economically viable. In the Rio Grande do Sul State of Brazil, a 65 percent decrease in CPUE of smooth hammerhead sharks from the industrial fisheries was noted from 2000–2002, decreasing from 0.37 tons per trip to 0.13 tons per trip (CITES, 2013). The various fishing operations in this region concentrate effort in areas where all life stages of hammerhead sharks occur. For example, the artisanal net and industrial trawl fishing within inshore areas and on the continental shelf place neonates and juveniles at risk of fishery-related mortality, and the industrial gillnet and longline fisheries operating on the outer continental shelf and adjacent ocean waters place adults at risk (CITES, 2013). With this heavy fishing effort affecting all life stages, there may be observed declines in the population.

In the Mediterranean Sea, it is thought that smooth hammerheads may have been fished to functional extinction (Feretti *et al.,* 2008). In the early 20th century, coastal fisheries would target large sharks and also land them as incidental bycatch in gill nets, fish traps, and tuna traps (Feretti *et al.,* 2008). Feretti *et al.* (2008) hypothesized that certain species, including *S. zygaena,* found refuge in offshore pelagic waters from this intense coastal fishing. However, with the expansion of the tuna and swordfish longline and drift net fisheries into pelagic waters in the 1970s, these offshore areas no longer served as protection from fisheries, and sharks again became regular bycatch. Consequently, the hammerhead shark abundance in the Mediterranean Sea (primarily *S. zygaena*) is estimated to have declined by more than 99 percent over the past 107 years, with hammerheads considered to be functionally extinct in the region. Recently, Sperone *et al.* (2012) provided evidence of the contemporary occurrence of the smooth hammerhead shark in Mediterranean waters, recording seven individuals from 2000–2009 near the Calabria region of Italy. Additionally, the aforementioned toxicology study, Storelli *et al.* (2003), used four smooth hammerhead sharks that were caught as bycatch from the swordfish fishery in the Mediterranean in July of 2001. These two studies suggest that numbers of smooth hammerhead shark in the Mediterranean region may be slowly recovering (Sperone *et al.,* 2012), although further study is needed.

In the waters off of northwestern Africa, hammerhead sharks are retained primarily as bycatch from the industrial fisheries and catch from the artisanal fisheries operating within this region. Historically, Spanish swordfish gillnet and longline fisheries and European industrial trawl fisheries caught significant amounts of hammerheads (Buencuerpo *et al.,* 1998; Zeeberg *et al.,* 2006). For example, from 1991–1992 a total of 675 hammerheads (the authors refer to them as scalloped hammerheads but give the scientific name of *S. zygaena*) were landed as incidental catch in the Spanish swordfish fishery, with juveniles comprising the majority of the catch (94 percent of males and 96 percent of females) (Buencuerpo *et al.,* 1998). In a study of European trawl fisheries off the coast of Mauritania, 42 percent of the megafauna bycatch (the largest category) were hammerhead sharks and 75 percent of the hammerhead sharks were juveniles (Zeeberg *et al.,* 2006). The study estimated that over 1,000 hammerheads are removed annually, a number considered to be unsustainable for the region. Additionally, according to a review of shark fishing in the Sub Regional Fisheries Commission member countries (Cape-Verde, Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal, and Sierra Leone), Diop and Dossa (2011) state that shark fishing is an important component of the artisanal fishery. Before 1989, artisanal catch of sharks was less than 4,000 mt. However, from 1990 to 2005, shark catch increased dramatically from 5,000 mt to over 26,000 mt, as did the level of fishing effort (Diop and Dossa, 2011). However, from 2005 to 2008, shark landings dropped by more than 50 percent, to 12,000 mt (Diop and Dossa, 2011). As noted in the Scalloped Hammerhead Final Listing Rule (79 FR 38213; July 3, 2014), regulations in Europe appear to be moving towards the sustainable use and conservation of shark species; however, there is still concern regarding the level of exploitation of hammerhead sharks off the west coast of Africa, and the threat warrants further exploration.

In the eastern Pacific Ocean, smooth hammerhead sharks are both targeted and taken as bycatch in industrial and artisanal fisheries (Casper *et al.,* 2005). In Mexico, sharks, in general, are an important component of the artisanal

fishery (INP, 2006). They are targeted for both their fins, which are harvested by fishermen for export, and for their shark meat, which is becoming increasingly important for domestic consumption. In the Gulf of Tehuantepec, smooth hammerhead sharks are the seventh most important shark species (out of 21 identified species) caught in the artisanal fishery (INP, 2006). In a survey of the targeted artisanal elasmobranch fishery off the coast of Sinaloa, Mexico, smooth hammerhead sharks accounted for 6.4 percent (n = 70) of total landings in the more active winter season and 3 percent (n = 120) of the total surveyed catch from 1998–1999 (Bizzarro *et al.,* 2009). Of concern is the fact that all individuals landed during this survey were juveniles. Similarly, a 1995–1996 survey of the artisanal fishery off the Tres Marinas Islands of Mexico demonstrated that smooth hammerhead sharks constituted 35 percent (n = 700) of the total catch, and only 20 percent of the females and 1 percent of the males were considered mature (Pérez-Jiménez *et al.,* 2005). Given the species' low productivity, slow growth rate, and late maturity, this targeted removal of recruits from the population may cause or continue to cause declines in the abundance of the species to the point where it may be contributing to the species' risk of extinction and is cause for concern that warrants further review.

Smooth hammerhead sharks are also taken as bycatch by the tuna purse-seine fisheries operating in the Inter-American Tropical Tuna Commission convention area of the Eastern Pacific region. Based on data from observers, smooth hammerhead sharks constituted around 1.7 percent of the total bycatch from the tuna purse-seine fleet from 2000–2001. Since the mid-1980s, the tuna purse-seine fishery in the Pacific has been rapidly expanding (Williams and Terawasi, 2011), and despite the increase in fishery effort (or perhaps a consequence of this increased fishing pressure), incidental catch of smooth hammerhead sharks has seen a decline, from a peak of 1,205 individuals in 2004 to 436 individuals in 2011 (CITES, 2013).

In the west-coast based U.S. fisheries, hammerheads are primarily caught as bycatch, and, based on observer data, appear to be relatively rare in the fisheries catch. For example, in the California/Oregon drift gillnet fishery, which targets swordfish and common thresher shark and operates off the U.S. Pacific coast, observers recorded only 70 bycaught smooth hammerheads and 2 unidentified hammerheads in 8,698 sets conducted over the past 25 years (from 1990–2015; WCR, 2015).

Throughout the majority of the Indian Ocean and western Pacific, fisheries data in the petition and available in our files are lacking, but shark finning and illegal, unregulated and unreported (IUU) fishing were identified by the petitioners as threats contributing to the overutilization of the species in these areas. The smooth hammerhead shark is caught in both artisanal and commercial fisheries as directed catch and retained incidental bycatch (Casper *et al.,* 2005). Pelagic fisheries from industrialized countries have been active in the region for over 50 years (Casper *et al.,* 2005). A recent review of fisheries in the Indian Ocean reports that sharks in the area are fully or over-exploited (de Young, 2006), but due to the high levels of IUU fishing and lack of species-specific catch reporting, it is difficult to determine the rate of exploitation of smooth hammerhead sharks. In Western Australia, smooth hammerhead sharks are retained as bycatch in the demersal gillnet fishery, but it appears that the fishing pressure is too low to have impacted populations in this region (Casper *et al.,* 2005). Smooth hammerheads are relatively common around New Zealand's North Island, where they are frequently caught as bycatch in commercial gillnets and trawls; however, these individuals are often discarded dead (Casper *et al.,* 2005).

In the central Pacific, smooth hammerhead sharks are bycaught in the Hawaii-based fisheries, but comprise a very small proportion of the bycatch. In fact, from 1995–2006, only 49 smooth hammerhead sharks and 38 unidentified hammerhead sharks were bycaught in the Hawaiian longline fishery, amounting to less than 0.1 percent of all bycaught shark species in the fishery for that time period (Walsh *et al.,* 2009). According to the U.S. National Bycatch Report (NMFS, 2011; NMFS, 2013), the Hawaii-based deep-set pelagic longline fishery (which targets swordfish) bycaught 3,173.91 pounds (1440 kg) of smooth hammerhead in 2010, an increase of around 29 percent from the amount reported in 2005 (2,453.74 pounds (1,113 kg)). However, for the Hawaii based shallow-set pelagic longline fishery (which also targets swordfish), there were no reports of bycaught smooth hammerhead sharks in 2010, whereas in 2005, 930.35 pounds (422 kg) of smooth hammerheads were recorded as bycatch. Additionally, in 2011, an estimated 12 smooth hammerhead sharks (based on extrapolated observer data) were taken in the American Samoa longline fishery (PIFSC, unpublished data). Further review is necessary to determine if this level of fishery-related mortality is a threat to the smooth hammerhead shark.

Given the evidence of historical exploitation of the species and subsequent population declines, and the fact that fishing pressure from industrial and artisanal fisheries may still be high based on available fisheries data and the high value and contribution of smooth hammerhead fins to the international fin trade, we conclude that the information in the petition and in our files suggest that global fisheries are impacting smooth hammerhead shark populations to a degree that raises concern that the species may be at risk of extinction.

Disease or Predation

The petition asserts that high concentrations of arsenic in smooth hammerhead shark tissues should be considered a significant threat to smooth hammerhead shark populations as it is a possible carcinogenic. The petition refers to Storelli *et al.* (2003), which found that smooth hammerhead sharks (n = 4) had a mean arsenic concentration in muscle samples of 18.00 ± 8.57 μg/g and a mean arsenic concentration in liver samples of 44.22 ± 2.22 μg/g. The study cites that sharks rarely have arsenic concentrations that exceed 10 μg/g, and so the arsenic levels in the sharks tissues should be considered ''notably elevated'' (Storelli *et al.,* 2003). The petitioners contend that the smooth hammerhead sharks are at a higher risk for developing cancer due to these high levels of arsenic. However, as already stated, we look for information in the petition and in our files to indicate that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion. Despite providing evidence that some smooth hammerhead sharks have elevated levels of arsenic in their tissues, the petitioners fail to show that those specific levels are causing detrimental physiological effects or may be contributing significantly to population declines in smooth hammerhead sharks to the point where the species may be at risk of extinction. Additionally, neither the petitioners nor the information in our files indicate that predation is a significant threat to this apex species. As such, we conclude that the information presented in the petition on the threats of disease or predation to the smooth hammerhead shark does not provide substantial information indicating that listing may be warranted for the species.

Inadequacy of Existing Regulatory Mechanisms

The petition asserts that the existing international, regional, and national regulations do not adequately protect the smooth hammerhead shark and have been insufficient in preventing population declines. Additionally, the petition asserts that most existing regulations are inadequate because they limit retention of the smooth hammerhead shark and argues that the focus should be on limiting the catch of smooth hammerhead sharks in order to decrease fishery-related mortality, particularly given the species' high post-catch mortality rates. Among the regulations that the petition cites as inadequate are shark finning bans and shark finning regulations. Shark finning bans are currently one of the most widely used forms of shark utilization regulations, and the petition notes that 21 countries, the European Union, and 9 Regional Fisheries Management Organizations (RFMOs) have implemented shark finning bans (CITES, 2013). However, the petition contends that these shark finning bans are often ineffective as enforcement is difficult or lacking, implementation in RFMOs and international agreements is not always binding, and catches often go unreported (CITES, 2013). The petition also states that shark finning regulations tend to have loopholes that can be exploited to allow continued finning. Many shark finning regulations require that both the carcass and the fins be landed, but not necessarily naturally attached. Instead, the regulations impose a fin to carcass ratio weight, which is usually 5 percent (Dulvy *et al.,* 2008). This allows fishermen to preferentially retain the carcasses of valuable species and valuable fins from other species in order to maximize profits (Abercrombie *et al.,* 2005). In 2010, the United States passed the Shark Conservation Act, which except for a limited exception regarding smooth dogfish, requires all sharks to be landed with their fins attached, abolishing the fin to carcass ratio. However, in other parts of the species' range, the inadequacy of existing finning bans may be contributing to further declines in the species by allowing the wasteful practice of shark finning at sea to continue.

In the Atlantic United States, smooth hammerhead sharks are managed as part of the Large Coastal Shark (LCS) complex group under the U.S. Highly Migratory Species Fishery Management Plan (HMS FMP). The petition asserts that the inclusion of smooth hammerheads in the LCS complex offers minimal to no protection to the smooth hammerhead shark, and that implementation of Amendment 5 to the HMS FMP does not cover smooth hammerhead sharks. We find that the petitioners are incorrect in their assertion.

Amendments, in general, are rulemakings that amend FMPs, and in 2012, NMFS published a draft of Amendment 5 to the 2006 HMS FMP (77 FR 73029) that proposed measures designed to reduce fishing mortality and effort in order to rebuild various overfished Atlantic shark species while ensuring that a limited sustainable shark fishery for certain species could be maintained. After considering all of the public comments on Draft Amendment 5, NMFS split Amendment 5 into two rulemakings: Amendment 5a (which addressed scalloped hammerhead, sandbar, blacknose, and Gulf of Mexico blacktip sharks) and Amendment 5b (which addressed dusky sharks).

Amendment 5a was implemented in 2013 (78 FR 40318) and was a rulemaking designed to maintain the rebuilding of sandbar sharks, end overfishing and rebuild scalloped hammerhead and Atlantic blacknose sharks, establish total allowable catches (TAC) and commercial quotas for Gulf of Mexico blacknose and blacktip sharks, and establish new recreational shark fishing management measures. Although Amendment 5a focuses specifically on the rebuilding of scalloped hammerhead sharks, the regulatory measures affect and likely benefit the entire hammerhead complex. For example, with the implementation of Amendment 5a, commercial hammerhead shark quotas (which include smooth, scalloped and great hammerheads) have been separated from the aggregated LCS management group quotas, with links between the Atlantic hammerhead shark quota and the Atlantic aggregated LCS quotas, and links between the Gulf of Mexico hammerhead shark quota and Gulf of Mexico aggregated LCS quotas. In other words, if either the aggregated LCS or hammerhead shark quota is reached, then both the aggregated LCS and hammerhead shark management groups will close. These quota linkages were implemented as an additional conservation benefit for the hammerhead shark complex due to the concern of hammerhead shark bycatch and additional mortality from fishermen targeting other sharks within the LCS complex. The separation of the hammerhead species for quota monitoring purposes from other sharks within the LCS management unit allows for better management of the specific utilization of the hammerhead shark complex, which includes smooth hammerhead sharks.

Additionally, although the petition asserts that Amendment 5 did not cover the smooth hammerhead shark, it acknowledges that an applicable protection for smooth hammerhead sharks from Amendment 5a is the minimum size catch requirement for recreational fishermen, which has been set at 6.5 feet (198 cm). However, the petition notes that this minimum size is below the size at maturity for smooth hammerhead sharks (estimated at 210–250 cm for males and 270 cm for females), and, as such, allows for the continued catch of immature smooth hammerhead sharks.

Finally, although not part of Amendment 5a but still applicable to the smooth hammerhead shark, we note that starting in 2011, U.S. fishermen using pelagic longline (PLL) gear and operating in the Atlantic Ocean, including the Caribbean Sea, and dealers buying from vessels that have PLL gear onboard, have been prohibited from retaining onboard, transshipping, landing, storing, selling, or offering for sale any part or whole carcass of hammerhead sharks of the family Sphyrnidae (except for *S. tiburo*) (76 FR 53652; August 29, 2011). This prohibition provides an additional benefit to the species by reducing the fishery-related mortality of this species within the Atlantic.

While we find that the petitioners are incorrect in their assertion that the inclusion of smooth hammerheads in the LCS complex offers minimal to no protection to the smooth hammerhead shark and the implementation of Amendment 5 (presumably Amendment 5a) does not cover smooth hammerhead sharks, we will evaluate the adequacy of these and the other existing regulations in relation to the threat of overutilization of the species during the status review.

In terms of other national measures, the petition provides a list of countries that have prohibited shark fishing in their respective waters, but notes that many suffer from enforcement related issues, citing cases of illegal fishing and shark finning. The petition also highlights enforceability issues associated with international agreements regarding smooth hammerhead shark utilization and trade. Based on the information presented in the petition as well as information in our files, we find that further evaluation of the adequacy of existing regulatory measures is needed to determine whether this may be a

threat contributing to the extinction risk of the species.

Other Natural or Manmade Factors Affecting Its Continued Existence

The petition contends that ''biological vulnerability'' in the form of long gestation periods, late maturity, large size, relatively infrequent reproduction, and high post-catch mortality rates exacerbate the threat of overutilization and increase the species' susceptibility to extinction. The petition cites Cortés *et al.* (2010), which estimated a post-release mortality of 85 percent for smooth hammerheads caught on pelagic longline. In New South Wales, Australia, Reid and Krogh (1992) examined shark mortality rates in protective beach nets set off the coast between 1950 and 1990, and found that only 1.7 percent of the total number of hammerheads caught in the net (total =2,031 sharks) were still alive when the nets were cleared. These high post-release mortality rates increases the sharks' vulnerability to fishing pressure, with any capture of this species, regardless of whether the fishing is targeted or incidental, contributing to its fishing mortality. However, in an ecological risk assessment of 20 shark stocks, Cortés *et al.* (2010) found that the smooth hammerhead ranked among the least vulnerable sharks to pelagic longline fisheries in the Atlantic Ocean, although the authors note that the amount and quality of data regarding the species was considerably lower than for the other species. Overall, this information suggests that the species' biological vulnerability (low productivity and high post-release mortality) may be a threat in certain fisheries, possibly contributing to an increased risk of extinction, but may not be a cause for concern in other fisheries.

The petition also contends that the species' tendency to form juvenile aggregations increases the species' susceptibility to extinction. Juveniles of the species have been known to aggregate in shallow, coastal waters (Zeeberg *et al.,* 2006; Diemer *et al.,* 2011; CITES, 2013), which increases the species' susceptibility to being caught in large numbers. These shallow areas are close to coastlines and, as such, generally face heavier fishing pressure from commercial, artisanal, and recreational fisheries. Many studies of targeted and retained bycatch shark fisheries have demonstrated that a large amount of the catch of smooth hammerhead sharks are juveniles (Bizzarro *et al.,* 1998; Buencuerpo *et al.,* 1998; Zeeberg *et al.,* 2006; Diemer *et al.,* 2007). The removal of substantial numbers of juveniles from a population can have significant effects on recruitment to the population and could lead to population declines and potentially extinction of a species. Given the observed declines in the species, this juvenile aggregating behavior and, consequently, increased susceptibility to being caught in large numbers, may be a threat that is contributing to the extinction risk of the species.

Thus, the available information in the petition and in our files suggests that the species' natural biological vulnerability (including high post-catch mortality rates and aggregating behavior) may present a threat that warrants further exploration to see if it is exacerbating the threat of overutilization and contributing to the species' risk of extinction that is cause for concern.

Summary of ESA Section 4(a)(1) Factors

We conclude that the petition presents substantial scientific or commercial information indicating that a combination of three of the section 4(a)(1) factors (overutilization for commercial, recreational, scientific, or educational purposes; inadequate existing regulatory mechanisms; and other natural factors) may be causing or contributing to an increased risk of extinction for the smooth hammerhead shark.

Petition Finding

After reviewing the information contained in the petition, as well as information readily available in our files, and based on the above analysis, we conclude the petition presents substantial scientific information indicating the petitioned action of listing the smooth hammerhead shark as threatened or endangered may be warranted. Therefore, in accordance with section 4(b)(3)(B) of the ESA and NMFS' implementing regulations (50 CFR 424.14(b)(2)), we will commence a status review of the species. During our status review, we will first determine whether the species is in danger of extinction (endangered) or likely to become so (threatened) throughout all or a significant portion of its range. If it is not, then we will consider whether the populations identified by the petitioners meet the DPS policy criteria, and if so, whether any of these are threatened or endangered. If no populations meet the DPS policy criteria, then we will consider whether a similarity of appearance listing is warranted. We now initiate this review, and thus, the smooth hammerhead shark is considered to be a candidate species (69 FR 19975; April 15, 2004). Within 12 months of the receipt of the petition (April 27, 2016), we will make a finding as to whether listing the species (or any petitioned DPSs) as endangered or threatened is warranted as required by section 4(b)(3)(B) of the ESA. If listing the species (or any petitioned DPSs) or a similarity of appearance listing is found to be warranted, we will publish a proposed rule and solicit public comments before developing and publishing a final rule.

Information Solicited

To ensure that the status review is based on the best available scientific and commercial data, we are soliciting information on whether the smooth hammerhead shark is endangered or threatened. Specifically, we are soliciting information in the following areas: (1) Historical and current distribution and abundance of this species throughout its range; (2) historical and current population trends; (3) life history in marine environments, including identified nursery grounds; (4) historical and current data on smooth hammerhead shark bycatch and retention in industrial, commercial, artisanal, and recreational fisheries worldwide; (5) historical and current data on smooth hammerhead shark discards in global fisheries; (6) data on the trade of smooth hammerhead shark products, including fins, jaws, meat, and teeth; (7) any current or planned activities that may adversely impact the species; (8) ongoing or planned efforts to protect and restore the species and its habitats; (9) population structure information, such as genetics data; and (10) management, regulatory, and enforcement information. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

References Cited

A complete list of references is available upon request to the Office of Protected Resources (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 5, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2015–19550 Filed 8–10–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 150506426–5426–01]

RIN 0648–XD942

Endangered and Threatened Wildlife; 90-day Finding on a Petition To List the Bigeye Thresher Shark as Threatened or Endangered Under the Endangered Species Act

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

ACTION: 90-day petition finding, request for information, and initiation of status review.

SUMMARY: We, NMFS, announce the 90-day finding on a petition to list the bigeye thresher shark (*Alopias superciliosus*) range-wide, or in the alternative, as one or more distinct population segments (DPSs) identified by the petitioners as endangered or threatened under the U.S. Endangered Species Act (ESA). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the species worldwide. Accordingly, we will initiate a status review of bigeye thresher shark range-wide at this time. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding this species.

DATES: Information and comments on the subject action must be received by October 13, 2015.

ADDRESSES: You may submit comments, information, or data, identified by ''NOAA–NMFS–2015–0089'' by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0089.* Click the ''Comment Now'' icon, complete the required fields, and enter or attach your comments.
- *Mail or hand-delivery:* Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only

FOR FURTHER INFORMATION CONTACT: Chelsey Young, NMFS, Office of Protected Resources (301) 427–8491.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2015, we received a petition from Defenders of Wildlife requesting that we list the bigeye thresher shark (*Alopias superciliosus*) as endangered or threatened under the ESA, or, in the alternative, to list one or more distinct population segments (DPSs), should we find they exist, as threatened or endangered under the ESA. Defenders of Wildlife also requested that critical habitat be designated for this species in U.S. waters concurrent with final ESA listing. The petition states that the bigeye thresher shark merits listing as an endangered or threatened species under the ESA because of the following: (1) The species faces threats from historical and continued fishing for both commercial and recreational purposes; (2) life history characteristics and limited ability to recover from fishing pressure make the species particularly vulnerable to overexploitation; and (3) regulations are inadequate to protect the bigeye thresher shark.

ESA Statutory Provisions and Policy Considerations

Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and promptly publish the finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition and in our files indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned, which includes conducting a comprehensive review of the best available scientific and commercial information. Within 12 months of receiving the petition, we must conclude the review with a finding as to whether, in fact, the petitioned action is warranted. Because the finding at the 12-month stage is based on a significantly more thorough review of the available information, a ''may be warranted'' finding at the 90-day stage does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a ''species,'' which is defined to also include subspecies and, for any vertebrate species, any DPS that interbreeds when mature (16 U.S.C. 1532(16)). A joint NMFS–U.S. Fish and Wildlife Service (USFWS) policy clarifies the agencies' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (''DPS Policy''; 61 FR 4722; February 7, 1996). A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively; 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, the determination of whether a species is threatened or endangered shall be based on any one or a combination of the following five section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define ''substantial information'' in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to

believe that the measure proposed in the petition may be warranted. When evaluating whether substantial information is contained in a petition, we must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

At the 90-day stage, we evaluate the petitioner's request based upon the information in the petition, including its references, and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner's sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude that it supports the petitioner's assertions. Conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding, if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a ''species'' eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (*e.g.,* population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in ESA section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by non-governmental organizations, such as the International Union for the Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but such classification alone may not provide the rationale for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species' conservation status do ''not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act'' because NatureServe assessments ''have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide'' (*http://www.natureserve.org/prodServices/pdf/NatureServeStatusAssessmentsListing-Dec%202008.pdf*). Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

Species Description

Distribution

The bigeye thresher shark *(Alopias superciliosus)* is a large, highly migratory oceanic and coastal species of shark found throughout the world in tropical and temperate seas. In the Western Atlantic (including the Gulf of Mexico), bigeye threshers can be found off the Atlantic coast of the United States (from New York to Florida), and in the Gulf of Mexico off Florida, Mississippi and Texas. They can also be found in Mexico (from Veracruz to Yucatan), Bahamas, Cuba, Venezuela, as well as central and southern Brazil. In the Eastern Atlantic, bigeye threshers are found from Portugal to the Western Cape of South Africa, including the western and central Mediterranean Sea. In the Indian Ocean, bigeye threshers are found in South Africa (Eastern Cape and KwaZulu-Natal), Madagascar, Arabian Sea (Somalia), Gulf of Aden, Maldives, and Sri Lanka. In the Pacific Ocean, from West to East, bigeye threshers are known from southern Japan (including Okinawa), Taiwan (Province of China), Vietnam, between the Northern Mariana Islands and Wake Island, down to the northwestern coast of Australia and New Zealand. Moving to the Central Pacific, bigeye threshers are known from the area between Wake, Marshall, Howland and Baker, Palmyra, Johnston, Hawaiian Islands, Line Islands, and between Marquesas and Galapagos Islands. Finally, in the Eastern Pacific, bigeye threshers occur from Canada to Mexico (Gulf of California) and west of Galapagos Islands (Ecuador). They are also possibly found off Peru and northern Chile (Compagno, 2001).

Physical Characteristics

The bigeye thresher shark possesses an elongated upper caudal lobe almost equal to its body length, which is unique to the Alopiidae family. It has a broad head, a moderately long and bulbous snout, curved yet broad-tipped pectoral fins, distinctive grooves on the head above the gills, and large teeth. The first dorsal fin mid base is closer to the pelvic-fin bases than to the pectoral-fin bases. The caudal tip is broad with a wide terminal lobe. While some of the above characteristics may be shared by

other thresher shark species, diagnostic features separating this species from the other two thresher shark species (common thresher, *A. vulpinus,* and pelagic thresher, *A. pelagicus*) are their extremely large eyes, which extend onto the dorsal surface of the head, and the prominent notches that run dorso-lateral from behind the eyes to behind the gills. The body can be purplish grey or grey-brown on the upper surface and sides, with grey to white coloring on its underside (light color of abdomen does not extend over pectoral fin bases like common thresher) and no white dot on upper pectoral fin tips like those often seen in common threshers (Compagno 2001).

Habitat

Bigeye thresher sharks are found in a diverse spectrum of locations, including coastal waters over continental shelves, on the high seas in the epipelagic zone far from land, in deep waters near the bottom on continental slopes, and sometimes in shallow inshore waters. They are an epipelagic, neritic, and epibenthic shark, ranging from the surface and in the intertidal to at least 500 m deep, but mostly below 100 m depth. In our files, we found information indicating that bigeye threshers prefer an optimum swimming depth of 240–360 m, water temperature of 10–16 °C, salinity of 34.5–34.7 ppt, and dissolved oxygen range between 3.0–4.0 ml/l (Cao *et al.,* 2011).

Feeding Ecology

Bigeye threshers feed on small to medium sized pelagic fishes (*e.g.,* lancetfishes, herring, mackerel and small billfishes), bottom fishes (*e.g.,* hake), and cephalopods (*e.g.,* squids). Thresher sharks are unique in that they use their tail in a whip-like fashion to disorient and incapacitate their prey prior to consumption (Oliver, 2013). The arrangement of the eyes, with keyhole-shaped orbits extending onto the dorsal surface of the head, suggest that this species has a dorsal/vertical binocular field of vision (unlike other threshers), which may be related to fixating on prey and striking them with its tail from below (FAO 2015 species fact sheet).

Life History

Bigeye thresher sharks have an estimated lifespan of approximately 20–21 years and a maximum total length of about 4.6 m. Maturity in bigeye threshers occurs at 7–13 years and 275–300 cm total length (TL) for males and 8–15 years and 290–341cm (TL) for females. Bigeye threshers have low reproductive capacity of only 2–4 pups per litter (Chen *et al.,* 1997; Compagno, 2001; Moreno and Morón, 1992) and a long gestation period of 12 months, although this remains uncertain due to a lack of birthing seasonality data (Liu *et al.,* 1998). They (like all thresher sharks) are ovoviviparous and oophagous (developing embryo in uteri eat unfertilized eggs produced by the ovary). Size at birth for the bigeye thresher ranges from 64–106 cm TL (Gilmore, 1993), but a mating season has not yet been identified. Bigeye threshers have the slowest population growth rate of all thresher sharks, with an exceptionally low potential annual rate of population increase (0.02; IUCN; λ=1.009 yr^{-1}, Cortés, 2009).

Analysis of Petition and Information Readily Available in NMFS Files

Below we evaluate the information provided in the petition and readily available in our files to determine if the petition presents substantial scientific or commercial information indicating that an endangered or threatened listing may be warranted as a result of any of the factors listed under section 4(a)(1) of the ESA. If requested to list a global population or, alternatively, a DPS, we first determine if the petition presents substantial information that the petitioned action is warranted for the global population. If it does, then we make a positive finding on the petition and conduct a review of the species range-wide. If after this review we find that the species does not warrant listing range-wide, then we will consider whether the populations requested by the petition qualify as DPSs and warrant listing. If the petition does not present substantial information that the global population may warrant listing, but it has requested that we list any distinct populations of the species as threatened or endangered, then we consider whether the petition provides substantial information that the requested population(s) may qualify as DPSs under the discreteness and significance criteria of our joint DPS Policy, and if listing any of those DPSs may be warranted. We summarize our analysis and conclusions regarding the information presented by the petitioners and in our files on the specific ESA section 4(a)(1) factors that we find may be affecting the species' risk of global extinction below.

Bigeye Thresher Shark Status and Trends

The petition does not provide a population abundance estimate for bigeye thresher sharks, but points to its ''vulnerable'' status on the IUCN Red List. The petition asserts that a global decline of bigeye thresher sharks has been caused mainly by commercial and recreational fishing (both direct harvest and bycatch), as evidenced by substantial population declines in every area where sufficient historical and current population data exist. In the Northwest and Western Central Atlantic, the petition cites an 80 percent decline in bigeye thresher sharks since the early 2000s, with an estimated average overall decline of 63 percent since the beginning of data collection in 1986. In the Southwest Atlantic, the petition describes the popularity of bigeye threshers in the Brazilian Santos longline fishery, and asserts that some vessels are directly targeting this species specifically for its fins. The petition also describes consistent gradual decreases in catch per unit effort (CPUE) for this species in the region. The petition describes likely declines of bigeye thresher sharks in the Mediterranean based on declines of other pelagic shark species, including congener *A. vulpinus,* due to high fishing pressure. In the Indo-West Pacific, the petition cites the prevalence of finning activities, including both legal and extensive illegal directed shark catch in this region, and states that the bigeye thresher in particular is preferentially retained in certain fisheries. In the Eastern Central Pacific, the petition cites 83 percent declines in thresher populations when compared to research surveys from the 1950s. Finally, the petition points to increased interest in recreational fishing of the bigeye thresher shark, with the potential for high post-release mortality. The petition does not provide information on abundance estimates across the global range of the species.

The last IUCN assessment of the bigeye thresher shark was completed in 2009, and several estimates of global and subpopulation trends and status have been made and are described in the following text. In the Northwest Atlantic, declines in relative abundance cited by the petitioner were derived from analyses of logbook data, reported in Baum *et al.,* (2003) and Cortés (2007). The former study analyzed logbook data for the U.S. pelagic longline fleets targeting swordfish and tunas in the Northwest Atlantic, and reported an 80 percent decline in relative abundance for thresher sharks (common and bigeye threshers combined) from 1986 to 2000. The latter study reported a 63 percent decline of thresher sharks (at the genus level) based on logbook data, occurring between 1986 and 2006 (Cortés, 2007). However, the observer index data from the same study (Cortés, 2007) shows an

opposite trend in relative abundance, with a 28 percent increase of threshers in the Northwest Atlantic since 1992. Logbook data over the same period (1992–2006) shows a 50 percent decline in thresher sharks. The logbook dataset is the largest available for the western North Atlantic Ocean, but the observer dataset is generally more reliable in terms of consistent identification and reporting. According to observer data, relative abundance of thresher sharks (again, only at the genus level) in the western North Atlantic Ocean appears to have stabilized or even be increasing since the late 1990s (Cortés, 2007). A more recent analysis using logbook data between 1996 and 2005 provides some supporting evidence that the abundance of thresher sharks has potentially stabilized over this time period (Baum and Blanchard, 2010). However, it should be noted that fishing pressure on thresher sharks began over two decades prior to the start of this time series; thus, the estimated declines are not from virgin biomass. Furthermore, the sample size in the latter observer analysis was also very small compared to the previous logbook analyses, which both showed declines. Thus, abundance trend estimates derived from standardized catch rate indices of the U.S. pelagic longline fishery suggest that thresher sharks (both bigeye and common) have likely undergone a decline in abundance in this region. However, the conflicting evidence between logbook and observer data showing opposite trends in thresher shark abundance cannot be fully resolved at this time. Data are not available in the petition or in our own files to assess the trend in population abundance in this region since 2006, or to assess the trend specific to the bigeye thresher shark. Because the logbook data from this region show consistent evidence of a significant and continued decline in thresher sharks, we must consider this information in our 90-day determination. Additionally, in the Southeastern United States, studies show significant declines in the species, with decreases in CPUE indicating that the population of *A. superciliosus* has declined by 70 percent from historical levels (Beerkircher *et al.,* 2002).

For the Northeast Atlantic, there are no population abundance estimates available, but data indicate that the species is taken in driftnets and gillnets. In the Mediterranean Sea, estimates show significant declines in thresher shark abundance during the past two decades, reflecting data up to 2006. According to historical data compiled using a generalized linear model, thresher sharks have declined between 96 and 99 percent in abundance and biomass in the Mediterranean Sea (Ferretti *et al.,* 2008). Overall, the bigeye thresher shark has been poorly documented in the Mediterranean and is considered scarce or rare.

In the Eastern Central Pacific, logbook data show a historical decline of thresher sharks due to pelagic fishing fleet operations. Trends in abundance and biomass of thresher sharks in the eastern tropical Pacific Ocean were estimated by comparison of pelagic longline research surveys in the 1950s with recent data (1990s); these data were collected by observers on pelagic longline fishing vessels and standardized to account for differences in depth and soak time. This analysis estimated a decline in combined thresher abundance of 83 percent and a decline in biomass to approximately 5 percent of virgin levels (Ward and Myers, 2005).

In other areas of the world, estimates of thresher shark abundance are limited. Bigeye threshers are recorded in the catches of fisheries operating in the Indo-West Pacific, but catches of the species are likely very under-reported. An analysis of purse seine and longline observer data from the Western and Central Pacific produced no clear catch trends for thresher sharks (*Alopias* spp.); however, shark data from observer data sets are constrained by a lack of observer coverage, particularly for the North Pacific, and for the purse seine fishery by the physical practicalities of onboard sampling (Clarke, 2011). Additionally, this study detected a significant decrease in median size for thresher sharks in tropical areas, most likely reflective of trends in bigeye threshers as they are the most commonly encountered species in this region. While catch data are incomplete and cannot be used to estimate abundance levels or determine the magnitude of catches or trends for bigeye threshers at this time, pelagic fishing effort in this region is high, with reported increases in recent years (IUCN assessment, 2009).

In conclusion, across the species' global range we find evidence suggesting that population abundance of the bigeye thresher shark is declining or, in the Northwest Atlantic Ocean, may be stable at a diminished abundance. While data are still limited with respect to population size and trends, we find the petition and our files sufficient in presenting substantial information on bigeye thresher shark abundance, trends, or status to indicate the petitioned action may be warranted.

ESA Section 4(a)(1) Factors

The petition indicated three main categories of threats to the bigeye thresher shark: overutilization for commercial, recreational, scientific, or educational purposes; the inadequacy of existing regulatory mechanisms; and other natural or manmade factors affecting its continued existence. We discuss each of these below based on information in the petition, and the information readily available in our files.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition states that ''the bigeye thresher has shown substantial population declines in every area where sufficient historical and current population data exists'' and lists four categories of overutilization: historical, directed, incidental, and recreational. The petition describes historical exploitation as the first category of overutilization for the species, predominantly in the Northwest and Central Atlantic and Eastern Central Pacific. In the Northwest and Central Atlantic, bigeye threshers were historically caught in pelagic longline fisheries. Bigeye threshers have been a prohibited species in all commercial fisheries in the U.S. Atlantic since 2000. Since these regulations became effective in 2000, relative abundance of thresher sharks (again, only at the genus level) in the western North Atlantic Ocean appears to have stabilized or even be increasing since the late 1990s (Baum and Blanchard, 2010; Cortés, 2007). However, it should be noted that bigeye threshers are still caught as bycatch and occasionally landed in the Northwest Atlantic Ocean despite its prohibited status (NMFS, 2012; 2013), which may hinder the ability of the population to rebound from the historical declines.

As previously mentioned, the petition also states that logbook data from the Eastern Central Pacific shows a historical decline of bigeye thresher sharks due to pelagic fishing fleet operations known to take this species. Trends in abundance and biomass of thresher sharks in the eastern tropical Pacific Ocean were estimated by comparison of pelagic longline research surveys in the 1950s with recent data (1990s); these data were collected by observers on pelagic longline fishing vessels and standardized to account for differences in depth and soak time. For example, in the 1990's, longliners deployed more hooks (averaging 2240 hooks per day compared to 322 hooks in the 1950s) over a wider depth range

(down to 600 m compared to 200 m) for longer periods. Thus, while catches of thresher sharks increased (from 112 threshers in the 1950s survey to 511 threshers in the 1990s survey), this analysis estimated a decline in combined thresher abundance of 83 percent, with a decline in mean biomass to approximately 5 percent of virgin levels and a decline in mean body mass from 17 kg to 12 kg). While this analysis was not species-specific (Ward and Myers, 2005), we must consider this information in our 90-day finding given the potential significant population decline of bigeye threshers in this region.

In addition to broad commercial harvest of the species, the petition states that direct catch related to the shark fin trade has resulted in population decline, and that bigeye thresher sharks are targeted and preferentially retained for their fins. For example, the petition stated in the Indo-West Pacific, a single thresher fin can fetch US $250, creating incentives that would drive overutilization. However, this statement is not entirely correct. While it is true that high prices are paid for thresher sharks, the value of US $250 was not for a single fin, but rather for the entire shark (Gilman *et al.,* 2007). Still, in comparison to other sharks (*e.g.,* shortfin mako only fetches US $50 per shark), thresher sharks appear to be highly valued and consequently targeted for both their meat and fins. While the petition did not provide any information connecting population declines as a result of this direct catch, evidence suggests that the three thresher shark species, collectively, may account for approximately 2.3 percent of the fins auctioned in Hong Kong, the world's largest fin-trading center (Clarke, 2006). This translates to 0.4 million to 3.9 million threshers that may enter the global fin trade each year (Clarke, 2006), with bigeye thresher having the highest value and vulnerability to fishing compared to the other thresher species (Cortés, 2010); still, the relative proportion of each thresher shark species comprising the shark fin trade is not available in this genus-level assessment and information on the species-specific impact of this harvest on bigeye thresher shark abundance is not provided by the petitioner. However, we found species-specific evidence in our files that bigeye threshers may be highly utilized in the shark fin trade. In a genetic barcoding study of shark fins from markets in Taiwan, bigeye threshers were one of 20 species identified and comprised 0.07 percent of collected fin samples. Additionally, thresher sharks comprised 15 percent of fins genetically tested from markets throughout Indonesia (the largest shark catching country in the world), with bigeye threshers making up an estimated 7.6 percent of all fins tested. The high frequency of bigeye threshers in the markets across Indonesia provides some evidence that they are not just caught incidentally, but are targeted by large-scale fisheries (Sembiring, 2015). In another genetic barcoding study of fins from United Arab Emirates, the fourth largest exporter in the world of raw dried shark fins to Hong Kong, the authors found that the Alopiidae family represented 5.9 percent of the trade from Dubai, with bigeye thresher comprising 2.31 percent (Jabado *et al.,* 2015). Overall, evidence that bigeye thresher sharks (and threshers in general) are highly valued for their fins, are possibly targeted in some areas, and comprise a portion of the Hong Kong fin-trading auction suggests that this threat may impact the species.

In the Indian Ocean, the status and abundance of shark species is poorly known despite a long history of research and more than 60 years of commercial exploitation by large-scale tuna fisheries (Romanov *et al.,* 2010). Pelagic sharks, including bigeye threshers, are targeted in various fisheries, including semi-industrial, artisanal, and recreational fisheries. Countries that fish for various pelagic species of sharks include: Egypt, India, Iran, Oman, Saudi Arabia, Sudan, United Arab Emirates, and Yemen, where the probable or actual status of shark populations is unknown, and Maldives, Kenya, Mauritius, Seychelles, South Africa, and United Republic of Tanzania, where the actual status of shark populations is presumed to range from fully exploited to over-exploited (Young, 2006). In 2013, an Ecological Risk Assessment (ERA) was developed by the Indian Ocean Tuna Commission (IOTC) Scientific Committee to quantify which shark species are most at risk from the high levels of pelagic longline fishing pressure. In this ERA, the IOTC Scientific Committee noted that *A. superciliosus* received a high vulnerability ranking (No. 2) for longline gear, as the species is characterized as one of the least productive shark species, and is highly susceptible to catch in longline fisheries. The ERA also noted that the available evidence indicates considerable risk to the status of the Indian Ocean *Alopias* spp. stocks at current catch levels, which, from 2000–2011 was estimated to be 22,811 mt (Merua *et al.,* 2013).

Indirect catch is another category of overutilization identified by the petition, which states that post-release mortality may be high in the species. However, no information is provided in the petition to connect the effect of bycatch on population declines of the species. In the Northeast Atlantic and Mediterranean, while there are no target fisheries for thresher sharks, they are taken as bycatch in various fisheries, including the Moroccan driftnet fishery in the southwest Mediterranean. They are also caught by industrial and semi-industrial longline fisheries and by artisanal gillnet fisheries. In our files, we found evidence that in the last two decades, thresher sharks (common and bigeye) have declined between 96 and 99 percent in abundance and biomass in the Mediterranean Sea (Ferretti, 2008).

Although bigeye thresher sharks have been a prohibited species in U.S. Atlantic commercial fisheries since 2000, they are still incidentally taken as bycatch on pelagic longlines and in gillnets on the East Coast. For example, in our files, we found that since the prohibition on bigeye threshers came into effect in 2000, approximately 1,493 lbs, dressed weight (677 kg) of bigeye thresher were landed in the Atlantic (NMFS, 2012; 2014) despite its prohibited status. In 2010, the United States reported that bigeye thresher represented the second largest amount of dead discards in the Atlantic commercial fleet, reporting a total of 46 t (NOAA, 2010 Report to ICCAT). In 2011, this number dropped to 27 t of bigeye thresher dead discards (NOAA, 2011 Report to ICCAT). Further, several recent reports assessing the vulnerability of bigeye threshers and other pelagic sharks to bycatch in the U.S. Atlantic pelagic longline fishery characterized the bigeye thresher as highly vulnerable (Cortes, 2010; Cortes, 2012; Gallagher *et al.,* 2014). These landings and dead discards may be linked to declines in the species across the Northwest Atlantic portion of its range; however, as discussed earlier, conflicting logbook and observer data decrease the certainty of these trends (Cortés, 2007; Baum and Blanchard, 2010).

In the Southwest Atlantic Ocean, off the coast of Brazil, bigeye threshers represent almost 100 percent of thresher sharks caught in longline fisheries (Amorin, 1998). The landed catch and CPUE of bigeye thresher shark in this fishery increased from 1971 to 1989, and then gradually decreased from 1990 to 2001; however, this does not necessarily reflect stock abundance because changes in the depth of fishing operations also occurred, which may

have affected the time series. Thus, further information is needed to resolve this. In our files, we found that bigeye threshers are also taken in Uruguayan longline fisheries at similar levels. In one study, observer data from 2001–2005 recorded a total of 295 *A. superciliosus* specimens, in which the species' abundance was characterized as ''low'' despite high fishing effort (Berrondo *et al.,* 2007). Further, observer data from 1992–2000 showed that bigeye threshers experience high mortality in longline fisheries in the Southwest Atlantic, with 54 percent dead upon capture (Beerkircher *et al.,* 2002). Given the declines reported in other areas for which data are available throughout other parts of the species' range and the high fishing pressure from fleets throughout the Southwest Atlantic, *A. superciliosus* may be experiencing a level of exploitation in this part of its range that may increase its risk of extinction.

In the Eastern Central Pacific, the petition points to the fact that bigeye threshers have been recorded as bycatch in purse seine fleets operating in this region, in which bigeye threshers comprised 1 percent of shark species caught during a Shark Characteristics Sampling Program conducted from 1994–2004 (Roman-Verdesoto and Orozco-Zöller, 2005). Bycatch for this report was defined as sharks that were discarded dead after being removed from the net and placed on the vessel. Since 2010, catches of thresher sharks in this fishery have fluctuated between 10 t and 14 t; however, in a preliminary productivity-susceptibility assessment, bigeye threshers were characterized as having a low susceptibility to this fishery (IAATC, 2009). Complete bycatch and discard data are not readily available from longline fleets in the Eastern Pacific. In our files, we found that bigeye thresher sharks are minor components of U.S. West Coast fisheries, taken incidentally and presumably not overexploited, at least locally. The bigeye thresher occurs regularly but in low numbers, comprising only approximately 9 percent of common thresher catch (PFMC, 2003). Overall, we found that apart from blue and silky sharks, there are no stock assessments available for shark species in the Eastern Pacific, and hence the impacts of bycatch on the population are unknown (IATTC, 2014). However, despite a lack of information regarding present levels of bycatch occurring in other fisheries throughout the Eastern Pacific, as described earlier, thresher sharks were estimated to have experienced an 83 percent decline in this part of the species' range as a result of fishing mortality in longline fisheries. Given the high rates of bycatch-related mortality observed in this species throughout other parts of its range (*e.g.,* Northwest and Southwest Atlantic, Indian Ocean, and Central Pacific), it is likely the species experiences similar rates of bycatch-related mortality in this part of its range as well. Thus, it is likely that the historical and continued levels of exploitation in this part of the species' range are impacting the species, such that listing may be warranted.

We found evidence that bigeye threshers are known to interact with longline fisheries throughout the Indo-Pacific. In the Western and Central Pacific, where sharks represent 25 percent of the longline fishery catch, observer data showed that bigeye thresher shark is the 7th most commonly bycaught species of shark out of a total 49 species reported by observers (Molony, 2007). We found that bigeye threshers are commonly taken as bycatch in longline fisheries in the Republic of the Marshall Islands, in which they exhibit at-vessel and/or post-release mortality of 50 percent, and nearly 99 percent are finned and subsequently discarded (Bromhead, 2012). Further, in a species status snapshot for thresher sharks in the Western and Central Pacific, Clarke *et al.,* (2011) identified significant decreasing size trends for thresher sharks in tropical areas, which may be indicative of population declines in these areas. It is thought that these findings most likely reflect trends of bigeye threshers as they are the most common thresher species encountered in this region, with catches of common and pelagic threshers characterized as rare or uncommon. Bigeye threshers are also commonly caught by Hawaii longline fisheries, particularly on deep-set gear (Walsh *et al.,* 2009), and represented 4.1 percent of shark catches from 1995–2006. While catches of thresher sharks (*Alopias* spp.) have trended upward, actual landings of thresher sharks in Hawaii have decreased from 50 mt in 2001 to 16 mt in 2010, presumably due to the implementation of state and Federal laws regarding shark finning (NMFS, 2011).

In the Indian Ocean, while fisheries are directed at other species, bigeye threshers are commonly caught as bycatch and catch rates are considered high (IOTC, 2011; Hererra and Pierre, 2011). For example, bycatch of bigeye threshers has been recorded in Japanese and Taiwanese longline fisheries. According to Japanese observer data, 162 bigeye threshers were bycaught in 6 months (from July 2010 to January 2011). These data do not include live-released bigeye thresher sharks (Ardill *et al.,* 2011), which reportedly have high post-release mortality rates (IOTC, 2014). Observer data from Taiwanese longline fleets (with coverage ranging from only 2.2 percent in 2004 to 20.8 percent in 2007) recorded a total of 445 bigeye threshers bycaught from 2004–2008, with approximately 61 percent discarded (Huang and Liu, 2010). Hooking mortality is apparently very high in this region; therefore, the IOTC's regulation 10/12 that prohibits the onboard retention of any part of any thresher species and promotes live release of thresher sharks may be ineffective for the conservation of bigeye thresher sharks. For example, in the Portuguese longline fleet, bigeye threshers experienced a high rate of at-vessel mortality of 68.4 percent (n = 19) from May to September 2011 (Ardill *et al.,* 2011). The IOTC reported in 2014 that ''maintaining or increasing effort in this region will probably result in further declines in biomass, productivity and CPUE'' for bigeye threshers (IOTC, 2014).

Overall, there is considerable uncertainty regarding the actual levels of bycatch of bigeye thresher shark occurring throughout its range; however, it is likely that these rates are significantly under-reported due to a lack of comprehensive observer coverage in areas of its range in which the highest fishing pressure occurs, as well as a tendency for fishers to not record discards in fishery logbooks. Nevertheless, given the prevalence of bigeye threshers as incidental catch throughout its range and the species' observed high hooking and post-release mortality rates, combined with the species' low productivity, bycatch-related fishing mortality may be a threat placing the species at an increased risk of extinction.

The petition identified recreational fishing as the fourth category of overutilization. In our files, we found evidence that thresher sharks, particularly common threshers, are valued by recreational sport fishermen throughout the species' U.S. East Coast and West Coast range; however, bigeye threshers do not appear to be as important in recreational fisheries and are largely prohibited in many fisheries within the United States. The petition described results from Heberer (2010), which identified the potential negative impact of recreational fishing on the survival of congener, *A. vulpinus,* by assessing post-release survivorship of sharks captured using the caudal fin-based techniques used by most

recreational fishermen in southern California. As previously described, thresher sharks use their elongate upper caudal lobe to immobilize prey before it is consumed, and the majority of common thresher sharks captured in the southern California recreational fishery are hooked in the caudal fin and hauled-in backwards. This is significant because common threshers are obligate ram ventilators that require forward motion to ventilate the gills (Heberer, 2010), and the reduced ability to extract oxygen from the water during capture, as well as the stress induced from these capture methods, may influence recovery following release. The findings of Heberer (2010) demonstrate that large tail-hooked common thresher sharks with prolonged fight times (≥85 min) exhibit a heightened stress response, which may contribute to an increased mortality rate. This work suggests, especially for larger thresher sharks, that recreational catch-and-release may not be an effective conservation-based strategy for the species. A recent paper by Sepulveda (2014) found similar evidence for high post-release mortality of recreationally caught common thresher sharks in the California recreational shark fishery. Their results demonstrated that caudal fin-based angling techniques, which often result in trailing gear left embedded in the shark, can negatively affect post-release survivorship. This work suggests that mouth-based angling techniques can, when performed properly, result in a higher survivorship of released sharks. The petition argues that because common thresher sharks may exhibit high mortality in recreational fisheries that bigeye threshers would likely exhibit similar results. While this may be true, in our files, we found no evidence to suggest that bigeye threshers are declining (or responding in a negative fashion) as a result of utilization by recreational fisheries. While it is not known if this species enters the California recreational fishery on any regular basis, presumably only few are taken. Further, there are no records from the recreational fishery off Oregon or Washington (NMFS, 2007), and in fact, fishing of all thresher species is prohibited in Washington. Likewise, in the Northwest Atlantic, bigeye threshers have been prohibited in recreational fisheries by Federal regulations since 1999. Further, U.S. states from Maine to Florida have adopted the Interstate Fisheries Management Plan (FMP) for Atlantic Coastal Sharks adopted by the Atlantic States Marine Fisheries Commission (ASMFC), which prohibits recreational fishing of bigeye threshers. Finally, since prohibition of this species was implemented in 1999, there has been no observed recreational harvest of this species, with the exception of years 2002 and 2006 (NMFS, 2014). The petition did not provide, nor could we find in our files, any information regarding the threat of recreational fishing to bigeye threshers throughout the rest of the species' range. Thus, we find that the information presented in the petition, and in our files, does not comprise substantial information that would lead us to conclude the species may have an increased risk of extinction from overutilization as a result of recreational fishing activities.

Overall, trends in the North West and Central Atlantic Ocean suggest that the species experienced historical declines from overexploitation, but may be stabilized and possibly increasing in recent years, although there is considerable uncertainty regarding these trends. Elsewhere across the species' range, information in the petition and in our files suggests that the species may continue to experience declines as a result of overutilization from both direct and indirect fishing pressure. In summary, the petition, references cited, and information in our files comprise substantial information indicating that listing may be warranted because of overutilization for commercial purposes.

Inadequacy of Existing Regulatory Mechanisms

The petition points to ''virtually non-existent international regulatory protections'' to assert that bigeye threshers qualify for listing due to the inadequacy of existing regulatory mechanisms. For example, the petition mentions the lack of protections from the Convention on International Trade of Endangered Species (CITES) for the bigeye thresher shark, but then states that even if the species was listed under CITES, it would still be inadequate due to the fact that a CITES listing would only address threats associated with the international trade of the species, and would not address such impacts as bycatch. Although a CITES Appendix II listing or international reporting requirements would provide better data on the global catch and trade of the bigeye thresher shark, the lack of a CITES listing or requirements does not suggest that current regulatory mechanisms are inadequate to protect the bigeye thresher shark population from becoming threatened or endangered under the ESA. The petition also asserts that the recent listing of bigeye thresher shark under Appendix II of the Convention of Migratory Species (CMS) is also inadequate given that the United States and other range states are not Member Parties to CMS and are therefore not bound by the requirements imposed by the Appendix II listing. The petition further states that the Convention text is only suggestive and not self-executing upon the listing of a species. On the contrary, we find that a CMS Appendix II listing now encourages international cooperation towards conservation of the species, and although the United States is not currently a party to CMS, the United States is a signatory to a number of CMS instruments for the conservation of various marine species, including sharks.

The petition also asserts that finning regulations and species-specific retention bans are ''inadequate'' for protecting the bigeye thresher shark species because they may still be caught, either directly or indirectly. The petition also cites several regional fisheries management organizations (RFMOs) that implement a 5 percent fin-to-carcass ratio regulation, describes what the petitioner contends are potential loopholes in those regulations, and states that these general regulations are inadequate for the bigeye thresher shark, whose larger fins make it a more targeted species. The petition further contends that species-specific retention bans for bigeye threshers, such as the ones implemented by ICCAT and IOTC that specifically prohibit the retention, transshipping, landing, storing, selling, or offering for sale any part or whole carcass of bigeye thresher sharks, are also inadequate largely because they do not address incidental catch and subsequent high mortality rates of the species. Based on the information presented in the petition and in our files, we find that the bigeye thresher shark is highly valued for its fins, and can be identified in the shark fin market at the species level. While regulations banning the finning of sharks are a common form of shark management and have been adopted by far more countries and regional fishery management organizations than the petition lists (see HSI, 2012), we agree with the petition that due to high rates of hooking mortality observed in this species as a result of incidental catch, prohibitions on the retention of bigeye thresher or restrictions on the finning of sharks may not be adequate to protect the bigeye thresher from fishing mortality rates that may contribute to its extinction risk, especially given the species' significantly low productivity and intrinsic rate of population increase.

In addition to the inadequacy of international regulations, the petition states that ''while the U.S. has attempted to protect the bigeye thresher shark in U.S. waters, piecemeal protections that fail to cover the species throughout its migratory range have proven to be unsuccessful.'' Though U.S. regulations by their jurisdictional nature only cover U.S. fishers, we do not agree that this makes them inadequate. We find that U.S. national fishing regulations include numerous regulatory mechanisms for both sharks in general, and bigeye threshers specifically, that may help protect the species. For example, in the U.S. Atlantic, the bigeye thresher has been a prohibited species in both commercial and recreational fisheries since 2000 and 1999, respectively, under the 1999 Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks. In addition, current management measures for the Atlantic shark fisheries include the following: commercial quotas, commercial retention limits, limited entry, time-area closures, and recreational bag limits. Sharks are required to be landed with fins naturally attached to the carcass. Additionally, several U.S. states have prohibited the sale or trade of shark fins/products as well, including Hawaii, Oregon, Washington, California, Illinois, Maryland, Delaware, New York, and Massachusetts, subsequently decreasing the United States' contribution to the fin trade. For example, after the state of Hawaii prohibited finning in its waters in 2000 and required shark fins to be landed with their corresponding carcasses in the state, shark fin imports from the United States into Hong Kong declined significantly (54 percent decrease, from 374 to 171 tonnes), as Hawaii could no longer be used as a fin trading center for the international fisheries operating and finning in the Central Pacific (Miller, 2014). Except for smooth dogfish (*Mustelus canis*), the U.S. Shark Conservation Act of 2010 protects all shark species, making it illegal to remove any of the fins of a shark (including the tail) at sea; to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass; to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached. However, we do agree with the petition that these regulations do not address the issue of bycatch-related mortality of the species, especially considering the fact that bigeye threshers are still bycaught in U.S. fisheries.

Overall, while measures may be implemented to reduce bycatch, we found no evidence that these measures have been incorporated into common practice throughout the species' range, particularly in areas where fishing pressure is most concentrated. Further, while numerous finning and species-specific retention bans have been implemented, these regulations fail to address the species' high rate of bycatch-related mortality. In summary, the petition, references cited, and information in our files comprise substantial information indicating that the species may be impacted by the inadequacy of regulatory mechanisms in parts of its range, such that listing may be warranted.

Other Natural or Manmade Factors Affecting Its Existence

The petition states that the biological constraints of the bigeye thresher shark, such as its low reproduction rate (typically 2–4 pups a year), coupled with a late age of maturity (approximately 12–14 years for females, and slightly earlier for males, between 9–10 years) contribute to the species' vulnerability to harvesting and its inability to recover rapidly. We agree with the petition that the bigeye thresher shark exhibits relatively slow growth rates and low fecundity. An ecological risk assessment conducted to inform the International Commission for the Conservation of Atlantic Tunas (ICCAT) categorized the relative risk of overexploitation of the 11 major species of pelagic sharks, including the bigeye thresher shark (Cortés *et al.,* 2010, 2012). The study derived an overall vulnerability ranking for each of the 11 species, which was defined as ''a measure of the extent to which the impact of a fishery [Atlantic longline] on a species will exceed its biological ability to renew itself'' (Cortés *et al.,* 2010, 2012). This robust assessment found that bigeye thresher sharks have a combination of low productivity and high susceptibility to pelagic longline gear, which places the bigeye thresher at high risk of overexploitation to the combined pelagic longline fisheries in the Atlantic Ocean (Cortés *et al.,* 2010, 2012). In fact, of the 11 species examined in this study, Atlantic bigeye thresher sharks were identified as one of the most vulnerable and least productive shark species. Even within the genus *Alopias,* the bigeye thresher shark has the slowest population growth rate of all thresher sharks, with an exceptionally low potential annual rate of population increase (0.002–0.009 or 1.6 percent) under sustainable exploitation (Cortés, 2008; Dulvy *et al.,* 2008; Smith *et al.,* 2008). This makes them particularly vulnerable to any level of fisheries exploitation, whether targeted or caught as bycatch in fisheries for other species. Given that bigeye thresher sharks are caught regularly as incidental bycatch throughout its range and experience high mortality rates as a result, and that the species may be targeted in some areas for its fins, the species' growth and reproductive factors may inhibit the species' ability to recover from even moderate levels of exploitation, thus placing the bigeye thresher shark at an increased risk of extinction as a result. In summary, the petition, references cited, and information in our files comprise substantial information indicating that the species is impacted by ''other natural or manmade factors,'' including the life history trait of slow productivity, such that listing the species may be warranted.

Summary of Section 4(a)(1) Factors

We conclude that the petition does not present substantial scientific or commercial information indicating that the ESA section (4)(a)(1) threats of ''present or threatened destruction, modification, or curtailment of its habitat or range'' or ''disease or predation'' may be causing or contributing to an increased risk of extinction for the global population of the bigeye thresher shark. However, we do conclude that the petition and information in our files present substantial scientific or commercial information indicating that the section 4(a)(1) factor ''overutilization for commercial, recreational, scientific, or educational purposes,'' as well as ''inadequacy of existing regulatory mechanisms'' and ''other manmade or natural factors,'' may be causing or contributing to an increased risk of extinction for the species.

Petition Finding

Based on the above information and the criteria specified in 50 CFR 424.14(b)(2), we find that the petition and information readily available in our files present substantial scientific and commercial information indicating that the petitioned action of listing the bigeye thresher shark worldwide as threatened or endangered may be warranted. Therefore, in accordance with section 4(b)(3)(A) of the ESA and NMFS' implementing regulations (50

CFR 424.14(b)(3)), we will commence a status review of the species. During the status review, we will determine whether the species is in danger of extinction (endangered) or likely to become so within the foreseeable future (threatened) throughout all or a significant portion of its range. We now initiate this review, and thus, we consider the bigeye thresher shark to be a candidate species (69 FR 19975; April 15, 2004). Within 12 months of the receipt of the petition (April 27, 2016), we will make a finding as to whether listing the species as endangered or threatened is warranted as required by section 4(b)(3)(B) of the ESA. If listing the species is found to be warranted, we will publish a proposed rule and solicit public comments before developing and publishing a final rule.

Information Solicited

To ensure that the status review is based on the best available scientific and commercial data, we are soliciting information relevant to whether the bigeye thresher shark is endangered or threatened. Specifically, we are soliciting information in the following areas: (1) Historical and current distribution and abundance of this species throughout its range; (2) historical and current population trends; (3) life history in marine environments, including identified nursery grounds; (4) historical and current data on bigeye thresher shark bycatch and retention in industrial, commercial, artisanal, and recreational fisheries worldwide; (5) historical and current data on bigeye thresher shark discards in global fisheries; (6) data on the trade of bigeye thresher shark products, including fins, jaws, meat, and teeth; (7) any current or planned activities that may adversely impact the species; (8) ongoing or planned efforts to protect and restore the species and its habitats; (9) population structure information, such as genetics data; and (10) management, regulatory, and enforcement information. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

References Cited

A complete list of references is available upon request to the Office of Protected Resources (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 5, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2015–19551 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 80, No. 154
Tuesday, August 11, 2015

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 5, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Requirements to Notify FSIS of Adulterated or Misbranded Product, Prepare and Maintain Written Recall Procedures and Document Certain HACCP Reassessments.

OMB Control Number: 0583–0144.

Summary Of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. Section 11017 of the Food, Conservation, and Energy Act of 2008 (Pub. L No. 110–246, 112 Stat 1651, 448–49), amended the FMIA and the PPIA by adding sections 12 and 13 to the FMIA and by amending section 10 of the PPIA (21 U.S.C. 459). These sections require official establishments that believe, that product they have shipped or received, that may be misbranded or adulterated and has entered into commerce are required to notify the Secretary of Agriculture.

Need and Use of the Information: Official establishments are to document each time they reassess their HACCP plans and make the reassessments available to FSIS officials for review and copying. Official establishments are to notify the FSIS District Office that they have received or have shipped into commerce misbranded or adulterated product. The information collected will permit FSIS officials to monitor closely establishments HACCP plan reassessments and to facilitate recalls or adulterated or misbranded product.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6,300.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 47,475.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–19637 Filed 8–10–15; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0046]

Notice of Availability of Treatment Evaluation Documents and Supplemental Environmental Assessment for Pesticide Use for the Imported Fire Ant Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have determined that it is necessary to add to the Plant Protection and Quarantine Treatment Manual two treatment options for use in controlling imported fire ant. We have prepared treatment evaluation documents that describe the new treatment options and provide justification as to why they are effective at neutralizing imported fire ant. In addition, we have prepared a supplemental environmental assessment to update the existing environmental assessment for imported fire ant treatments. We are making the treatment evaluation documents and the supplemental environmental assessment available for review and comment.

DATES: We will consider all comments that we receive on or before October 13, 2015.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0046*.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS–2015–0046, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0046* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Brown, Imported Fire Ant Quarantine Policy Manager, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737; (301) 851–2119.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR chapter III are intended, among other things, to prevent the introduction or dissemination of plant pests and noxious weeds into or within the United States. Under the regulations, certain plants, fruits, vegetables, and other articles must be treated before they may be moved into the United States or interstate. The phytosanitary treatments regulations contained in part 305 of 7 CFR chapter III (referred to below as the regulations) set out standards for treatments required in parts 301, 318, and 319 of 7 CFR chapter III for fruits, vegetables, and other articles.

Section 305.3 of the regulations sets forth a notice-based process for adding, revising, and removing the treatments from the Plant Protection and Quarantine (PPQ) [1] Treatment Manual. In that section, paragraph (b) sets out the process for adding, revising, or removing treatment schedules when there is an immediate need to make a change. The circumstances in which an immediate need exists are described in § 305.3(b)(1).

- PPQ has determined that an approved treatment schedule is ineffective at neutralizing the targeted plant pest(s);
- PPQ has determined that, in order to neutralize the targeted plant pest(s), the treatment schedule must be administered using a different process than was previously used;
- PPQ has determined that a new treatment schedule is effective, based on efficacy data, and that ongoing trade in an article or articles may be adversely impacted unless the new treatment schedule is approved for use; or
- The use of a treatment schedule is no longer authorized by the U.S. Environmental Protection Agency or by any other Federal entity.

In order to limit the artificial spread of the imported fire ant (IFA), domestic movement of all nursery stock (containerized or balled-and-burlapped) and grass sod from IFA-infested areas of the United States to uninfested areas is regulated under 7 CFR 301.81–2. Specifically, the Animal and Plant Health Inspection Service (APHIS) uses ant bait products in conjunction with chemical treatment to prevent the artificial spread and dissemination of IFA. The quarantine requirements involve the use of chemical treatments on commodities to insure that shipments from nurseries, sod farms, and field-growing nursery facilities are free of IFA. Changes in availability of insecticides that are effective against IFA, as well as ensuring a range of pest management options, requires APHIS to periodically evaluate new treatment options.

Currently, ant bait products are used in conjunction with the application of a chlorpyrifos (insecticide) drench treatment to prevent the artificial spread of IFA. Although effective, we have determined that it is necessary to modify the technique used to apply drench treatment to increase the effectiveness of the treatment. In addition, we are adding two options to the list of insecticidal baits that are already approved for use for IFA. The additional insecticidal baits are being added to provide a broader range of chemical treatment options and are not being proposed as additional treatments beyond what is currently required in the quarantine program. Both products have commercial uses in nurseries and will give growers additional options for the bait treatment of field grown nursery stock or for use in the imported fire ant detection, control, exclusion, and enforcement program for nurseries producing containerized plants (7 CFR 301.81–11).

Therefore, APHIS has added two additional insecticidal baits, Abamectin and Metaflumizone, to the list of chemicals already allowed in the IFA program and modified a drench treatment (Chlorpyrifos) for balled-and-burlapped nursery stock for use in control of IFA.

The reasons for these changes are further described in two treatment evaluation documents (TEDs) we have prepared to support this action. In addition, we have prepared a supplemental environmental assessment (EA) to include the human and environmental impacts that can be reasonably expected to occur as a result of the new treatment options available for controlling IFA; as described in the new treatment evaluation documents. The TEDs and supplemental EA may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room). You may also request paper copies of the TEDs and EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

After the close of the comment period, APHIS will publish a notice announcing our final determination and, if appropriate, any changes we made as a result of the comments.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 5th day of August 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–19700 Filed 8–10–15; 8:45 am]

BILLING CODE 3410–34–P

[1] The PPQ Treatment Manual is available at *http://www.aphis.usda.gov/import_export/plants/manuals/index.shtml* or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Manuals Unit, 92 Thomas Johnson Drive, Suite 200, Frederick, MD 21702.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0031]

Feral Swine Damage Management Final Environmental Impact Statement; Record of Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public of the Animal and Plant Health Inspection Service's record of decision for the final environmental impact statement titled ''Feral Swine Damage Management: A National Approach.''

DATES: Effective August 11, 2015.

ADDRESSES: You may read the final environmental impact statement and the record of decision in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

The record of decision, final environmental impact statement, and supporting information may also be found by visiting the APHIS feral swine environmental impact statement Web page at *www.aphis.usda.gov/wildlife-damage/fseis*. To obtain copies of the documents, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Dr. Kimberly Wagner, USDA–APHIS Wildlife Services, 732 Lois Drive, Sun Prairie, WI; (608) 837–2737; *kimberly.k.wagner@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION: On June 12, 2015, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** (80 FR 33519, Document No. 2015–14435) a notice of the availability of a final environmental impact statement (FEIS) by the Animal and Plant Health Inspection Service (APHIS) titled ''Feral Swine Damage Management: A National Approach.''

Under the National Environmental Policy Act (NEPA) implementing regulations in 40 CFR 1506.10, with limited exceptions, an Agency must wait a minimum of 30 days after publication of the EPA's notice of an FEIS before issuing a record of decision regarding actions covered by that FEIS. Accordingly, this notice advises the public that the waiting period has elapsed, and APHIS has issued a record of decision to implement the preferred alternative described in the FEIS titled ''Feral Swine Damage Management: A National Approach.''

APHIS' record of decision has been prepared in accordance with: (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 5th day of August 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–19699 Filed 8–10–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Economic Development Administration

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

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

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

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

[7/31/2015 through 8/5/2015]

Firm name	Firm address	Date accepted for investigation	Product(s)
Custom Engineering Company.	2800 McClelland Avenue, Erie, PA 16514	8/5/2015	The firm manufactures medium to heavy steel platens, fabrications and hydraulic press components.
Relius Medical, LLC	615 Wooten Road, Suite 150, Colorado Springs, CO 80915.	8/4/2015	The firm manufactures orthopedic devices produced from various high performance metal alloys.
Propac Images, Inc	1292 Wagner Drive, Albertville, AL 35950	8/4/2015	The firm manufactures framed art, mirrors, and canvas art.
American Grass Seed Producers, Inc.	32345 McLagan Drive , Tangent, OR 97398	8/5/2015	The firm produces grass seed.
del Carmen, LLC	800 North Tucker Street St., Louis, MO 63101	8/5/2015	The firm produces pre-cooked pre-packed black bean food products.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

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

Dated: August 5, 2015.

Michael S. DeVillo,

Eligibility Examiner.

[FR Doc. 2015–19670 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–65–2013]

Approval of Subzone Status, Parapiezas Corporation, Cataño, Puerto Rico

On May 9, 2013, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Trade & Export Company, grantee of FTZ 61, requesting subzone status subject to the existing activation limit of FTZ 61 on behalf of Parapiezas Corporation. Pursuant to an application amendment in October 2013, the subzone would consist of one site in Cataño, Puerto Rico.

The amended application was processed in accordance with the FTZ Act and Regulations, including notices in the **Federal Register** inviting public comment (78 FR 28800, 5–16–2013; 78 FR 75332, 12–11–2013). The FTZ staff examiner reviewed the amended application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the amended application to establish Subzone 61P is approved, subject to the FTZ Act and

the Board's regulations, including Section 400.13, and further subject to FTZ 61's 1,821.07-acre activation limit.

Dated: August 6, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–19709 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–88–2015]

Approval of Expansion of Subzone 22N; Michelin North America, Inc.; Wilmington, Illinois

On June 9, 2015, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Illinois International Port District, grantee of FTZ 22, on behalf of Michelin North America, Inc., requesting an expansion of Subzone 22N in Wilmington, Illinois subject to the existing activation limit of FTZ 22 and also requesting the removal of existing Site 1 of the subzone following a transition period.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (80 FR 34140, 6–15–2015). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 22N to include an additional site and to terminate existing Site 1 on January 31, 2016 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 22's 2,000-acre activation limit.

Dated: August 5, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–19708 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–89–2015]

Approval of Subzone Status; Autogermana, Inc.; San Juan, Puerto Rico

On June 11, 2015, the Acting Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Trade & Export Company, grantee of FTZ 61, requesting subzone status subject to the existing activation limit of FTZ 61 on behalf of Autogermana, Inc., in San Juan, Puerto Rico. The applicant also requested removal of Site 22 of FTZ 61 following a transition period to allow merchandise to be transferred to the new subzone.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (80 FR 34619, 6–17–2015). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 61Q and to remove Site 22 of FTZ 61 after a 45-day transition period (*i.e.,* on September 21, 2015) is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 61's 1,821.07-acre activation limit.

Dated: August 6, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–19707 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–849]

Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China: Preliminary Results of Antidumping Administrative Review and Preliminary Determination of No Shipments; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* August 11, 2015.

SUMMARY: The Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate (''CTL plate'') from the People's Republic of China (''PRC'') for the period of review (''POR'') November 1, 2013, through October 31, 2014. This review covers six PRC companies.[1] The Department preliminarily finds that five of the six companies under review have not demonstrated their eligibility for separate rate status, and are part of the PRC-wide entity. The Department preliminarily finds that one of the companies under review made no shipments of subject merchandise during the POR.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0989.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The product covered by the order is certain cut-to-length carbon steel plate from the PRC.[2] This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7212.40.5000, and 7212.50.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act''). For a full discussion of the decisions taken in these preliminary results, *see* the Preliminary Results Decision Memorandum. The Preliminary Results 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 is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 76956 (December 23, 2014) (''*Initiation Notice*''). The companies under review are as follows: Hebei Iron & Steel Co., Ltd. (''Hebei Iron''); Hunan Valin Xiangtan Iron & Steel Co., Ltd. (''Hunan Valin''); Jiangyin Xingcheng Plastic Chemical Co., Ltd. (''Jiangyin Plastic''); Jiangyin Xingcheng Special Steel Works Co., Ltd. (''Jiangyin Steel''); Wuyang Iron & Steel Co, Ltd. (''Wuyang Iron''); and Xiamen C&D Paper & Pulp Co., Ltd. (''Xiamen Paper'').

[2] *See* Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China, issued concurrently with this notice, for a complete description of the Scope of the Order (''Preliminary Results Decision Memorandum'').

Results Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn//*. The signed Preliminary Results Decision Memorandum and the electronic versions of the Preliminary Results Decision Memorandum are identical in content.

Separate Rates

The following companies failed to submit a separate rate application or separate rate certification: Hebei Iron; Hunan Valin; Jiangyin Plastic; Jiangyin Steel; and Xiamen Paper. Therefore, the Department preliminarily determines that these companies have not demonstrated their eligibility for separate rate status and are part of the PRC-wide entity.[3] The PRC-wide entity rate is 128.59 percent.

Preliminary Determination of No-Shipments

Wuyang Iron submitted a timely-filed certification that it had no exports, sales, or entries of subject merchandise during the POR,[4] and a query of U.S. Customs and Border Protection (''CBP'') data did not show any POR entries of Wuyang Iron's subject merchandise.[5] In addition, CBP did not identify any entries of subject merchandise from Wuyang Iron during the POR in response to an inquiry from the Department asking CBP for such information.[6] Based on the foregoing, the Department preliminarily determines that Wuyang Iron did not have any reviewable transactions during the POR. For additional information regarding this determination, *see* the Preliminary Results Decision Memorandum.

Consistent with an announced refinement to its assessment practice in NME cases, the Department is not rescinding this administrative review for Wuyang Iron, but intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.[7]

Preliminary Results of Review

The Department preliminarily determines that Hebei Iron; Hunan Valin; Jiangyin Plastic; Jiangyin Steel; and Xiamen Paper are not eligible for separate rates status. Moreover, the Department preliminarily determines that Wuyang Iron did not have reviewable transactions during the POR.

Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments, filed electronically using ACCESS, within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this review are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), interested parties, who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. Electronically filed case briefs/written comments and hearing requests must be received successfully in their entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time, within 30 days after the date of publication of this notice.[8] Hearing requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those issues raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the time and date of the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington DC 20230.

Unless extended, the Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[9] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. The Department intends to instruct CBP to liquidate any entries of subject merchandise from Hebei Iron, Hunan Valin; Jiangyin Plastic, Jiangyin Steel, and Xiamen Paper, at 128.59 percent (the PRC-wide rate).

Additionally, pursuant to the Department's practice in NME cases, if we continue to determine that Wuyang Iron had no shipments of subject merchandise, any suspended entries of subject merchandise from Wuyang Iron will be liquidated at the PRC-wide rate.[10]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters which are not under review in this segment of the proceeding but which have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, including Hebei Iron; Hunan Valin; Jiangyin Plastic; Jiangyin Steel; and Xiamen Paper, the cash deposit rate will be the PRC-wide rate of 128.59 percent; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of

[3] *See Initiation Notice,* 79 FR 76956, 76957 (''All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification . . .'').

[4] *See* Letter from Wuyang Iron to the Department, Re: ''Administrative Review of Certain Cut-to-Length Carbon Steel Plate from China: Wuyang Iron & Steel's No Shipment Letter,'' dated January 12, 2015.

[5] *See* Memorandum from Patrick O'Connor, International Trade Compliance Analyst, to the File, Re: ''Results of Customs and Border Protection Query,'' dated January 9, 2015.

[6] *See* CBP Message Number 5173301 dated June 22, 2015.

[7] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

[8] *See* 19 CFR 351.310(c).

[9] *See* 19 CFR 351.212(b)(1).

[10] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: August 3, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Results Decision Memorandum

[FR Doc. 2015–19710 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Changed Circumstances Review, and Intent To Revoke Antidumping Duty Order in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On February 13, 2015, the Department of Commerce (the ''Department'') received a request for revocation, in part, of the antidumping duty (''AD'') order on wooden bedroom furniture from the People's Republic of China (''PRC'') [1] with respect to jewelry armoires that have at least one front door. We preliminarily determine that the producers accounting for substantially all of the production of the domestic like product to which the *Order* pertains lack interest in the relief provided by the *Order* with respect to jewelry armoires that have at least one front door as described below. Accordingly, we intend to revoke, in part, the *Order* as to imports of jewelry armoires with at least one front door. The Department invites interested parties to comment on these preliminary results.

DATES: *Effective Date:* August 11, 2015.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor or Howard Smith, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0989 or (202) 482–5193, respectively.

Background

On January 4, 2005, the Department published the *Order* in the **Federal Register**. On February 13, 2015, the Department received a request on behalf of Pier 1 Imports (U.S.), Inc. (''Pier One'') for a changed circumstances review to revoke, in part, the *Order* with respect to jewelry armoires with at least one front door.[2] On March 11, 2015, the American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. (collectively, ''Petitioners'') stated that they agree with the scope exclusion language proposed by Pier One.[3]

On April 2, 2015, we published the *Initiation Notice* in the **Federal Register**.[4] Because the statement submitted by Petitioners in support of Pier One's Request did not indicate whether Petitioners account for substantially all of the domestic wooden bedroom furniture production, in the *Initiation Notice,* we invited interested parties to submit comments concerning industry support for the revocation in part, as well as comments and/or factual information regarding the changed circumstances review. No comments were submitted by any party.

Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) Wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,[5] highboys,[6] lowboys,[7] chests of drawers,[8] chests,[9] door chests,[10] chiffoniers,[11] hutches,[12] and armoires;[13]

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China,* 70 FR 329 (January 4, 2005) (''*Order*'').

[2] *See* Submission from Pier One, ''Wooden Bedroom Furniture From the People's Republic of China; Request for a Changed Circumstance Review as to Certain Additional Jewelry Armoires,'' dated February 13, 2015 (''Pier One's Request'').

[3] *See* March 11, 2015 letter from King & Spalding Re: Wooden Bedroom Furniture From The People's Republic of China/Petitioners' Response to Pier 1 Imports' Letter of February 13, 2015.

[4] *See* Wooden Bedroom Furniture from the People's Republic of China: Notice of Initiation of Changed Circumstances Review, and Consideration of Revocation of the Antidumping Duty Order in Part, 80 FR 17719 (April 2, 2015) (''*Initiation Notice*'').

[5] A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[6] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[7] A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

[8] A chest of drawers is typically a case containing drawers for storing clothing.

[9] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[10] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[11] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

[12] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[13] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

(6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) Seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate; [14] (9) jewelry armories; [15] (10) cheval mirrors; [16] (11) certain metal parts; [17] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds; [18] and (14) toy boxes.[19] Also excluded from the scope are certain enclosable wall bed units, also referred to as murphy beds, which are composed of the following three major sections: (1) A metal wall frame, which attaches to the wall and uses coils or pistons to support the metal mattress frame; (2) a metal frame, which has euro slats for supporting a mattress and two legs that pivot; and (3) wood panels, which attach to the metal wall frame and/or the metal mattress frame to form a cabinet to enclose the wall bed when not in use. Excluded enclosable wall bed units are imported in ready-to-assemble format with all parts necessary for assembly. Enclosable wall bed units do not include a mattress. Wood panels of enclosable wall bed units, when imported separately, remain subject to the order.

Also excluded from the scope are certain shoe cabinets 31.5–33.5 inches wide by 15.5–17.5 inches deep by 34.5–36.5 inches high. They are designed strictly to store shoes, which are intended to be aligned in rows perpendicular to the wall along which the cabinet is positioned. Shoe cabinets do not have drawers, rods, or other indicia for the storage of clothing other than shoes. The cabinets are not designed, manufactured, or offered for sale in coordinated groups or sets and are made substantially of wood, have two to four shelves inside them, and are covered by doors. The doors often have blinds that are designed to allow air circulation and release of bad odors. The doors themselves may be made of wood or glass. The depth of the shelves does not exceed 14 inches. Each shoe cabinet has doors, adjustable shelving, and ventilation holes.

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 of the HTSUS as ''wooden . . . beds'' and under subheading 9403.50.9080 of the HTSUS as ''other . . . wooden furniture of a kind used in the bedroom.'' In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9042 or 9403.50.9045 of the HTSUS as ''parts of wood.'' Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, 9403.20.0018, or 9403.90.8041. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as ''glass mirrors . . . framed.'' The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

[14] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. *See* CBP's Headquarters Ruling Letter 043859, dated May 17, 1976.

[15] Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. *See* Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, concerning ''Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China,'' dated August 31, 2004. *See also Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review, and Determination To Revoke Order in Part,* 71 FR 38621 (July 7, 2006).

[16] Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.,* a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. *See Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part,* 72 FR 948 (January 9, 2007).

[17] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.,* wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

[18] Upholstered beds that are completely upholstered, *i.e.,* containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part,* 72 FR 7013 (February 14, 2007).

[19] To be excluded the toy box must: (1) Be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (''ASTM'') standard F963–03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part,* 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum ''Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on a White Toy Box,'' dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

Scope of Changed Circumstances Review

The scope of the order currently excludes certain jewelry armoires with at least one side door but does not exclude jewelry armoires with at least one front door. Pier One proposes adding the phrase ''or at least one front door'' to the existing exclusion for jewelry armoires. Thus, excluded jewelry armoires would be: ''{A}ny armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door or one front door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror.''

Preliminary Results of Changed Circumstances Review, and Intent To Revoke the Order, in Part

Pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.222(g), the Department may revoke an AD order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.,* a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives the Department the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order. 19 CFR 351.222(g) provides that the Department will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or (ii) if other changed circumstances sufficient to warrant revocation exist. Both the Act and the Department's regulations require that ''substantially all'' domestic producers express a lack of interest in the order for the Department to revoke the order, in whole or in part.[20] The Department has interpreted ''substantially all'' to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.[21]

On February 13, 2015, Pier One requested that the Department expedite the changed circumstances review.[22] The Department's regulations do not specify a deadline for the issuance of preliminary results of a changed circumstances review, but provide that the Department will issue the final results of review within 270 days after the date on which the changed circumstances review is initiated, or within 45 days if all parties to the proceeding agree to the outcome of the review.[23] The Department did not issue a combined notice of initiation and preliminary results because, as discussed above, the statement provided by Petitioners and offered in support of Pier One's Request did not indicate whether Petitioners account for substantially all domestic wooden bedroom furniture production.[24] Thus, the Department did not determine in the *Initiation Notice* that producers accounting for substantially all of the production of the domestic like product lacked interest in the continued application of the *Order* as to certain jewelry armoires. Further, the Department requested interested party comments on the issue of domestic industry support of a partial revocation.[25] Because the Department received no comments concerning a lack of industry support or opposing initiation of the changed circumstances review of the *Order,* the Department now preliminarily finds that producers accounting for substantially all of the production of the domestic like product lack interest in the relief afforded by the *Order* with respect to the jewelry armoires described in Pier One's Request. We will consider comments from interested parties on these preliminary results before issuing the final results of this review.[26]

As noted in the *Initiation Notice,* Pier One requested the revocation of the *Order,* in part, and supported its request. In light of Pier One's Request and the absence of any interested party comments received during the comment period, we preliminarily conclude that changed circumstances warrant revocation of the *Order,* in part, because the producers accounting for substantially all of the production of the domestic like product to which the *Order* pertains lack interest in the relief provided by the *Order* with respect to the jewelry armoires that are the subject of Pier One's Request.

Accordingly, we are notifying the public of our intent to revoke the *Order,* in part, with respect to jewelry armoires with at least one front door. We intend to carry out this revocation by stating that the scope of the order excludes any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door *or* one front door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror.

Public Comment

Interested parties are invited to comment on these preliminary results in accordance with 19 CFR 351.309(c)(1)(ii). Written comments may be submitted no later than 14 days after the date of publication of these preliminary results. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than seven days after the due date for comments. All submissions must be filed electronically using Enforcement and Compliance's AD and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time on the day it is due.

The Department will issue the final results of this changed circumstances review, which will include its analysis of any written comments, no later than 270 days after the date on which this review was initiated.

If, in the final results of this review, the Department continues to determine

[20] *See* section 782(h) of the Act and 19 CFR 351.222(g).

[21] *See Honey From Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012), unchanged in *Honey From Argentina; Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders,* 77 FR 77029 (December 31, 2012)(''*Honey From Argentina''*).

[22] *See* Pier One's Request.

[23] 19 CFR 351.216(e).

[24] *See Initiation Notice.*

[25] *Id.*

[26] *See, e.g., Honey From Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012); *Aluminum Extrusions From the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part,* 78 FR 66895 (November 7, 2013); *see also* 19 CFR 351.222(g)(1)(v).

that changed circumstances warrant the revocation of the *Order,* in part, we will instruct U.S. Customs and Border Protection to liquidate without regard to antidumping duties, and to refund any estimated antidumping duties, on all unliquidated entries of the merchandise covered by the revocation that are not covered by the final results of an administrative review or automatic liquidation.

The current requirement for cash deposits of estimated antidumping duties on all entries of subject merchandise will continue unless until they are modified pursuant to the final results of this changed circumstances review.

These preliminary results of review and notice are in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.221 and 19 CFR 351.222.

Dated: July 31, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–19711 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Pacific Islands Region Coral Reef Ecosystems Logbook and Reporting.

OMB Control Number: 0648–0462.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 5.

Average Hours per Response: Logbook reports, 30 minutes; transshipment reports, 15 minutes; at-sea notifications, 3 minutes.

Burden Hours: 18.

Needs and Uses: This request is for extension of a current information collection.

National Marine Fisheries Service (NMFS) requires any United States (U.S.) citizen issued a Special Coral Reef Ecosystem Fishing Permit to complete logbooks and submit them to NMFS (50 CFR 665). The Special Coral Reef Ecosystem Fishing Permit is authorized under the Fishery Ecosystem Plans for American Samoa Archipelago, Hawaiian Archipelago, Mariana Archipelago, and Pacific Remote Island Areas. The information in the logbooks is used to obtain fish catch/fishing effort data on coral reef fishes and invertebrates harvested in designated low-use marine protected areas and on those listed in the regulations as potentially-harvested coral reef taxa in waters of the U.S. exclusive economic zone in the western Pacific region. These data are needed to determine the condition of the stocks, whether the current management measures are having the intended effects, and to evaluate the benefits and costs of changes in management measures. The logbook information includes interactions with protected species, including sea turtles, monk seals, and other marine mammals, which are used to monitor and respond to incidental takes of endangered and threatened marine species.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: August 6, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–19671 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Program

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to evaluate: Correction.

SUMMARY: The NOAA Office for Coastal Management published a notice in the **Federal Register** on July 16, 2015, announcing its intent to evaluate the Puerto Rico Coastal Management Program. This document contains corrections to that notice, regarding the start time of the public meeting and the date for which written comments will be accepted.

DATES: The second public meeting for the Puerto Rico Coastal Management Program will be held Wednesday, September 2, and begin at 4:00 p.m. local time at the Environmental Agencies Building, PR–8838 Km. 6.3, El Cinco, Rio Piedras, San Juan, Puerto Rico.

ADDRESSES: Written comments from interested parties are encouraged and will be accepted until September 15, 2015. Please direct written comments to Carrie Hall, Evaluator, Planning and Performance Measurement Program, NOAA Office for Coastal Management, 1305 East-West Highway, 11th Floor, N/OCM1, Room 11212, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov*. All other portions of the 16 July notice remain unchanged.

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, Planning and Performance Measurement Program, NOAA Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Room 11212, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov*.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: August 4, 2015.

Donna Rivelli,

Deputy Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–19664 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–08P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request: Alaska Community Quota Entity (CQE) Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 13, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, NMFS Alaska Region, (907) 586–7008, or *patsy.bearden@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

The Alaska Community Quota Entity (CQE) Program allocates to eligible communities a portion of the quotas for groundfish, halibut, crab, and prohibited species in the Bering Sea and Aleutian Islands Management Area (BSAI). Currently, there are 98 CQE eligible communities (45 Individual Fishing Quota (IFQ) and quota share (QS) halibut and sablefish, 32 charter halibut, and 21 License Limitation Program (LLP) communities), although only a few communities are currently participating. The allocations provide communities the means for starting or supporting commercial fisheries business activities that will result in an ongoing, regionally based, fisheries-related economy. A non-profit corporate entity that meets specific criteria to receive transferred halibut or sablefish QS on behalf of an eligible community may lease the resulting IFQ to persons who are residents of the eligible community.

II. Method of Collection

Forms and applications are ''fillable'' on the computer screen at the NMFS Alaska Region Home Page at *www.alaskafisheries.noaa.gov,* and may be submitted to NMFS by mail, courier, fax, or attachment to an email.

III. Data

OMB Control Number: 0648–0665.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Individuals or households; not-for-profit institutions.

Estimated Number of Respondents: 90.

Estimated Time per Response: 200 hours, Application to become a CQE; 2 hours for Application to transfer QS–IFQ to or from CQE; 20 hours for Application for a CQE to receive a non-trawl LLP license; 1 hour for Application for Community Charter Halibut Permit; 40 hours for CQE Annual Report; 1 hour for CQE LLP Authorization Letter.

Estimated Total Annual Burden Hours: 1,908.

Estimated Total Annual Cost to Public: $683.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 6, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–19672 Filed 8–10–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0080]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense 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 October 13, 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 Policy/Children and Youth, Program Analyst for the Family Advocacy Program, 4800 Mark Center Drive, Suite 03G15, Alexandria, VA 22350–2300, ATTN: Mary Campise, or call 571–372–5346.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Family Advocacy Program (FAP): Central Registry: Child Maltreatment and Domestic Abuse Incident Reporting System; OMB Control Number 0704–0536.

Needs and Uses: Office of the Secretary of Defense Family Advocacy Program together with DMDC conducts

an annual collection and reporting of aggregated data from all of the Military Departments concerning domestic abuse and child abuse and neglect. The data is used as the basis of an annual report that the Department of Defense sends to the Service Secretaries and Public Affairs concerning domestic abuse and child abuse in the military services, along with the rates per thousand, and a comparison to the civilian community.

Affected Public: Individuals or Households.

Annual Burden Hours: 39,170.

Number of Respondents: 19,585.

Responses per Respondent: 1.

Annual Responses: 19,585.

Average Burden per Response: 2 hours.

Frequency: On occasion.

DoD Instruction 6400.01 Family Advocacy Program (FAP) establishes policy and assigns responsibility for addressing child abuse and neglect and domestic abuse through family advocacy programs and services. Each military service delivers a family advocacy program to their respective military members and their families. Military or family members may use these services, and voluntary personal information must be gathered to determine benefit eligibility and individual needs.

Dated: August 6, 2015.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2015–19665 Filed 8–10–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2015–OS–0079]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records notice DWHS E03, entitled ''Security Review Index File.'' This system is used to manage the prepublication and security review processes for documents or materials before they are officially cleared for release outside of the DoD through a tracking application that provides the current status of each case and statistical data.

DATES: Comments will be accepted on or before September 10, 2015. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking 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 and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in the **FOR FURTHER INFORMATION CONTACT** or from the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.*

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, were submitted on July 30, 2015, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996, (February 20, 1996, 61 FR 6427).

Dated: August 6, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS E03

SYSTEM NAME:

Security Review Index File (March 30, 2012, 77 FR 19266).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Security Review Tracking Application (SRTA).''

SYSTEM LOCATION:

Delete entry and replace with ''Department of Defense, Defense Office of Prepublication and Security Review, 1155 Defense Pentagon, Washington, DC 20301–1155.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''DoD personnel (military and civilian) submitting requests for prepublication review of official information considered for public release and members of the public (former DoD personnel) requesting a review of material prior to submission for publication.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Name, personal phone number(s) (home/cell), personal email address, home mailing address, date of request, case number, and title/subject of the material submitted for review.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 113, Secretary of Defense; 22 CFR part 125.4, Exemptions of General Applicability,(b)(13); DoD Directive 5230.09, Clearance of DoD Information for Public Release; and DoD Instruction 5230.29, Security and Policy Review of DoD Information for Public Release.''

PURPOSE(S):

Delete entry and replace with ''To manage the prepublication and security review processes for documents or materials before they are officially cleared for release outside of the DoD through a tracking application that provides the current status of each case and statistical data.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally

permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Law Enforcement Routine Use: If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Congressional Inquiries Disclosure Routine Use: Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure to the Department of Justice for Litigation Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure of Information to the National Archives and Records Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense (OSD) compilation of systems of records notices may apply to this system. The complete list of DoD blanket routine uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx*''

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Name, case number, title/subject of material submitted, and date of request.''

SAFEGUARDS:

Delete entry and replace with ''Paper records are accessed only by officials with a need to know and appropriate security clearance in accordance with assigned duties. Electronic records require a Common Access Card (CAC) to access and are further protected by using a Personal Identification Number (PIN) with access limited to those individuals who have a need to know. Records are stored in a secure facility with full time guards in rooms requiring specific authority to access.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records are destroyed after 15 years.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Chief, Defense Office of Prepublication and Security Review, 1155 Defense Pentagon, Washington, DC 20301–1155.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Department of Defense, Defense Office of Prepublication and Security Review, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should include the case number (if available), date of request, title/subject of document submitted, or author's name.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Office of the Secretary of Defense/Joint Staff, Freedom of Information Requester Service Center, Office of Freedom of Information, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests should include the name and number of this system of records notice, the case number (if available), date of request, title/subject of submitted document, or author's name.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individual.''

* * * * *

[FR Doc. 2015–19654 Filed 8–10–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Rehabilitation Training—Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information:

Rehabilitation Training—Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance.

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.263B.

DATES: Applications Available: August 11, 2015.

Deadline for Transmittal of Applications: September 10, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program is designed to (a) develop new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of these new types of training programs for rehabilitation personnel in providing rehabilitation services to individuals with disabilities; and (b) develop new and improved methods of training rehabilitation personnel, so that there may be a more effective delivery of rehabilitation

services by State and other rehabilitation agencies.

Priority: This notice includes one absolute priority. This priority is from the notice of final priority for this program (NFP), published elsewhere in this issue of the **Federal Register**.

Absolute Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance (PEQA).

Note: The full text of this priority is included in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register** and in the application package for this competition.

Program Authority: 29 U.S.C. 772(a)(1).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The regulations for this program in 34 CFR parts 385 and 387. (e) The notice of final priority for this program, published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply only to institutions of higher education (IHEs).

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $500,000.

Maximum Award: We will reject any application that proposes a budget exceeding $500,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Continuing the Fourth and Fifth Years of the Project:

In deciding whether to continue funding the Technical Assistance and Training Center for Program Evaluation and Quality Assurance (PEQA) for the fourth and fifth years, the Department, as part of the review of the application narrative and annual performance reports, will consider the degree to which the program demonstrates substantial progress toward—

(a) Providing educational opportunities from recognized experts in program evaluation and quality assurance;

(b) Developing interagency collaboration networks and work teams committed to the improvement of quality assurance systems and tools; and

(c) Delivering technical, professional, and continuing educational support to State VR program evaluators.

III. Eligibility Information

1. *Eligible Applicants:* States and public or nonprofit agencies and organizations, including Indian tribes and IHEs.

2. *Cost Sharing or Matching:* Cost sharing of at least 10 percent of the total cost of the project is required of grantees under the Rehabilitation Training Program. Any program income that may be incurred during the period of performance may only be directed towards advancing activities in the approved grant application and may not be used towards the 10 percent match requirement. The Secretary may waive part of the non-Federal share of the cost of the project after negotiations if the applicant demonstrates that it does not have sufficient resources to contribute the entire match (34 CFR 387.40).

Note: Under 34 CFR 75.562(c), an indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. Indirect costs in excess of the limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet, from the Education Publications Center (ED Pubs), or from the program office.

To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.263B.

To obtain a copy from the program office, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. Because of the limited time available to review applications and make a recommendation for funding, we strongly encourage applicants to limit the application narrative to no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

In addition to the page-limit guidance on the application narrative section, we recommend that you adhere to the following page limits, using the standards listed above: (1) The abstract should be no more than one page, (2)

the resumes of key personnel should be no more than two pages per person, and (3) the bibliography should be no more than three pages. The only optional materials that will be accepted are letters of support. Please note that our reviewers are not required to read optional materials.

Please note that any funded applicant's application abstract will be made available to the public.

b. *Submission of Proprietary Information:*

Given the types of projects that may be proposed in applications for the Rehabilitation Training: Vocational Rehabilitation Technical Assistance Center—Youth with Disabilities competition, an application may include business information that the applicant considers proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Because we plan to make the abstract of the successful application available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:* Applications Available: August 11, 2015. Deadline for Transmittal of Applications: September 10, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2015.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Rehabilitation Training: Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance, CFDA number 84.263B, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Rehabilitation Training: Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance competition at *www.Grants.gov.* You must search for

the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.263, not 84.263B).

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under *For Further Information Contact* in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Don Bunuan, U.S. Department of Education, 400 Maryland Avenue SW., Room 5046, Potomac Center Plaza (PCP), Washington, DC 20202–2800. FAX: (202) 245–7592.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.263B), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery*.

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.263B), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* The Government Performance and Results Act of 1993 (GPRA) directs Federal departments and agencies to improve the effectiveness of programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The purpose of this priority is to fund a program designed to (a) provide educational opportunities from recognized experts in program evaluation and quality assurance; (b) develop interagency collaboration networks and work teams committed to the improvement of quality assurance systems and tools; and (c) deliver technical, professional, and continuing educational support to State VR program evaluators.

The Cooperative Agreement will specify the short-term and long-term measures that will be used to assess the grantee's performance against the goals and objectives of the project and the outcomes listed in the preceding paragraph.

In its annual and final performance reports to the Department, the grant recipient will be expected to report the data outlined in the Cooperative Agreement that is needed to assess its performance.

The Cooperative Agreement and annual report will be reviewed by RSA and the grant recipient between the third and fourth quarter of each project period. Adjustments will be made to the project accordingly in order to ensure demonstrated progress towards meeting the goals and outcomes of the project.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

For Further Information Contact: Don Bunuan, U.S. Department of Education, Rehabilitation Services Administration, 400 Maryland Avenue SW., Room 5046, PCP, Washington, DC 20202–2800. Telephone: (202) 245–6616 or by email: *don.bunuan@ed.gov*.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under *For Further Information Contact* in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: August 5, 2015.

Michael K. Yudin,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2015–19618 Filed 8–10–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Renewal of the Fusion Energy Sciences Advisory Committee

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C., App. 2., and in accordance with Title 41 of the Code of Federal Regulations, Section 102–3.65, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Fusion Energy Sciences Advisory Committee has been renewed for a two-year period.

The Committee will provide advice to the Office of Science (DOE), on long-range plans, priorities, and strategies for advancing plasma science, fusion science and fusion technology—the knowledge base needed for an economically and environmentally attractive fusion energy source. The Secretary of Energy has determined that the renewal of the Fusion Energy Sciences Advisory Committee is essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Public Law 95–91), the General Services Administration Final Rule on Federal Advisory Committee Management, and other directives and instruction issued in the implementation of those Acts.

FOR FURTHER INFORMATION CONTACT: Edmund J. Synakowski at (301) 903–4941.

Issued in Washington, DC on August 5, 2015.

Erica De Vos,

Acting Committee Management Officer.

[FR Doc. 2015–19677 Filed 8–10–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

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

DATES: Wednesday, September 9, 2015 8:30 a.m.–5:00 p.m. Thursday, September 10, 2015 9:00 a.m.–12:00 p.m.

ADDRESSES: Red Lion Pasco, 2525 North 20th Avenue, Pasco, WA 99301.

FOR FURTHER INFORMATION CONTACT: Kristen Skopeck, Federal Coordinator, Department of Energy Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, A7–75, Richland, WA 99352; Phone: (509) 376–5803; or Email: *kristen.skopeck@rl.doe.gov.*

SUPPLEMENTARY INFORMATION:

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

Tentative Agenda:

- Potential Draft Advice
  - Proposed changes to the Tri-Party Agreement milestone affecting the schedule for retrieving, characterizing, and shipping Hanford site mixed low-level waste and transuranic mixed waste
- Discussion Topics
  - Tri-Party Agreement Agencies' Updates
  - Hanford Advisory Board Committee Reports
  - Tri-Party Agreement Milestone Changes
  - SharePoint Tutorial for Board Members
  - Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, 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 Kristen Skopeck at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kristen Skopeck at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal

Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Kristen Skopeck's office at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.hanford.gov/page.cfm/hab.*

Issued at Washington, DC, on August 6, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–19676 Filed 8–10–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will gather opinions of experts in industry and other organizations regarding the impact on the development and diffusion of energy-efficient HVAC, water heating, and appliance technologies of DOE/EERE Building Technologies Office (BTO) investments. Expert opinions are necessary to characterize counterfactual patterns of technology development and diffusion in the absence of DOE investments, and so (by comparing these counterfactuals with actual observations) estimate the difference DOE investments have made. This information is needed by DOE for budget justification and strategic planning. Respondents will include representatives of companies in the HVAC, water heating, and appliance supply chain (including companies that received DOE R&D funding and companies that received no direct funding from DOE), researchers at DOE-funded labs (*e.g.,* ORNL, BNL), participants in DOE-funded consortiums, members of industry associations and standards/code bodies.

DATES: Comments regarding this collection must be received on or before September 10, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to Mark Friedrichs, by email to: *mark.friedrichs@ee.doe.gov.* Or by mail to: Building Technologies Office, EE–5B, Energy Efficiency and Renewable Energy, U.S. Department of Energy, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Mark Friedrichs, *mark.friedrichs@ee.doe.gov* or call 202–586–0124.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. New; (2) Information Collection Request Title: Surveys/Interviews to Gather Expert Opinion on the Impact of DOE/EERE Building Technologies Office Investments in HVAC, Water-Heating, and Appliance Technologies; (3) Type of Request: New collection; (4) Purpose: The information collection will characterize counterfactual patterns of technology development and diffusion in the absence of DOE investments, so that by comparing these counterfactuals with actual observations the impacts of DOE investments can be estimated; this information is needed by DOE for budget justification and strategic planning. Respondents will include representatives of companies in the HVAC, water heating, and appliance supply chain (including companies that received DOE R&D funding and companies that received no direct funding from DOE), researchers at DOE-funded labs (*e.g.,* ORNL, BNL), participants in DOE-funded consortiums, members of industry associations and standards/code bodies; (5) Annual Estimated Number of Respondents: 250; (6) Annual Estimated Number of Total Responses: 250; (7) Annual Estimated Number of Burden Hours: 250; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: 0.

Statutory Authority: DOE Org Act (42 U.S.C. 7101, *et seq.*) and 42 U.S.C. 16191 (AMO authority).

Issued in Washington, DC, on August 5, 2015.

JoAnn Milliken,

Deputy Director, Building Technologies Office.

[FR Doc. 2015–19678 Filed 8–10–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the PJM Interconnection, L.L.C. (PJM):

PJM Planning Committee

August 13, 2015, 9:30 a.m.–12:00 p.m. (EST)

PJM Transmission Expansion Advisory Committee

August 13, 2015, 11:00 a.m.–3:00 p.m. (EST)

The above-referenced meetings will be held at: PJM Conference and Training Center, PJM Interconnection, 2750 Monroe Boulevard, Audubon, PA 19403.

The above-referenced meetings are open to stakeholders.

Further information may be found at *www.pjm.com.*

The discussions at the meetings described above may address matters at issue in the following proceedings:

Docket Nos. ER15–33, *et al., The Dayton Power and Light Company.*

Docket No. ER15–994, *PJM Interconnection, L.L.C.*

Docket No. ER14–2867, *Baltimore Gas & Electric Company, et al., and PJM Interconnection, L.L.C.*

Docket Nos. ER14–972 and ER14–1485, *PJM Interconnection, L.L.C.*

Docket No. ER14–1485, *PJM Interconnection, L.L.C.*

Docket Nos. ER13–1957, *et al., ISO New England, Inc. et al.*

Docket Nos. ER13–1944, *et al., PJM Interconnection, L.L.C.*

Docket No. ER15–1344, *PJM Interconnection, L.L.C.*

Docket No. ER15–1387, *PJM Transmission Owners.*

Docket No. EL15–18, *Consolidated Edison Company of New York, Inc.* v. *PJM Interconnection, L.L.C.*

Docket No. EL15–41, *Essential Power Rock Springs, LLC et al.* v. *PJM Interconnection, L.L.C.*

Docket No. ER13–1927, *et al., PJM Interconnection- SERTP.*

Docket No. EL15–79, *TransSource, LLC* v. *PJM Interconnection, L.L.C.*

For more information, contact the following:

Jonathan Fernandez, Office of Energy Market Regulation, Federal Energy Regulatory Commission, (202) 502–6604 *Jonathan.Fernandez@ferc.gov*.

Alina Halay, Office of Energy Market Regulation, Federal Energy Regulatory Commission, (202) 502–6474, *Alina.Halay@ferc.gov*.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19690 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meeting related to the transmission planning activities of the Midcontinent Independent System Operator, Inc. (MISO):

MISO Planning Advisory Committee, August 19, 2015, 9 a.m.–4:00 p.m. (EST).

The above-referenced meeting will be held at: MISO Headquarters, 720 City Center Drive, Carmel, IN 46032.

Further information may be found at *www.misoenergy.org.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket Nos. ER13–1944, et al., *PJM Interconnection, LLC.*

Docket No. ER14–1174, *Southwest Power Pool, Inc.*

Docket No. ER14–1736, *Midcontinent Independent System Operator, Inc.*

Docket No. ER14–2445, *Midcontinent Independent System Operator, Inc.*

Docket No. ER13–1864, *Southwest Power Pool, Inc.*

Docket No. EL14–21, *Southwest Power Pool, Inc.* v. *Midcontinent Independent System Operator, Inc.*

Docket No. EL14–30, *Midcontinent Independent System Operator, Inc.* v. *Southwest Power Pool, Inc.*

Docket No. EL11–34, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER11–1844, *Midwest Independent Transmission System Operator, Inc.*

Docket No. EL13–88, *Northern Indiana Public Service Company* v. *Midcontinent Independent System Operator, Inc. and PJM Interconnection, L.L.C.*

Docket Nos. ER13–1923, et al., *Midcontinent Independent System Operator, Inc.*

Docket Nos. ER13–1937, et al., *Southwest Power Pool, Inc.*

For more information, contact Chris Miller, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5936 or *christopher.miller@ferc.gov;* or Jason Strong, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6124 or *jason.strong@ferc.gov.*

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19691 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC15–181–000.

Applicants: 87RL 8me LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, Request for Expedited Consideration and Confidential Treatment of 87RL 8me LLC.

Filed Date: 8/3/15.

Accession Number: 20150803–5276.

Comments Due: 5 p.m. ET 8/24/15.

Docket Numbers: EC15–182–000.

Applicants: Talen Energy Marketing, LLC, Talen Renewable Energy, LLC, Talen New Jersey Biogas, LLC, Talen New Jersey Solar, LLC.

Description: Application for Approval Pursuant to Section 203 of the Federal Power Act and Request for Waivers and Privileged Treatment of Talen Energy Marketing, LLC, et al.

Filed Date: 8/4/15.

Accession Number: 20150804–5105.

Comments Due: 5 p.m. ET 8/25/15.

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

Docket Numbers: ER10–1585–007; ER10–1594–007; ER10–1617–007; ER10–1619–004; ER10–1620–005; ER10–1625–005; ER12–60–009; ER10–1632–009; ER10–1628–007.

Applicants: Alabama Electric Marketing, LLC, California Electric Marketing, LLC, New Mexico Electric Marketing, LLC, Tenaska Alabama Partners, L.P., Tenaska Alabama II Partners, L.P., Tenaska Georgia Partners, L.P., Tenaska Power Management, LLC, Texas Electric Marketing, LLC, Tenaska Power Services Co.

Description: Supplement to December 22, 2014 Updated Market Power Analysis of the Tenaska MBR Sellers.

Filed Date: 8/4/15.

Accession Number: 20150804–5076.

Comments Due: 5 p.m. ET 8/25/15.

Docket Numbers: ER15–2371–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Revisions to PWRPA IA and Termination of Riggs Ranch WDT SA to be effective 9/22/2015.

Filed Date: 8/3/15.

Accession Number: 20150803–5242.

Comments Due: 5 p.m. ET 8/24/15.

Docket Numbers: ER15–2372–000.

Applicants: Puget Sound Energy, Inc.

Description: Initial rate filing: Air Products TX Interconnection Refile to be effective 9/1/2014.

Filed Date: 8/3/15.

Accession Number: 20150803–5259.

Comments Due: 5 p.m. ET 8/24/15.

Docket Numbers: ER15–2373–000.

Applicants: Puget Sound Energy, Inc.

Description: Initial rate filing: Air Products TX NITSA & NOA Refile to be effective 9/1/2014.

Filed Date: 8/3/15.

Accession Number: 20150803–5262.

Comments Due: 5 p.m. ET 8/24/15.

Docket Numbers: ER15–2374–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Amended UFA Copper Mountain Solar 4 Project to be effective 8/5/2015.

Filed Date: 8/4/15.

Accession Number: 20150804–5001.

Comments Due: 5 p.m. ET 8/25/15.

Docket Numbers: ER15–2375–000.

Applicants: Westar Energy, Inc.

Description: § 205(d) Rate Filing: Revision to Attachment A, Points of Receipt to be effective 9/1/2015.

Filed Date: 8/4/15.

Accession Number: 20150804–5108.

Comments Due: 5 p.m. ET 8/25/15.

Docket Numbers: ER15–2376–000.

Applicants: Energy Power Investment Company, LLC.

Description: Baseline eTariff Filing: Market-based rate application to be effective 9/3/2015.

Filed Date: 8/4/15.

Accession Number: 20150804–5109.

Comments Due: 5 p.m. ET 8/25/15.

Docket Numbers: ER15–2377–000.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Gas-Electric Coordination Compliance Filing in Docket No. EL14–27 to be effective 10/1/2016.
Filed Date: 8/4/15.
Accession Number: 20150804–5128.
Comments Due: 5 p.m. ET 8/25/15.
Docket Numbers: ER15–2378–000.
Applicants: San Diego Gas & Electric Company.
Description: § 205(d) Rate Filing: System Impact Study Agreement, Service Agreement No. 51 to be effective 6/24/2015.
Filed Date: 8/4/15.
Accession Number: 20150804–5154.
Comments Due: 5 p.m. ET 8/25/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19683 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #3

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–109–000.
Applicants: Little Elk Wind Project, LLC.
Description: Self-Certification of EG or FC of Little Elk Wind Project, LLC.
Filed Date: 8/5/15.
Accession Number: 20150805–5092.
Comments Due: 5 p.m. ET 8/26/15.
Docket Numbers: EG15–110–000.
Applicants: Patriot Wind Farm, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Patriot Wind Farm, LLC.
Filed Date: 8/5/15.
Accession Number: 20150805–5100.
Comments Due: 5 p.m. ET 8/26/15.

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

Docket Numbers: ER15–2384–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: Section 205(d) Rate Filing: 2015–8–5_NSP–CHAK–SSA–582–0.0.0-Filing to be effective 10/4/2015.
Filed Date: 8/5/15.
Accession Number: 20150805–5091.
Comments Due: 5 p.m. ET 8/26/15.
Docket Numbers: ER15–2385–000.
Applicants: NorthWestern Corporation.
Description: NorthWestern Corporation submits Average System Cost Filing for Sales of Electric Power to the Bonneville Power Administration, FY 2016–2017.
Filed Date: 8/5/15.
Accession Number: 20150805–5118.
Comments Due: 5 p.m. ET 8/26/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19685 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–108–000.
Applicants: Willey Battery Utility, LLC.
Description: Willey Battery Utility, LLC Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 8/5/15.
Accession Number: 20150805–5048.
Comments Due: 5 p.m. ET 8/26/15.

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

Docket Numbers: ER11–3460–008; ER12–1301–006.
Applicants: Bayonne Energy Center, LLC, Zone J Tolling Co., LLC.
Description: Supplement to May 1, 2015 Notice of Non-Material Change In Status of Bayonne Energy Center, LLC, et al.
Filed Date: 7/28/15.
Accession Number: 20150728–5143.
Comments Due: 5 p.m. ET 8/18/15.
Docket Numbers: ER15–2149–001.
Applicants: Century Marketer LLC.
Description: Tariff Amendment: MBRA Tariff to be effective 9/24/2015.
Filed Date: 8/4/15.
Accession Number: 20150804–5093.
Comments Due: 5 p.m. ET 8/25/15.
Docket Numbers: ER15–2379–000.
Applicants: Beaver Ridge Wind, LLC.
Description: Notice of cancellation of market base tariff of Beaver Ridge Wind, LLC.
Filed Date: 8/4/15.
Accession Number: 20150804–5186.
Comments Due: 5 p.m. ET 8/25/15.
Docket Numbers: ER15–2380–000.
Applicants: Willey Battery Utility, LLC.
Description: Baseline eTariff Filing: Initial Baseline Filing—Willey Battery Utility to be effective 8/5/2015.
Filed Date: 8/5/15.
Accession Number: 20150805–5030.
Comments Due: 5 p.m. ET 8/26/15.
Docket Numbers: ER15–2381–000.
Applicants: AEP Texas North Company.
Description: Section 205(d) Rate Filing: TNC–OCI Alamo 6 SUA to be effective 7/16/2015.
Filed Date: 8/5/15.
Accession Number: 20150805–5046.
Comments Due: 5 p.m. ET 8/26/15.
Docket Numbers: ER15–2382–000.
Applicants: AEP Texas Central Company.

Description: Section 205(d) Rate Filing: TCC-Chapman Ranch Wind I SUA to be effective 7/16/2015.

Filed Date: 8/5/15.

Accession Number: 20150805–5051.

Comments Due: 5 p.m. ET 8/26/15.

Docket Numbers: ER15–2383–000.

Applicants: AEP Texas Central Company.

Description: Section 205(d) Rate Filing: TCC-Sendero Wind Energy IA Second Amend & Restated to be effective 9/19/2014.

Filed Date: 8/5/15.

Accession Number: 20150805–5052.

Comments Due: 5 p.m. ET 8/26/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19684 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–520–000]

Tennessee Gas Pipeline Company, L.L.C.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Triad Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Triad Expansion Project involving construction and operation of facilities by Tennessee Gas Pipeline Company, L.L.C. (TGP) in Susquehanna County, Pennsylvania. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before September 4, 2015.

If you sent comments on this project to the Commission before the opening of this docket on July 6, 2015, you will need to file those comments in Docket No. CP15–520–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

TGP provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister*.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP15–520–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

TGP proposes to construct and operate pipeline facilities, to modify existing aboveground facilities, and add new tie-in facilities in Susquehanna County, Pennsylvania. The Triad Expansion Project would provide about 180,000 dekatherms per day of natural gas. According to TGP, its project would meet the needs of a new natural gas-fired power plant to be constructed in Lackawanna County, Pennsylvania.

The Triad Expansion Project would consist of the following facilities:

- Approximately 7.0 miles of new 36-inch-diameter looping [1] pipeline in Susquehanna County, Pennsylvania;
- a new internal pipeline inspection (''pig'') [2] launcher, crossover, and connecting facilities at the beginning of the proposed pipeline loop in Susquehanna County, Pennsylvania; and
- a new pig receiver, a new odorant facility, and ancillary piping at the existing Compressor Station 321 in Susquehanna County, Pennsylvania.

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

[2] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

The general location of the project facilities is shown in appendix 1.[3]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 152 acres of land for the aboveground facilities and the pipeline, 71 acres of which are associated with existing permanent TGP rights-of-way. Following construction, TGP would maintain about 43 acres for permanent operation of the project's facilities, 33 acres of which are associated with existing permanent TGP rights-of-way; the remaining acreage would be restored and revert to former uses. The majority of the proposed pipeline route parallels TGP's existing 300 Line rights-of-way. In addition, the compressor station modifications would be constructed within TGP's existing property boundaries.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [4] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife, including migratory birds;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. We will publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[5] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[6] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

Copies of the EA will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's Web site. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp*.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP15–520). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov*

[3] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[5] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[6] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19687 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14678–000]

Liquid Sun Hydro, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On May 1, 2015, the Liquid Sun Hydro, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Bear Creek Hydroelectric Project (Bear Creek Project or project) to be located on Bear Creek, near Concrete, Skagit County, Washington. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of two developments: The Upper Bear Creek and the Lower Bear Creek, using some of the existing facilities from Puget Sound Power and Light Co.'s Bear Creek Project (P–3286) which was surrendered in 1983.

Upper Bear Creek Development

The Upper Bear Creek development would consist of the following existing facilities: (1) A reservoir with a surface area of one acre and storage capacity of two acre-feet; (2) a 100-foot-long, 6-foot-high diversion with an integrated 30-foot-long, 6-foot-high ungated overflow spillway, (3) a powerhouse containing a 250-kilowatt (kW) Francis turbine; (4) an 8-foot-wide tailrace; and (5) a total of 1,850 feet of access roads. All of these facilities will be renovated or repaired. The Upper Bear Creek development would also consist of the following new facilities: (1) A 400-foot-long, 36-inch-diameter above-ground steel penstock routed through the existing penstock alignment; (2) a 250-kW generator; (3) a 350-foot-long, 12.5-kilovolt (kV) three-phase transmission line interconnecting with the existing Bear Creek Project transmission line; and (4) appurtenant facilities. The estimated annual generation of the Upper Bear Creek development would be 1.2 gigawatt-hours (GWh).

Lower Bear Creek Development

The Lower Bear Creek development would consist of the following existing facilities: (1) A reservoir with a surface area of 1.7 acre; (2) a 235-foot-long, 24-foot-high diversion structure with an integrated 82-foot-long, 24-foot-high ungated overflow spillway; (3) a powerhouse containing three 600-kW Pelton turbines; (4) two tailraces; and (5) a total of 4,350 feet of access roads. All of these facilities will be renovated or repaired. The Lower Bear Creek development would also consist of the following new facilities: (1) A 2,800-foot-long, 36-inch-diameter above-ground steel penstock routed through the existing penstock alignment; (2) a 4,000-kW Francis replacing the existing three Pelton turbines; (3) a 3.5-mile-long, 12.5-kV three-phase transmission line interconnecting with the Puget Sound Energy transmission lines at Lake Tyree; and (4) appurtenant facilities. The estimated annual generation of the Lower Bear Creek development would be 15 GWh.

Both developments would be operated as a run-of-river facilities and have no usable storage. The estimated total annual generation of the project would be 16.2 GWh.

Applicant Contact: Mr. Terrance Meyer, Liquid Sun Hydro, LLC, 55753 State Route 20, P.O. Box 205, Rockport, Washington 98283; phone: (785) 865–8758.

FERC Contact: Kelly Wolcott; phone: (202) 502–6480.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14678–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14678) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19694 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report Filings:

Filings Instituting Proceedings

Docket Numbers: PR15–40–000.

Applicants: Kinder Morgan Keystone Gas Storage LLC.

Description: Submits tariff filing per 284.123(e) + (g): DART Implementation Filing to be effective 10/1/2015; Filing Type: 1280.

Filed Date: 7/31/15.

Accession Number: 20150731–5093.

Comments Due: 5 p.m. ET 8/21/15

284.123(g) Protests Due: 5 p.m. ET 9/29/15.

Docket Numbers: RP15–1179–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Section 4(d) Rate Filing: Negotiated Rate—J Aron to be effective 9/1/2015.

Filed Date: 8/4/15.

Accession Number: 20150804–5042.

Comments Due: 5 p.m. ET 8/17/15.

Docket Numbers: RP15–1180–000.

Applicants: Rager Mountain Storage Company LLC.

Description: Compliance filing Lending and Parking Service—Compliance Filing to be effective 9/3/2015.

Filed Date: 8/3/15.

Accession Number: 20150803–5288.

Comments Due: 5 p.m. ET 8/17/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19688 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF15–6–000]

Atlantic Coast Pipeline, LLC; Supplemental Notice of Intent To Prepare an Environmental Impact Statement for the Planned Atlantic Coast Pipeline Project, and Request for Comments on Environmental Issues Related to New Alternatives Under Consideration

The Federal Energy Regulatory Commission (FERC or Commission) is issuing this supplemental notice (Notice) to provide landowners potentially affected by additional pipeline route alternatives an opportunity to comment on impacts associated with these newly identified routes. The FERC is the lead federal agency responsible for conducting the environmental review of the ACP Project. The Commission's staff will prepare an environmental impact statement (EIS) that discusses the environmental impacts of the ACP Project. This EIS will be used in part by the Commission to determine whether the ACP Project is in the public convenience and necessity.

You have been identified as a landowner that may be affected by new alternatives being considered. Information in this Notice is provided to familiarize you with these new alternatives, the ACP Project as a whole, and the Commission's environmental review process, and instruct you on how to submit comments about the ACP Project and the alternatives under consideration. This Notice is also being sent to federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers in the vicinity of these alternatives. We encourage elected officials and government representatives to notify their constituents about the ACP Project and inform them on how they can comment on their areas of concern. Please note that comments on this Notice should be filed with the Commission by September 4, 2015.

If your property would be affected by one of the alternatives under consideration, you should have already been contacted by an Atlantic representative. An Atlantic representative may have also contacted you or may contact you in the near future about the acquisition of an easement to construct, operate, and maintain the planned facilities or request permission to perform environmental surveys on your property. Some landowners may not be contacted if the alternative across their property is found to be either not feasible or not environmentally preferable to other alternatives being considered. If the Commission approves the ACP Project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

To help potentially affected landowners better understand the Commission and its environmental review process, the ''For Citizens'' section of the FERC Web site (*www.ferc.gov*) provides information about getting involved in FERC jurisdictional projects, and a citizens' guide entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need to Know?'' This guide addresses a number of frequently asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Project Summary and Background

The ACP Project would involve the construction and operation of 556 miles of variable diameter natural gas pipeline in West Virginia, Virginia, and North Carolina. The pipeline facilities associated with the ACP Project would be comprised of four main components as follows:

- Approximately 292.8 miles of 42-inch-diameter pipeline in Harrison, Lewis, Upshur, Randolph, and Pocahontas Counties, West Virginia; Highland, Augusta, Nelson, Buckingham, Cumberland, Prince Edward, Nottoway, Dinwiddie, Brunswick, and Greensville Counties, Virginia; and Northampton County, North Carolina;
- approximately 181.5 miles of 36-inch-diameter pipeline in Northampton, Halifax, Nash, Wilson, Johnston, Sampson, Cumberland, and Robeson Counties, North Carolina;
- approximately 77.6 miles of 20-inch-diameter lateral pipeline in Northampton County, North Carolina; Greensville and Southampton, Counties, Virginia; and the Cities of Suffolk and Chesapeake, Virginia;
- approximately 3.1 miles of 16-inch-diameter natural gas lateral pipeline in Brunswick County, Virginia; and
- approximately 1.0 mile of 16-inch-diameter natural gas lateral pipeline in Greenville County, Virginia.

In addition to the planned pipelines, Atlantic plans to construct and operate three new compressor stations totaling 117,405 horsepower of compression. These compressor stations would be located in Lewis County, West Virginia; Buckingham County, Virginia; and Northampton County, North Carolina. Atlantic would also install metering stations, valves, pig launcher/receiver sites,[1] and associated appurtenances along the planned pipeline system.

Dominion Transmission, Inc. (Dominion) is planning to construct the

[1] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

Supply Header Project (SHP), which we will review concurrently with the ACP Project. The SHP would involve the construction and operation of approximately 36.7 miles of pipeline loop [2] and the modification of existing compression facilities in Pennsylvania and West Virginia. The pipeline facilities associated with the SHP would be comprised of two main components: (1) Approximately 3.9 miles of 30-inch-diameter natural gas pipeline loop adjacent to Dominion's existing LN–25 pipeline in Westmoreland County, Pennsylvania; and (2) approximately 32.8 miles of 36-inch-diameter pipeline loop adjacent to Dominion's existing TL–360 pipeline in Harrison, Doddridge, Tyler, and Wetzel Counties, West Virginia.

In addition to the planned pipelines, Dominion plans to modify four existing compressor stations in Westmoreland and Green Counties, Pennsylvania and Marshall and Wetzel Counties, West Virginia. Dominion would install new gas-fired turbines that would provide for a combined increase of 77,230 horsepower of compression. Dominion would also install new valves, pig launcher/receiver sites, and associated appurtenances at these existing compressor station locations.

The SHP and ACP Projects would be capable of delivering 1.5 billion cubic feet of natural gas per day to eight planned distribution points in West Virginia, Virginia, and North Carolina. If approved, construction of the projects is proposed to begin in September 2016.

On November 13, 2014 the Commission's environmental staff approved Atlantic's and Dominion's request to use the Commission Pre-filing Process for the SHP and ACP Project. The purpose of the Pre-filing Process is to encourage the early involvement of interested stakeholders to identify and resolve project-related issues before an application is filed with the Commission. On February 27, 2015 the Commission issued a Notice of Intent to Prepare an Environmental Impact Statement for the Planned Supply Header Project and Atlantic Coast Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings.

During the course of the Pre-filing Process, numerous concerns have been expressed about the potential environmental impacts of the project and the need to collocate the planned facilities with existing rights-of-way. Based on the merits of these comments, and to ensure that potential environmental impacts are minimized to the extent practical and that public concerns are fully addressed during the Pre-filing Process, additional alternatives have been identified and are being considered.

Project Alternatives

The following new alternatives are now being analyzed. Illustrations of these alternatives are provided in Appendix 1.[3] Detailed alternative route location information can be found on Dominion's interactive web mapping application at *https://www.dom.com/corporate/what-we-do/atlantic-coast-pipeline*.

Brunswick Route Alternative (Brunswick and Greensville Counties, Virginia)

The Brunswick Route Alternative would deviate from Atlantic's planned route near AP–1 milepost (MP) 259 and extend south and for approximately 20.9 miles before rejoining the planned route near AP–1 MP 277. The majority of the Brunswick Route Alternative would follow a recently constructed electric transmission line. The Brunswick Route Alternative would reduce the length of the planned AP–3 lateral pipeline.

Boykins Route Alternative (Southampton County, Virginia)

The Boykins Route Alternative would deviate from Atlantic's planned route near AP–3 MP 14.5 and extend for approximately 13 miles in a northeast direction before rejoining the planned AP–3 route at approximate AP–3 MP 28. The majority of the Boykins Route Alternative would follow an existing 115 kilovolt electric transmission line.

Franklin Route Alternative (Southampton and Isle of Wright Counties and the Cities of Franklin and Suffolk, Virginia)

The Franklin Route Alternative would deviate from Atlantic's planned route near AP–3 MP 41 and extend for approximately 12.5 miles in a easterly direction before rejoining the planned AP–3 route at approximate AP–3 MP 53. The majority of the Franklin Route Alternative would follow an existing 115 kilovolt electric transmission line.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the planned ACP Project and the three alternatives identified above. We will consider all filed comments that are suggested during the preparation of the EIS.

Our independent analysis of the issues will be presented in a draft EIS that will be placed in the public record, published, and distributed to the public for comments. We will also hold public comment meetings in the project area and will address comments on the draft EIS in a final EIS. The final EIS will also be placed in the public record, published, and distributed to the public. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section on the following page.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the projects' potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the projects develop. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for these projects will document our findings on the impacts on historic properties and

[2] A pipeline ''loop'' is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

[3] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

summarize the status of consultations under Section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the alternatives presented above and about the projects in general. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are considered in a timely manner and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before September 4, 2015.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the appropriate project docket number (PF15–6–000 for the ACP Project) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister*.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing;'' or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, as well as anyone who submits comments on the projects. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned projects.

Copies of the completed draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

Once Atlantic files an application with the Commission, you may want to become an ''intervenor,'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives formal applications for the projects.

Additional Information

Additional information about the ACP Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number, excluding the last three digits (*i.e.,* PF15–6). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19695 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No., P–12642–007]

Wilkesboro Hydroelectric Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Proceeding: Amendment of License.

b. Project No.: 12642–007.

c. *Date Filed:* June 19, 2015.

d. Licensee: Wilkesboro Hydroelectric Company.

e. *Name of Project:* W. Kerr Scott Hydropower Project.

f. *Location:* The proposed project would be located at the existing U.S. Army Corps of Engineers' (Corps) W. Kerr Scott dam on the Yadkin River, near Wilkesboro in Wilkes County, North Carolina. A total of 3.5 acres of federal lands, administered by the Corps, would be occupied by the proposed project.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. Licensee Contact: Mr. Kevin Edwards, P.O. Box 143, Mayodan, NC 27027, Telephone: (336) 589–6138, Email: *kevin@piedmonthydrotech.com.*

i. *FERC Contact:* Mr. M Joseph Fayyad, (202) 502–8759, *mo.fayyad@ferc.gov.*

j. Deadline for filing comments, interventions and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests

and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–12642–007.

k. Description of Request: The licensee proposes to revise the design of the project facilities as follows: (1) Change the design and placement of the intake structure to be located approximately 900 feet north of the existing intake tower on the north bank of the reservoir, rather than utilizing the existing intake tower for the hydroelectric project; (2) change the size and location of the penstock from the existing discharge conduit to an 800-foot-long tunnel bored through the rock north abutment of the dam. The size of the penstock will change from the 11 feet in diameter to 10 feet in diameter for the sections of penstock not bored through the rock, and reduce to 6 to 8 feet in diameter for the steel-lined rock tunnel; (3) change the powerhouse location from the south bank of the existing discharge channel to the north bank of the discharge channel; (4) reduce the number of generating units from two, to a single turbine and generator, having a hydraulic capacity of 500 cubic feet per second (cfs) and an installed capacity of 2,000 kilowatts (kW); (5) add a new impact basin structure; (6) a 32-foot-long, 90-foot-wide tailrace; and (7) change the transmission length from 150 feet to 500 feet. The proposed change to the generating units would reduce the hydraulic capacity from 800 cfs to 500 cfs and the installed capacity from 4,000 kW to 2,000 kW.

l. This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction in the Commission's Public Reference Room located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .212 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents: Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. A license applicant must file, no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19693 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–1128–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Columbia Gas Transmission, LLC submits Off System Capacity Request.
Filed Date: 7/23/15.
Accession Number: 20150723–5037.
Comments Due: 5 p.m. ET 8/4/15.

Docket Numbers: RP15–1129–000
Applicants: Equitrans, L.P.
Description: Request of Equitrans, L.P. for Partial Tariff Waiver.
Filed Date: 7/23/15.
Accession Number: 20150723–5038.
Comments Due: 5 p.m. ET 8/4/15.

Docket Numbers: RP15–1130–000.
Applicants: WestGas InterState, Inc.
Description: Compliance filing 20150723_WGI Order 801 Compliance System Map to be effective 8/24/2015.
Filed Date: 7/23/15.
Accession Number: 20150723–5068.
Comments Due: 5 p.m. ET 8/4/15.

Docket Numbers: RP15–1131–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreements—07/24/2015 to be effective 7/24/2015.
Filed Date: 7/24/15.
Accession Number: 20150724–5048.
Comments Due: 5 p.m. ET 8/5/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211

and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 27, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19627 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP09–6–001; CP09–7–001; Docket No. CP13–507–000]

LNG Development Company, LLC; Oregon Pipeline Company, LLC; Northwest Pipeline LLC; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Oregon LNG Terminal and Pipeline Project and Washington Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Oregon LNG Terminal and Pipeline Project (Oregon LNG Project) proposed by LNG Development Company, LLC and Oregon Pipeline Company, LLC (collectively referred to as Oregon LNG) and the Washington Expansion Project proposed by Northwest Pipeline LLC (Northwest) in the above-referenced dockets. Oregon LNG requests authorization under Section 3 of the Natural Gas Act (NGA) to site, construct, and operate an import/export liquefied natural gas (LNG) terminal in Warrenton, Oregon. Oregon LNG also requests a Certificate of Public Convenience and Necessity (Certificate) pursuant to Section 7(c) of the NGA to construct and operate a natural gas pipeline from the proposed LNG terminal to an interconnect with the interstate transmission system of Northwest near Woodland, Washington. Northwest requests a Certificate pursuant to Section 7(c) of the NGA to expand the capacity of its existing natural gas transmission facilities between Woodland and Sumas, Washington. The primary purpose of the projects is to export an equivalent of about 456 billion cubic feet per year of natural gas to foreign markets.

The draft EIS assesses the potential environmental effects of the construction and operation of the Oregon LNG and Washington Expansion Projects in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed projects would result in some adverse environmental impacts; however, most of these impacts would be reduced to less-than-significant levels with the implementation of Oregon LNG's and Northwest's proposed mitigation and the additional measures recommended in the draft EIS.

The U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Coast Guard, U.S. Department of Energy, and U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. Although the cooperating agencies provided input to the conclusions and recommendations presented in the draft EIS, the agencies will present their own conclusions and recommendations in their respective records of decision or determinations for the projects.

The draft EIS addresses the potential environmental effects of the construction and operation of the following facilities associated with the Oregon LNG Project:

- One marine terminal with a ship berth for one LNG marine carrier;
- two full-containment storage tanks, each designed to store 160,000 cubic meters of LNG;
- natural gas pretreatment facilities;
- two liquefaction process trains, regasification facilities, and other related terminal support structures and systems;
- an 86.8-mile-long, 36-inch-diameter bidirectional pipeline; and
- one 40-megawatt (MW), 48,000-horsepower (hp) electrically driven gas compressor station.

For the Washington Expansion Project, the draft EIS addresses the potential environmental effects of the construction and operation of:

- 140.6 miles of 36-inch-diameter pipeline loop [1] along Northwest's existing pipeline in 10 noncontiguous segments;
- ancillary pipeline facilities; and
- 96,000 hp of additional compression at five existing compressor stations.

Northwest's project would also include abandonment and removal of existing pipeline and aboveground facilities.

The FERC staff mailed copies of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners; other interested individuals and nongovernmental organizations; newspapers and libraries in the project area; and parties to these proceedings. Paper copy versions of this EIS were mailed to those specifically requesting them; all others received a compact disk version. In addition, the draft EIS is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of hardcopies are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before October 6, 2015.

For your convenience, there are four methods you can use to submit your comments to the Commission. In all instances, please reference the project docket numbers (CP09–6–001, CP09–7–001, and CP13–507–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project.

(2) You can file your comments electronically by using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project,

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

please select ''Comment on a Filing'' as the filing type.

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one of the public comment meetings its staff will conduct during the draft EIS comment period and in the project area to receive comments on the draft EIS. We encourage interested groups and individuals to attend and present oral comments on the draft EIS. Transcripts of the meetings will be available for review in eLibrary under the project docket numbers. A notice of meeting times and locations will be sent to the environmental mailing list and posted on the FERC eLibrary.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (Title 18 Code of Federal Regulations Part 385.214).[2] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Questions?

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number(s) excluding the last three digits in the Docket Number field (*i.e.,* CP09–6–001, CP09–7–001, and CP13–507–000). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676; for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19686 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

[2] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–2376–000]

Energy Power Investment Company, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Energy Power Investment Company, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 25, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19689 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2242–078]

Eugene Water & Electric Board; Notice Soliciting Comments on Request for Stay of Licensing Decision

On July 27, 2015, the Eugene Water & Electric Board (EWEB), licensee for the Carmen-Smith Hydroelectric Project (P–2242) located on the McKenzie River in Lane and Line Counties, Oregon, requested that the Commission: (1) Delay acting on its license application until at least January 31, 2016, while it completes additional economic analysis of implementing the 2008 settlement agreement on the project; (2) hold a technical conference to discuss EWEB's economic analysis; and (3) designate a non-decisional separated staff to advise EWEB about alternatives to the settlement agreement as it relates to project economics. This request can be viewed at *http://elibrary.ferc.gov:0/idmws/doc_info.asp?document_id=14360392*.

The Commission is soliciting comments on this request. Any comments should be filed within 15 days from the date of this notice. Comments may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*.

Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2242–078.

For further information, contact David Turner at (202) 502–6091.

Dated: August 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–19692 Filed 8–10–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9932–14–OECA; Docket ID Number EPA–HQ–OECA–2015–0540]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding Comcast Cable Communications, L.L.C.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has entered into a Consent Agreement with Comcast Cable Communications, L.L.C. (Comcast or Respondent) to resolve violations of the Clean Water Act (CWA) and the Emergency Planning and Community Right-to-Know Act (EPCRA) and their implementing regulations.

The Administrator is hereby providing public notice of this Consent Agreement and proposed Final Order (CAFO), and providing an opportunity for interested persons to comment on the CWA and EPCRA portions of the CAFO, pursuant to CWA Section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C). Upon closure of the public comment period, the CAFO and any public comments will be forwarded to the Agency's Environmental Appeals Board (EAB).

DATES: Comments are due on or before September 10, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2015–0540, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- Email: *docket.oeca@epa.gov,* Attention Docket ID No. EPA–HQ–OECA–2015–0540.
- Fax: (202) 566–9744, Attention Docket ID No. EPA–HQ–OECA–2015–0540.
- Mail: Enforcement and Compliance Docket Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OECA–2015–0540.
- Hand Delivery: Enforcement and Compliance Docket Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OECA–2015–0540. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the 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 the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *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 at *www.regulations.gov* or in hard copy at the Enforcement and Compliance Docket Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

FOR FURTHER INFORMATION CONTACT: Beth Cavalier, Special Litigation and Projects Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: (202) 564–3271; fax: (202) 564–0010; email: *Cavalier.Beth@epa.gov.*

Background

This proposed settlement agreement is the result of voluntary disclosures of CWA and EPCRA violations by Comcast to the EPA. Comcast is among the largest providers of cable services in the United States, offering a variety of entertainment, information, and communications solutions to residential and commercial customers, and is located at 1701 John F. Kennedy Boulevard, Philadelphia, PA 19103, and incorporated in Delaware. The Comcast facilities that underwent audits included engineering facilities, customer service centers, field technician fulfillment offices, call centers, warehouses and administrative offices.

On August 11, 2014, the EPA and Respondent entered into a corporate audit agreement pursuant to the Agency's policy on *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* (Audit Policy), 65 FR 19618 (Apr. 11,

2000), in which Respondent agreed to conduct a systematic, documented, and objective review of its compliance with applicable provisions of the CWA and EPCRA. Respondent agreed to submit a final audit report detailing the specific facilities assessed, information setting forth violations discovered, and corrective actions taken. Respondent ultimately audited a total of 286 facilities, and as agreed upon with the EPA, Respondent submitted a final audit report to the EPA on January 5, 2015. All violations discovered and disclosed by the Respondent are listed in Attachments A and B to the CAFO.

Proposed Settlement

The EPA determined that Respondent satisfactorily completed its audit and has met all conditions set forth in the Audit Policy. Comcast has agreed to pay a civil penalty of $28,782 for the violations identified in Attachments A and B. This figure is the calculated economic benefit of noncompliance based on information provided by Respondent and use of the Economic Benefit (BEN) computer model. Of this amount $22,393 is attributable to CWA violations, and $6,389 is attributable to EPCRA violations.

The EPA and Respondent negotiated the Consent Agreement in accordance with the Consolidated Rules of Practice, 40 CFR part 22, specifically 40 CFR 22.13(b) and 22.18(b) (*In re: Comcast Cable Communications, L.L.C.;* enforcement settlement identifier numbers CWA–HQ–2015–8001 and EPCRA–HQ–2015–8001). This Consent Agreement is subject to public notice and comment under Section 311(b)(6)(C) of the CWA, 33 U.S.C. 1321(b)(6)(C). The procedures by which the public may comment on a proposed CWA Class II penalty order, or participate in a Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed Final Order is September 10, 2015. All comments will be transferred to the EAB for consideration. The EAB's powers and duties are outlined in 40 CFR 22.4(a).

Disclosed and Corrected Violations

CWA

Respondent disclosed that it failed to prepare and implement a Spill Prevention, Control, and Countermeasure (SPCC) Plan in violation of CWA Section 311(j), 33 U.S.C. 1321(j), and the implementing regulations found at 40 CFR part 112, at 10 facilities located in Alabama, Arkansas, Georgia, South Carolina, and Tennessee, identified in Attachment B.

Under CWA Section 311(b)(6)(A), 33 U.S.C. 1321(b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of CWA Section 311(b)(3), 33 U.S.C. 1321(b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA Section 311(j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $177,500 by the EPA. Class II proceedings under CWA Section 311(b)(6), 33 U.S.C. 1321(b)(6), are conducted in accordance with 40 CFR part 22. As authorized by CWA Section 311(b)(6), 33 U.S.C. 1321(b)(6), the EPA has assessed a civil penalty for these violations.

Pursuant to CWA Section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), the EPA will not issue an order in this proceeding prior to the close of the public comment period.

EPCRA

Respondent disclosed that it violated EPCRA Section 302(c), 42 U.S.C. 11002(c), and the implementing regulations found at 40 CFR part 355, at six facilities listed in Attachment A when it failed to notify the State Emergency Response Commission (SERC) and/or the Local Emergency Planning Committee (LEPC) that these facilities are subject to the requirements of Section 302(c) of EPCRA. These facilities are located in Alabama, South Carolina, and Tennessee.

Respondent disclosed that it violated EPCRA Section 311(a), 42 U.S.C. 11021(a), and the implementing regulations found at 40 CFR part 370, at 22 facilities listed in Attachment A when it failed to submit a Material Safety Data Sheet (MSDS) for hazardous chemicals and/or extremely hazardous substances or, in the alternative, a list of such chemicals, to the LEPCs, SERCs, and the fire departments with jurisdiction over these facilities. These facilities are located in Alabama, California, Georgia, South Carolina, Mississippi, and Tennessee.

Respondent disclosed that it violated EPCRA Section 312(a), 42 U.S.C. 11022(a), and the implementing regulations found at 40 CFR part 370, at 26 facilities listed in Attachment A when it failed to prepare and submit emergency and chemical inventory forms to the LEPCs, SERCs, and the fire departments with jurisdiction over these facilities. These facilities are located in Alabama, California, Georgia, South Carolina, Mississippi, and Tennessee.

Under EPCRA Section 325, 42 U.S.C. 11045, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable emergency planning or right-to-know requirements, or any other requirement of EPCRA. Proceedings under EPCRA Section 325, 42 U.S.C. 11045, are conducted in accordance with 40 CFR part 22. The EPA, as authorized by EPCRA Section 325, 42 U.S.C. 11045, has assessed a civil penalty for these violations.

List of Subjects

Environmental protection.

Dated: August 4, 2015.

Andrew R. Stewart,

Acting Director, Special Litigation and Projects Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance.

[FR Doc. 2015–19725 Filed 8–10–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–OW–2015–0415; FRL–9932–13–Region 8]

Request for Information: Great Salt Lake Mercury Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for information.

SUMMARY: As part of the United States Environmental Protection Agency's (EPA) review of Utah's 2012–2014 Clean Water Act section 303(d) list, we deferred action on Utah's decision not to list the Great Salt Lake as impaired. We are seeking data from the Great Salt Lake for consideration. While we are seeking all available mercury concentration data (any medium) from the Great Salt Lake we are particularly interested in obtaining mercury concentration data in avian: tissue (particularly liver tissue), blood, diet, and eggs. Ideally, we would like raw data and any available quality assurance metadata and quality criteria. Reports and publications are also desirable.

DATES: Data must be received on or before September 10, 2015.

ADDRESSES: Submit your data, identified by Docket ID No. EPA–R08–OW–2015–0415, by one of the following methods:

- *http://www.regulations.gov*. Follow the on-line instructions for submitting data.
- Email: *bunch.william@epa.gov*.
- Fax: (303) 312–7206 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing data).

• Mail: William Bunch, Environmental Protection Agency (EPA), Region 8, Mail Code 8EPR–EP, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

• Hand Delivery: William Bunch, Environmental Protection Agency (EPA), Region 8, Mail Code 8EPR–EP, 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 data to Docket ID No. EPA–R08–OW–2015–0415. EPA's policy is that all data received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the data includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it along with your data. If you email data directly to EPA, without going through *www.regulations.gov* your email address will be automatically captured and included as part of the data that is placed in the public docket and made available on the Internet. If you submit electronic data, EPA recommends that you include your name and other contact information along with your data and with any disk or CD–ROM you submit. If EPA cannot read your data due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your data. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting data, go to section I, General Information, of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Ecosystems Protection 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: William Bunch, Environmental Protection Agency (EPA), Region 8, Mail Code 8EPR–EP, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6412, *bunch.william@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

What should I consider as I prepare my data for EPA?

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on 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 data that includes information claimed as CBI, a copy of the data 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 data.* When submitting data, remember to:

• Identify the notice by docket number and other identifying information (subject heading, **Federal Register,** date, and page number);

• Follow directions and organize your data;

• Describe any assumptions and provide any technical information and/or QA/QC that you used;

• Make sure to submit your data by the deadline identified

Dated: July 13, 2015.

Martin Hestmark,

Assistant Regional Administrator, Region 8.

[FR Doc. 2015–19736 Filed 8–10–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–AO–2015–0553; FRL–9932–16–OA]

Proposed Information Collection Request; Comment Request; CEQ–EPA Presidential Innovation Award for Environmental Educators Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''CEQ–EPA Presidential Innovation Award for Environmental Educators Application'' 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 request for approval of a new collection. 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 October 13, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–AO–2015–0553, online using *www.regulations.gov* (our preferred method), by email to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

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

FOR FURTHER INFORMATION CONTACT: Carly Carroll, AO Office of Environmental Education, MC–1704–A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–2769; fax number: 202–564–2754; email address: *carroll.carly@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 purpose of this information collection request is to collect information from applicants in order to select recipients for the Presidential Innovation Award for Environmental Educators program. The U.S. Environmental Protection Agency (EPA or the Agency), in conjunction with the White House Council on Environmental Quality (CEQ), established the award program to meet the requirements of Section 8(e) of the National Environmental Education Act (20 U.S.C. 5507(e)).

Form Numbers: None.

Respondents/affected entities: K–12 teachers who teach on a full-time basis in a public school that is operated by a local education agency, including schools funded by the Bureau of Indian Affairs. For this program, a local education agency is one as defined by section 198 of the Elementary and Secondary Education Act of 1965 (now codified at 20 U.S.C. 7801(26)).

Respondent's obligation to respond: Required to obtain information from the applicants for Presidential Innovation Award for Environmental Educators and assess certain aspects of the PIAEE program as established under Section 8(e) of the National Environmental Education Act (20 U.S.C. 5507(e)).

Estimated number of respondents: 75 (total).

Frequency of response: Annually.

Total estimated burden: 10 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $28,500 (per year) for 75 applicants, includes $17,100 annualized capital or operation & maintenance costs.

Changes in Estimates: We expect that after adjusting the burden numbers that the burden numbers will substantially stay the same. Program requirements are expected to stay the same and the estimates currently take into account the use of technology to complete the application.

Dated: July 24, 2015.

Brian Bond,

Associate Administrator, Office of Public Engagement and Environmental Education.

[FR Doc. 2015–19737 Filed 8–10–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0806]

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 the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before October 13, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0806.

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

Form Numbers: FCC Forms 470 and 471.

Type of Review: Revision of a currently approved collection.

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

Number of Respondents and Responses: 52,700 respondents, 82,090 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, annual reporting, and recordkeeping requirements.

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: 334,405 hours.

Total Annual Cost: No cost.

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 C.F.R 0.459 of the FCC's rules.

Needs and Uses: The Commission seeks to revise OMB 3060–0806 to conform this information collection to the program changes set forth in the *Second Report and Order and Order on Reconsideration* (*Second E-Rate Modernization Order)* (WC Docket No. 13–184, WC Docket No. 10–90, FCC 14–189; 80 FR 5961, February 4, 2015).

Collection of the information on FCC Forms 470 and 471 is necessary so that the Commission and the Universal Service Administrative Company (USAC) have sufficient information to determine if entities are eligible for funding pursuant to the schools and libraries support mechanism (the E-rate program), to determine if entities are complying with the Commission's rules, and to prevent waste, fraud, and abuse. In addition, the information is necessary for the Commission to evaluate the extent to which the E-rate program is meeting the statutory objectives specified in section 254(h) of the 1996 Act, and the Commission's own performance goals established in the *Report and Order and Further Notice of Proposed Rulemaking* (*E-rate Modernization Order)* (WC Docket No. 13–184, FCC 14–99; 79 FR 49160, August 19, 2014) and *Second E-rate Modernization Order.* This information collection is being revised to modify FCC Form 471 pursuant to program and rule changes in the *Second E-rate Modernization Order* and to accommodate USAC's new online portal as well as the requirement that all FCC Forms 471 be electronically filed. On June 22, 2015, OMB approved an emergency request to revise OMB 3060–0806 which included revisions to the FCC Form 470 only. This revision does not propose changes to the FCC Form 470 but does seek to extend the six-month emergency extension to the full three years.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2015–19635 Filed 8–10–15; 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 September 4, 2015.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *Andover Bancorp, Inc.,* Andover, Ohio; to acquire 100 percent of the voting shares of Community National Bank of Northwestern Pennsylvania, Albion, Pennsylvania.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First State Associates, Inc.,* Hawarden, Iowa, to acquire 100 percent of the voting shares of Miner County Bank, Howard, South Dakota.

C. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Burlington Holdings, Inc.,* Burlington, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Burlington Bancshares, Inc., and Bank of Burlington, both in Burlington, Colorado.

D. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *PBB Bancorp,* Los Angeles, California; to acquire 100 percent of the voting shares of First Mountain Bank, Big Bear Lake, California.

Board of Governors of the Federal Reserve System, August 6, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–19696 Filed 8–10–15; 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 August 25, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *John M. Spottswood, Jr., Terri M. Spottswood, JMS Dynasty Trust, The J.M. and T.M. Spottswood Irrevocable Property Trust II, Robert A. Spottswood, RAS Dynasty Trust, Elaine M. Spottswood, Mary Anne Spottswood, Phillip G. Spottswood, Robert A. Spottswood, Jr., William B. Spottswood, WBS Dynasty Trust, Charles C. Spottswood, William B Spottswood, Jr., and Michelle M. Spottswood, all of Key West, Florida; Lande A. Spottswood, and Christopher C. Juban,* both of Houston Texas; to retain voting shares and thereby retain direct control of First State Bank of the Florida Keys Holding Company, and indirect control of First State Bank of the Florida Keys, both in Key West, Florida.

B. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *The Fishback Annuity Trust I, the Fishback Annuity Trust II, the Fishback Annuity Trust VI, Patricia S. Fishback, individually and as voting trustee of the trusts, all of Brookings, South Dakota, William Cornick Stephen Fishback, Francesca Margaret Fishback, both of*

San Francisco, California; Abby Margaret Rivlin, and Toby Sebastian Rivlin, both of Madison, Wisconsin; to retroactively join the Fishback Family Control group which controls the voting shares of Fishback Financial Corporation, Brookings, South Dakota and indirectly control First Bank & Trust, Brookings, South Dakota, First Bank & Trust, N.A., Pipestone, Minnesota, First Bank & Trust, Sioux Falls, South Dakota, and First Bank & Trust of Milbank, Milbank, South Dakota.

C. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *The Estate of Joe E. Sharp (Zan Sharp Prince and Robert Justin Sharp, Co-Executors), Bedford, Texas; Pop's Family Irrevocable Trust (Zan Sharp Prince, Trustee), Zan Sharp Prince, both of Weatherford, Texas; Matthew Scott Sharp, Grapevine, Texas; Robert Justin Sharp, Fort Worth, Texas; and Keleigh Sharp Greenwood, Kirkland, Washington;* as a group acting in concert to acquire voting shares of First Baird, Bancshares, Inc., Bedford, Texas, and thereby indirectly acquire shares of First Bank Texas, SSB, Baird, Texas.

Board of Governors of the Federal Reserve System, August 5, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–19667 Filed 8–10–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), to approve of and assign OMB numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve 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 number.

DATES: Comments must be submitted on or before October 13, 2015.

ADDRESSES: You may submit comments, identified by *Reg V,* by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* .
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov*. Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection 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.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

1. *Report title:* Recordkeeping and Disclosure Requirements Associated with the Regulations Implementing the Fair Credit Act (Regulation V).

Agency form number: Reg V.

OMB control number: 7100–0308.

Frequency: On occasion.

Reporters: Financial institutions.

Estimated annual reporting hours: Negative information notice: 375 hours; Affiliate marketing: Notices to consumers, 25,236 hours and Consumer response, 106,833 hours; Red flags: 74,888 hours; Address discrepancies: 6,000 hours; Risk-based pricing: Notice to consumers, 90,000 hours; Furnisher duties: Policies and procedures, 60,000 hours and Notice of frivolous disputes to consumers, 142,792 hours.

Estimated average hours per response: Negative information notice: 15 minutes; Affiliate marketing: Notices to consumers, 18 hours and Consumer response, 5 minutes; Red flags: 37

hours; Address discrepancies: 4 hours; Risk-based pricing: Notice to consumers, 5 hours; Furnisher duties: Policies and procedures, 40 hours and Notice of frivolous disputes to consumers, 14 minutes.

Number of respondents: Negative information notice: 1,500 financial institutions; Affiliate marketing: Notices to consumers, 1,402 financial institutions and 1,282,000 Consumer response; Red flags: 2,024 financial institutions; Address discrepancies: 1,500 financial institutions; Risk-based pricing: Notice to consumers, 1,500 financial institutions; Furnisher duties: Policies and procedures, 1,500 financial institutions and 611,966, Notice of frivolous disputes to consumers.

General description of report: This information collection is mandatory pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5519) and the FCRA (15 U.S.C. 1681m, 1681w, and 1681s). Because the notices and disclosures required are not provided to the Federal Reserve, and all records thereof are maintained at state member banks, no issue of confidentiality arises under the Freedom of Information Act.

Abstract: The Fair Credit Reporting Act (FCRA) was enacted in 1970 based on a Congressional finding that the banking system is dependent on fair and accurate credit reporting.[1] The FCRA was enacted to ensure consumer reporting agencies exercise their responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy. The FCRA requires consumer reporting agencies to adopt reasonable procedures that are fair and equitable to the consumer with regard to the confidentiality, accuracy, relevancy, and proper utilization of consumer information.

Congress substantially amended the FCRA upon the passage of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act).[2] The FACT Act created many new responsibilities for consumer reporting agencies and users of consumer reports. It contained many new consumer disclosure requirements, as well as provisions to address identity theft. In addition, the FACT Act provided consumers with the right to obtain a copy of their consumer report annually without cost. Improving consumers' access to their credit report is intended to help increase the accuracy of data in the consumer reporting system.

Since 2011, the Consumer Financial Protection Bureau has been responsible for issuing most FCRA regulations. The Federal Reserve retained rule-writing authority for certain provisions of the FCRA applicable to motor vehicle dealers and provisions of the FCRA that require identity theft prevention programs, regulate the disposal of consumer information, and require card issuers to validate consumers' notifications of changes of address.

Board of Governors of the Federal Reserve System, August 6, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–19656 Filed 8–10–15; 8:45 am]

BILLING CODE 6210–01–P

[1] The FCRA is one part of the Consumer Credit Protection Act which also includes the Truth in Lending Act, Equal Credit Opportunity Act, and Fair Debt Collection Practices Act. 15 U.S.C. 1601 *et seq.*

[2] Public Law 108–159, 117 Stat. 1952.

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 September 4, 2015.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Carpenter Bank Partners, Inc., CCFW, Inc., (dba Carpenter & Company), Carpenter Fund Management Company, LLC, Carpenter Fund Manager GP, LLC, Carpenter Community BancFund, L.P., and Carpenter Community BancFund-A, L.P.,* all in Irvine, California; to acquire additional voting shares up to approximately 32.6 percent of Pacific Mercantile Bancorp, and thereby indirectly acquire voting shares of Pacific Mercantile Bank, both in Costa Mesa, California.

Board of Governors of the Federal Reserve System, August 5, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–19666 Filed 8–10–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Omega 3 Fatty Acids and Cardiovascular Disease—Update

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Scientific Information Submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review of Omega 3 Fatty Acids and Cardiovascular Disease—Update, which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Programs. Access to published and unpublished pertinent scientific information will improve the quality of this review. AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

DATES: Submission Deadline on or before September 10, 2015.

ADDRESSES: Online submissions: *http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/*. Please select the study for which you are submitting information from the list to upload your documents.

Email submissions: *SIPS@epc-src.org.*

Print submissions: Mailing Address: Portland VA Research Foundation, Scientific Resource Center, ATTN:

Scientific Information Packet Coordinator, PO Box 69539, Portland, OR 97239.

Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Ryan McKenna, Telephone: 503–220–8262 ext. 58653 or Email: *SIPS@epc-src.org.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Programs to complete a review of the evidence for Omega 3 Fatty Acids and Cardiovascular Disease—Update.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on Omega 3 Fatty Acids and Cardiovascular Disease—Update, including those that describe adverse events. The entire research protocol, including the key questions, is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=2060.*

This notice is to notify the public that the EPC Program would find the following information on Omega 3 Fatty Acids and Cardiovascular Disease—Update helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.
- For completed studies that do not have results on ClinicalTrials.gov, please provide a summary, including the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- A list of ongoing studies that your organization has sponsored for this indication. In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute all Phase II and above clinical trials sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EPC Program. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions. The entire research protocol, is available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=2060.*

The Key Questions

1. What is the efficacy or association of n-3 Fatty Acids (FA) (eicosapentaenoic acid [EPA], docosahexaenoic acid [DHA]EPA+DHA, docosapentaenoic acid [DPA], stearidonic acid [SDA], alpha-linolenic acid [ALA], or total n-3 Fatty Acids) exposures in reducing cardiovascular disease (CVD) outcomes (incident CVD events including all-cause mortality, CVD mortality, non-fatal CVD events, new diagnosis of CVD, peripheral vascular disease, congestive heart failure, major arrhythmias, and hypertension diagnosis) and specific CVD risk factors (blood pressure, key plasma lipids)?

- What is the efficacy or association of n-3 FA in preventing CVD outcomes in people
  - Without known CVD (primary prevention)
  - At high risk for CVD (primary prevention)
  - With known CVD (secondary prevention)?
- What is the relative efficacy of different n-3 FAs on CVD outcomes and risk factors?
- Can the CVD outcomes be ordered by strength of intervention effect of n-3 FAs?

2. n-3 FA variables and modifiers:

- How does the efficacy or association of n-3 FA in preventing CVD outcomes and with CVD risk factors differ in subpopulations, including men, premenopausal women, postmenopausal women, and different age or race/ethnicity groups?
- What are the effects of potential confounders or interacting factors—such as plasma lipids, body mass index, blood pressure, diabetes, kidney disease, other nutrients or supplements, and drugs (*e.g.,* statins, aspirin, diabetes drugs, hormone replacement therapy)?
- What is the efficacy or association of different ratios of n-3 FA components in dietary supplements or biomarkers, on CVD outcomes and risk factors?
- How does the efficacy or association of n-3 FA on CVD outcomes and risk factors differ by ratios of different n-3 FAs—DHA, EPA, and ALA, or other n-3 FAs?
- How does the efficacy or association of n-3 FA on CVD outcomes and risk factors differ by source (*e.g.,* fish and seafood, common plant oils (*e.g.,* soybean, canola), fish oil supplements, fungal-algal supplements, flaxseed oil supplements)?
- How does the ratio of n-6 FA to n-3 FA intakes or biomarker concentrations affect the efficacy or association of n-3 FA on CVD outcomes and risk factors?
- Is there a threshold or dose-response relationship between n-3 FA exposures and CVD outcomes and risk factors? Does the study type affect these relationships?
- How does the duration of intervention or exposure influence the effect of n-3 FA on CVD outcomes and risk factors?
- What is the effect of baseline n-3 FA status (intake or biomarkers) on the efficacy of n-3 FA intake or supplementation on CVD outcomes and risk factors?

3. Adverse events:

- What adverse effects are related to n-3 FA intake or biomarker concentrations (in studies of CVD outcomes and risk factors)?
- What adverse events are reported specifically among people with CVD or

diabetes (in studies of CVD outcomes and risk factors)?

PICOTS (Population, Intervention, Comparator, Outcome, Timing, Setting)

Populations

- Healthy adults (≥18 yr) without CVD or with low to intermediate risk for CVD
- Adults at high risk for CVD (*e.g.,* with diabetes, cardiometabolic syndrome, hypertension, dyslipidemia, non-dialysis chronic kidney disease)
- Adults with clinical CVD (*e.g.,* history of myocardial infarction, angina, transient ischemic attacks)
- Exclude populations chosen for having a non-CVD or non-diabetes-related disease (*e.g.,* cancer, gastrointestinal disease, rheumatic disease, dialysis)

Interventions/Exposures

- n-3 FA supplements
- n-3 FA supplemented foods (*e.g.,* eggs)
- n-3 FA content in diet (*e.g.,* from food frequency questionnaires)
- Biomarkers of n-3 FA intake
- n-3 content of food or supplements must be quantified (*e.g.,* exclude fish diet studies where only servings/week defined, Mediterranean diet studies without n-3 quantified). n-3 quantification can be of total n-3 FA, of a specific n-3 FA (*e.g.,* ALA) or of combined EPA+DHA (''marine oil'').
- Exclude n-3 FA dose ≥6 g/day (except for adverse events)
- Exclude weight loss interventions

Comparators

- Placebo or no n-3 FA intervention
- Different n-3 FA source intervention
- Different n-3 FA concentration intervention
- Different n-3 FA dietary exposure (*e.g.,* comparison of quantiles)
- Different n-3 FA biomarker levels (*e.g.,* comparison of quantiles)

Outcomes

- All-cause mortality
- Cardiovascular, cerebrovascular, and peripheral vascular events:
  - Fatal vascular events (*e.g.,* due to myocardial infarction, stroke)
  - Non-fatal vascular events (*e.g.,* myocardial infarction, stroke/cardiovascular accident, transient ischemic attack, unstable angina)
  - Coronary heart disease, new diagnosis
  - Congestive heart failure, new diagnosis
  - Cerebrovascular disease, new diagnosis
  - Peripheral vascular disease, new diagnosis
  - Ventricular arrhythmia, new diagnosis
  - Supraventricular arrhythmia, new diagnosis
  - Major vascular interventions/procedures (*e.g,* revascularization, thrombolysis, lower extremity amputation, defibrillator placement)
- Major CVD risk factors (intermediate outcomes):
  - Blood pressure (new-onset hypertension, systolic, diastolic, and mean arterial pressure)
  - Key plasma lipids (*i.e.,* high density lipoprotein cholesterol [HDL-c], low density lipoprotein cholesterol [LDL-c], total/HDL-c ratio, LDL-c/HDL-c ratio, triglycerides)
- Adverse events (*e.g.,* bleeding, major gastrointestinal disturbance), only from intervention studies of supplements

Timing

- Clinical outcomes, including new-onset hypertension (all study designs): ≥1 year followup (and intervention duration, as applicable)
- Intermediate outcomes (blood pressure and plasma lipids) (all study designs): ≥1 month followup
- Adverse events (all study designs): No minimum followup

Setting

Community-Dwelling (Non-Institutionalized) Individuals Study Design

- Randomized Controlled Trials (RCTs) (all outcomes)
- Randomized cross-over studies (blood pressure and plasma lipids, adverse events), minimum washout period to be determined
- Prospective nonrandomized comparative studies (clinical outcomes, adverse events)
- Prospective cohort (single group) studies, where groups are compared based on n-3 FA intake or intake biomarker values (clinical outcomes)
- Exclude: Retrospective or case control studies or cross-sectional studies (but include prospective nested case control studies). Studies must have measure of intake prior to outcome.
- Minimum sample sizes (All outcomes: To be determined)
- English language publications

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2015–19659 Filed 8–10–15; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Omega 3 Fatty Acids and Maternal and Child Health

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Scientific Information Submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review of Omega 3 Fatty Acids and Maternal and Child Health, which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Programs. Access to published and unpublished pertinent scientific information will improve the quality of this review. AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

DATES: Submission Deadline on or before September 10, 2015.

ADDRESSES: Online submissions: *http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/.* Please select the study for which you are submitting information from the list to upload your documents.

Email submissions: *SIPS@epc-src.org.*

Print submissions:

Mailing Address:

Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, P.O. Box 69539, Portland, OR 97239.

Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Ryan McKenna, Telephone: 503–220–8262 ext. 58653 or Email: *SIPS@epc-src.org.*

SUPPLEMENTARY INFORMATION:

The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Programs to complete a review of the evidence for Omega 3 Fatty Acids and Maternal and Child Health.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for

each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on Omega 3 Fatty Acids and Maternal and Child Health, including those that describe adverse events.

The entire research protocol, including the key questions, is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayProduct&productID=2083*.

This notice is to notify the public that the EPC Program would find the following information on Omega 3 Fatty Acids and Maternal and Child Health helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.
- For completed studies that do not have results on ClinicalTrials.gov, please provide a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- A list of ongoing studies that your organization has sponsored for this indication. In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute all Phase II and above clinical trials sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EPC Program. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/*.

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions. The entire research protocol, is available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayProduct&productID=2083*.

The Key Questions

KQ 1. Maternal Exposure

○ What is the efficacy of maternal interventions involving—or association of maternal exposures to—n-3 Fatty Acids (FA) (eicosapentaenoic acid [EPA], docosahexaenoic acid [DHA], EPA+DHA [long-chain n-3 FA], docosapentaenoic acid [DPA], alpha-linolenic acid [ALA], stearidonic acid [SDA] or total n-3 FA) on the following:

- Duration of gestation in women with or without a history of preterm birth (less than 37 weeks gestation)
- Incidence of preeclampsia/eclampsia/gestational hypertension in women with or without a history of preeclampsia/eclampsia/gestational hypertension
- Incidence of birth of small-for-gestational age human infants
- Incidence of ante- and/or postnatal depression in women with or without a history of major depression or postpartum depression

○ What are the associations of maternal biomarkers of n-3 intake during pregnancy and the outcomes identified above?

○ What are the effects of potential confounders or interacting factors (such as other nutrients or use of other supplements, or smoking status)?

○ How is the efficacy or association of n-3 FA on the outcomes of interest affected by the ratio of different n-3 FAs, as components of dietary supplements or biomarkers?

○ How does the ratio of n-6 FA to n-3 FA intakes or biomarker concentrations affect the efficacy or association of n-3 FA on the outcomes of interest?

○ Is there a threshold or dose-response relationship between n-3 FA exposures and the outcomes of interest or adverse events?

○ How does the duration of the intervention or exposure influence the effect of n-3 FA on the outcomes of interest?

KQ 2. Fetal/childhood exposures

○ What is the influence of maternal intakes of n-3 fatty acids or the n-3 fatty acid content of maternal breast milk (with or without knowledge of maternal intake of n-3 FA) or n-3 FA-supplemented infant formula or intakes of n-3 FA from sources other than maternal breast milk or supplemented infant formula on the following outcomes in term or preterm human infants?

- Growth patterns
- Neurological development
- Visual function
- Cognitive development
- Autism
- Learning disorders
- Attention Deficit Hyperactivity Disorder (ADHD)
- Atopic dermatitis
- Allergies
- Respiratory illness

○ What are the associations of the n-3 FA content or the n-6/n-3 FA ratio of maternal or fetal or child biomarkers with each of the outcomes identified above?

KQ 3. Maternal or childhood adverse events:

○ What are the short and long term risks related to maternal intake of n-3 FA during pregnancy or breastfeeding on:

- Pregnant women
- Breastfeeding women
- Term or preterm human infants at or after birth

○ What are the short and long term risks associated with intakes of n-3 FA by human infants (as maternal breast milk or infant formula supplemented with n-3 FA)?

○ Are adverse events associated with specific sources or doses?

PICOTS (Population, Intervention, Comparator, Outcome, Timing, Setting)

Population(s)

• *KQ 1 (Maternal Exposures and Outcomes)*

○ Healthy pregnant women (for outcomes of birth weight, intrauterine growth restriction/small for gestational age, duration of gestation, risk of pre-eclampsia, eclampsia, or pregnancy hypertension)

○ Pregnant women with a history of pre-eclampsia, eclampsia, or pregnancy hypertension (only for outcome of risk of pre-eclampsia, eclampsia, or pregnancy hypertension)

○ Pregnant women with a history of major depressive disorder or postpartum depression (only for the outcome of risk for peripartum depression)

- *KQ 2 (In Utero and Postnatal (Through the First Year of Life) Exposures and Outcomes)*

○ Healthy preterm or full term infants of healthy women/mothers whose n-3 fatty acid exposures were monitored during pregnancy

○ Breastfed infants of healthy mothers whose n-3 fatty acid exposure was monitored and/or who participated in an n-3 fatty acid intervention during breastfeeding beginning at birth

○ Healthy preterm or full term infants with and without family history of respiratory conditions (for outcomes related to atopic dermatitis, allergy, respiratory conditions) of mothers whose n-3 exposures were monitored during pregnancy and/or breastfeeding

○ Healthy children or children with a family history of a respiratory disorder, a cognitive or visual development disorder, autism spectrum disorder, ADHD, or learning disabilities, age 0 to 18 years who participated in an n-3 fatty acid-supplemented infant formula intervention or an n-3 supplementation trial during infancy

- *KQ 3 (Adverse Events Associated With n-3 Interventions)*

○ Healthy pregnant women or pregnant women in the other categories described above

○ Offspring of women enrolled in an n-3 fatty acid intervention during pregnancy

○ Offspring of women whose exposure to n-3 fatty acids was assessed during pregnancy

○ Children whose exposure to n-3 fatty acids (through breast milk, infant formula, or supplementation) was monitored during the first year of life

Interventions/Exposures

- Interventions (KQ1, 2, 3 unless specified):

○ N-3 fatty acid supplements (*e.g.,* EPA, DHA, ALA, singly or in combination

○ N-3 fatty acid supplemented foods (*e.g.,* eggs) with quantified n-3 content

○ High-dose pharmaceutical grade n-3 fatty acids, *e.g.,* Omacor®, Ropufa®, MaxEPA®, Efamed, Res-Q®, Epagis, Almarin, Coromega, Lovaza®, Vascepa® (icosapent ethyl)

▪ Exclude doses of more than 6g/d, except for trials that report adverse events

○ N-3 fatty acid enriched infant formulae (KQ2,3)

▪ *E.g.,* Enfamil® Lipil®; Gerber® Good Start DHA & ARA®; Similac® Advance®

▪ N-3 enriched follow-up formulae

▪ Exclude parenterally administered sources

○ Marine oils, including fish oil, cod liver oil, and menhaden oil with quantified n-3 content

○ Algal or other marine sources of omega-3 fatty acids with quantified n-3 content

- Exposures (KQ1,2)

○ Dietary n-3 fatty acids from foods if concentrations are quantified in food frequency questionnaires

○ Breast milk n-3 fatty acids (KQ2)

○ Biomarkers (EPA, DHA, ALA, DPA, SDA), including but not limited to the following:

▪ Plasma fatty acids

▪ Erythrocyte fatty acids

▪ Adipocyte fatty acids

Comparators

- Inactive comparators:

○ Placebo (KQ1, 2, 3)

○ Non-fortified infant formula (KQ2)

- Active comparators

○ Different n-3 sources

○ Different n-3 concentrations (KQ1, 2, 3)

○ Alternative n-3 enriched infant formulae (KQ2)

○ Soy-based infant formula (KQ2)

○ Diet with different level of Vitamin E exposure

Outcomes

- Maternal outcomes (KQ1)

○ Blood pressure control

▪ Incidence of gestational hypertension

▪ Maternal blood pressure

▪ Incidence of pre-eclampsia, eclampsia

○ Peripartum depression

▪ Incidence of antepartum depression [10]

▪ Incidence of postpartum depression, *e.g.*

▪ Edinburgh Postnatal Depression scale

▪ Structured Clinical Interview (SCI)

○ Gestational length

▪ Duration of gestation

▪ Incidence of preterm birth

○ Birth weight

▪ Mean birth weight

▪ Incidence of low birth weight/small for gestational age

- Pediatric Outcomes (KQ2)

○ Neurological/visual/cognitive development

▪ Visual development, *e.g.*

▪ Visual evoked potential acuity

▪ Visual acuity testing

▪ Teller's Acuity Card test

▪ Electroretinography

▪ Cognitive/neurological development, *e.g.*

▪ EEGs as measure of maturity

▪ Psychomotor developmental index from Bayley's scales

▪ Bayley's mental development index

▪ Knobloch, Passamanick, and Sherrard's developmental Screening Inventory scores

▪ Neurological impairment assessment

▪ Active sleep, quiet sleep, sleep-wake transition, wakefulness

▪ Fagan Test of Infant Intelligence

▪ Stanford-Binet IQ

▪ Receptive Vocabulary

▪ Peabody Picture Vocabulary Test-Revised

▪ Auditory development

▪ Nerve conduction test

▪ Latency Auditory evoked potential

○ Risk for ADHD

▪ Studies will be included only if they employ a validated evaluation procedure

▪ E.g., Wechsler Intelligence Scale for Children

▪ Behavioral rating scales, *e.g.,* Connors, Vanderbilt, and Barkley scales

○ Risk for Autism spectrum disorders

▪ Studies will be included only if they employ a validated evaluation procedure

▪ *E.g.,* Modified Checklist of Autism in Toddlers

○ Risk for learning disabilities

▪ Studies will be included only if they employ a validated evaluation procedure

○ Risk for atopic dermatitis

○ Risk for allergies

▪ Studies will be included only if they employ a validated allergy assessment procedure, preferably challenge

○ Incidence of respiratory disorders

▪ Spirometry in children 5 and over (peak expiratory flow rate [PEFR] and forced expiratory volume in 1 second [FEV1])

- KQ 3: Adverse effects of intervention(s)

○ Incidence of specific adverse events reported in trials by study arm

Timing

- Duration of intervention or follow-up

○ Key Question 1,3 (maternal interventions/exposures):

▪ Interventions implemented anytime during pregnancy but preferably during the first or second trimester

▪ Followup duration is anytime during pregnancy (for maternal outcomes of pre/eclampsia or maternal hypertension); term (for outcomes related to birth weight, duration of pregnancy); or within the first 6 months postpartum (for the outcome of postpartum depression)

○ Key Question 2, 3 (infant exposures):

▪ Interventions implemented within one month of birth or exposures measured within 1 month of birth

- Followup duration is 0 to 18 years

Settings

- Community-dwelling individuals seen by primary care physicians or obstetricians in private or academic medical practices (KQ1, 3)
- Community dwelling children seen in outpatient health care or educational settings (KQ2, 3)

Study designs will be limited to Randomized Controlled Trials, prospective cohort studies, and nested case control studies (cross-sectional, retrospective cohort, and case study designs will be excluded; studies must have measure of intake/exposure prior to outcome). Language will be restricted to English. Only peer-reviewed studies will be included; unpublished studies will not be included.

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2015–19658 Filed 8–10–15; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed changes to the currently approved information collection project: *''Consumer Assessment of Healthcare Providers and Systems (CAHPS) Clinician and Group Survey Comparative Database.''* In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by October 13, 2015.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Consumer Assessment of Healthcare Providers and Systems (CAHPS) Clinician and Group Survey Comparative Database

The CAHPS Clinician and Group Survey (''the CAHPS CG Survey'') is a tool for collecting standardized information on patients' experiences with physicians and staff in outpatient medical practices. The results, enable clinicians and administrators to assess and improve patients' experiences with medical care. The CAHPS CG Survey is a product of the CAHPS® program, which is funded and administered by AHRQ, and CAHPS® is a registered trademark of AHRQ. AHRQ works closely with a consortium of public and private research organizations to develop and maintain surveys and tools to advance patient-centered care. In 1999, the CAHPS Consortium began work on a survey that would assess patients' experiences with medical groups and clinicians. The CAHPS Consortium developed a preliminary instrument known as the CAHPS Group Practices Survey (G–CAHPS), with input from the Pacific Business Group on Health, which developed a Consumer Assessment Survey that is the precedent for this type of instrument.

In August 2004, AHRQ issued a notice in the **Federal Register** inviting organizations to test the CAHPS CG Survey. These field-test organizations were crucial partners in the evolution and development of the instrument, and provided critical data illuminating key aspects of survey design and administration. In July 2007 the CAHPS CG Survey was endorsed by the National Quality Forum (NQF), an organization established to standardize health care quality measurement and reporting. The endorsement represents the consensus of many health care providers, consumer groups, professional associations, purchasers, federal agencies, and research and quality organizations. The CAHPS CG Survey and related toolkit materials are available on the CAHPS Web site at *https://cahps.ahrq.gov/surveys-guidance/cg/instructions/index.html*. Since its release, the survey has been used by thousands of physicians and medical practices across the U.S.

The current CAHPS Consortium includes AHRQ, the Centers for Medicare & Medicaid Services (CMS), RAND, Yale School of Public Health, and Westat.

AHRQ developed the database for CAHPS CG Survey data following the CAHPS Health Plan Database as a model. The CAHPS Health Plan Database was developed in 1998 in response to requests from health plans, purchasers, and CMS for comparative data to support public reporting of health plan ratings, health plan accreditation and quality improvement (OMB Control Number 0935–0165, expiration 5/31/2017). Demand for comparative results from the CG Survey has grown as well, and therefore AHRQ developed a dedicated CAHPS Clinician and Group Database to support benchmarking, quality improvement, and research (OMB Control Number 0935–0197, expiration 06/30/2015).

The CAHPS Database contains data from AHRQ's standardized CAHPS Surveys which provide comparative measures of quality to health care purchasers, consumers, regulators, and policy makers. The CAHPS Database also provides data for AHRQ's annual National Healthcare Quality and Disparities Report.

Health systems, medical groups and practices that administer the CAHPS Clinician & Group Survey according to CAHPS specifications can participate in this project. A health system is a complex of facilities, organizations, and providers of health care in a specified geographic area. A medical group is defined as a medical group, Accountable Care Organization (ACO), state organization or some other grouping of medical practices. A practice is an outpatient facility in a specific location whose physicians and other providers share administrative and clinical support staff. Each practice located in a building containing multiple medical offices is considered a separate practice.

The goal of this project is to renew the CAHPS CG Database. This database will continue to update the CAHPS CG Database with the latest results of the CAHPS CG Survey. These results consist of 34 items that measure 5 areas or composites of patients' experiences with physicians and staff in outpatient medical practices. This database:

(1) Allows participating organizations to compare their survey results with those of other outpatient medical groups;

(2) Provides data to medical groups and practices to facilitate internal assessment and learning in the quality improvement process; and

(3) Provides information to help identify strengths and areas with potential for improvement in patient care. The five composite measures are:

Getting Timely Appointments, Care, and Information

How Well Providers Communicate With Patients

Helpful, Courteous, and Respectful Office Staff
Care Coordination
Patients' Rating of the Provider

The collection of information for the CAHPS CG Database for Clinicians and Groups is being conducted pursuant to AHRQ's statutory authority to conduct and support research on health care and systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services; quality measurement and improvement; and health surveys and database development 42 U.S.C. 299a(a)(1), (2) and (8).

Method of Collection

To achieve the goal of this project, the following activities and data collections will be implemented:

(1) Registration Form—The purpose of this form is to determine the eligibility status and initiate the registration process for participating organizations seeking to voluntarily submit their CAHPS CG Survey data to the CAHPS CG Database. The point of contact (POC) at the participating organization (or parent organization) will complete the form. The POC is either a corporate-level health care manager or a survey vendor who contracts with a participating organization to collect the CAHPS CG Survey data.

(2) Data Use Agreement (DUA)—The purpose of this DUA is to obtain authorization from participating organizations to use their voluntarily submitted CAHPS CG Survey data for analysis and reporting according to the terms specified in the DUA. The POC at the organization will complete the form. Vendors do not sign the DUA.

(3) Data Submission—The number of submissions to the database may vary each year because medical groups and practices may not administer the survey and submit data each year. Data submission is typically handled by one POC who either is a health system, medical group or practice or a survey vendor who contracts with the medical group or practice to collect their data. After the POC has completed the Registration Form and the Data Use Agreement, they will submit their patient-level data from the CAHPS CG Survey to the CAHPS CG Database. Data on the organizational characteristics such as ownership, number of patient visits per year, medical specialty, and information related to survey administration such as mode, dates of survey administration, sample size, and response rate, which are collected as part of CAHPS CG

Survey operations are also submitted. Each submission will consist of 3 data files:

(1) A Group File that contains information about the group ownership and size of group, (2) a Practice File containing type of practice, the practice ownership and affiliation (*i.e.,* commercial, hospital or integrated delivery system, insurance company, university or medical school, community health center, VA or military) and number of patient visits per year, and 3) a Sample File that contains one record for each patient surveyed, the date of visit, survey disposition code and information about survey completion.

Survey data from the CAHPS CG Database is used to produce four types of products:

(1) An online reporting of results available to the public on the CAHPS Database Web site; (2) individual participant comparative reports that are confidential and customized for each participating organization that submits their data, (3) an annual Chartbook that presents summary-level results in a downloadable PDF file; and (4) a dataset available to researchers for additional analyses.

Information for the CAHPS CG Database has been collected by AHRQ through its contractor Westat on an annual basis since 2010. Participating organizations are asked to voluntarily submit their data to the CAHPS CG Database each year. The data is cleaned with standardized programs, then aggregated and used to produce comparative results. In addition, reports are produced that compare the participating organizations' results to the database in a password-protected section of the CAHPS CG Database online reporting system.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours for the respondent to participate in the CAHPS CG Database. The 20 POCs in exhibit 1 are the number of estimated vendors. The 240 POCs in exhibit 1 are the number of estimated participating Health/Medical entities.

Each vendor will register online for submission. The online Registration form will require about 5 minutes to complete. The data use agreement will be completed by the 240 participating Health/Medical entities. Vendors do not sign DUAs. The DUA requires about 3 minutes to sign and return by fax, mail or to upload directly in the submission system. Each submitter will provide a copy of their questionnaire and the survey data file in the required file format. Survey data files must conform to the data file layout specifications provided by the CAHPS CG Database. The number of data submissions per POC will vary because some may submit data for multiple practices, while others may submit data for only one. Once a data file is uploaded the file will be automatically checked to ensure it conforms to the specifications and a data file status report will be produced and made available to the submitter. Submitters will review each report and will be expected to fix any errors in their data file and resubmit if necessary. It will take about one hour to complete each file submission. The total burden is estimated to be 454 hours annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses for each POC	Hours per response	Total burden hours
Registration Form	20	1	5/60	2
Data Use Agreement	240	1	3/60	12
Data Files Submission	440	1	1	440
Total	700	NA	NA	454

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete the submission process. The cost burden is estimated to be $18,613 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate *	Total cost burden
Registration Form	20	2	39.75 [a]	$80
Data Use Agreement	240	12	86.88 [b]	1043
Data Files Submission	20	440	39.75 [c]	17,490
Total	280	454	NA	18,613

* National Compensation Survey: Occupational wages in the United States May 2014, ''U.S. Department of Labor, Bureau of Labor Statistics.'' (a) and (c) Based on the mean hourly wages for Computer Programmer (15–1131). (b) Based on the mean hourly wage for Chief Executives (11–1011). *http://www.bls.gov/oes/current/oes_nat.htm#15–0000*

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2015–19657 Filed 8–10–15; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Expired Listing for McGuckin Methods International, Inc.

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to b–26, (Patient Safety Act) and the related Patient Safety and Quality Improvement Final Rule, 42 CFR part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008: 73 FR 70732, provide for the formation of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information regarding the quality and safety of health care delivery. The Patient Safety Rule authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. The listing from McGuckin Methods International, Inc. has expired and AHRQ has delisted the PSO accordingly.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12:00 Midnight ET (2400) on May 5, 2015.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.AHRQ.gov/index.html.*

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery. HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when the PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

The McGuckin Methods International, Inc., PSO number P0063 chose to let its listing expire by not seeking continued listing. Accordingly, McGuckin Methods International, Inc. was delisted effective at 12:00 Midnight ET (2400) on May 5, 2015.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.AHRQ.gov/index.html.*

Sharon B. Arnold,

Director.

[FR Doc. 2015–19660 Filed 8–10–15; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Nominations of Candidates To Serve on the Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (BSC, NCEH/ATSDR)

The Centers for Disease Control and Prevention (CDC) is soliciting nominations for membership on the BSC, NCEH/ATSDR. The BSC, NCEH/ATSDR consists of 16 experts

knowledgeable in the field of environmental public health or in related disciplines, who are selected by the Secretary of the U.S. Department of Health and Human Services (HHS). The BSC, NCEH/ATSDR provides advice and guidance to the Secretary, HHS; the Director, CDC; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agencies' mission to protect and promote people's health. The Board provides advice and guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the Board's objectives. Nominees will be selected from experts with experience in preventing human diseases and disabilities caused by environmental conditions. Experts in the disciplines of toxicology, epidemiology, environmental or occupational medicine, behavioral science, risk assessment, exposure assessment, environmental justice, laboratory science, and experts in public health and other related disciplines will be considered. Members may be invited to serve up to four-year terms.

The Federal Advisory Committee Act and implementing regulations stipulate that committee membership be balanced in terms of points of view represented and the Board's function. Consideration is given to a broad representation of geographic areas within the U.S., as well as gender, all ethnic and racial groups, persons with disabilities, and several factors including: (1) The committee's mission; (2) the geographic, ethnic, social, economic, or scientific impact of the advisory committee's recommendations; (3) the types of specific perspectives required, for example, those of consumers, technical experts, the public at-large, academia, business, or other sectors; (4) the need to obtain divergent points of view on the issues before the advisory committee; and (5) the relevance of State, local, or tribal governments to the development of the advisory committee's recommendations. Nominees must be U.S. citizens.

Nominations should be sent, in writing, and postmarked by September 15, 2015. The following information must be submitted for each candidate: Name, affiliation, address, telephone number, and current curriculum vitae. Email addresses are requested if available. Nominations should be sent, in writing, to: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, CDC, 4770 Buford Highway (MS–F45), Atlanta, Georgia 30341, Email address: *sym6@CDC.GOV.* Telephone and facsimile submissions cannot be accepted.

Candidates invited to serve will be asked to submit the ''Executive Branch Confidential Financial Disclosure Report, OGE 450'' for Special Government Employees Serving on Federal Advisory Committees at the Centers for Disease Control and Prevention. This form allows CDC to determine whether there is a conflict of interest between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded at *http://www.usoge.gov/forms/oge450_pdf/oge450_accessible.pd*.

This form should not be submitted as part of a nomination.

Contact Person for More Information: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, 4770 Buford Highway, Mail Stop F–61, Chamblee, Georgia 30345; Telephone 770/488–0575 or 770/488–0577, Fax: 770/488–3377; Email: *smalcom@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. 2015–19675 Filed 8–10–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0369]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Regulations Under the Federal Import Milk Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Regulations Under the Federal Import Milk Act'' 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 June 23, 2015, the Agency submitted a proposed collection of information entitled ''Regulations Under the Federal Import Milk Act'' 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 0910–0212. The approval expires on July 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: August 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–19669 Filed 8–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0473]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Irradiation in the Production, Processing and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled, ''Irradiation in the Production, Processing and Handling of Food'' 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 June 24, 2015, the Agency submitted a proposed collection of information entitled, ''Irradiation in the Production, Processing and Handling of Food'' 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 0910–0186. The approval expires on July 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: August 5, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–19681 Filed 8–10–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on the National Health Service Corps; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: National Advisory Council on the National Health Service Corps (NACNHSC).

Dates and Times: August 27–28, 2015, 8:00 a.m.–4:30 p.m. EST.

Place: U.S. Department of Health and Human Services, Health Resources and Services Administration, Parklawn Building, Conference Room #18–67, 5600 Fishers Lane, Rockville, Maryland 20857, In-Person meeting and Conference Call Format.

Status: This advisory council meeting will be open to the public.

Purpose: The NACNHSC provides advice and recommendations to the Secretary of the U.S. Department of Health and Human Services and, by designation, the Administrator of the Health Resources and Services Administration on a range of issues including identifying the priorities for the NHSC, and policy revisions.

Agenda: The NACNHSC will welcome its new members and begin with a New Member Orientation and Ethics Overview. The tentative agenda includes discussions on (a) State's Approach to Medicaid Expansion and how it affects the NHSC, (b) the supply and practice patterns of mental and behavior health, and (c) how to improve the work life for health care providers and staff. The NACNHAC final agenda will be available on the NACNHSC Web site 3 days in advance of the meeting.

SUPPLEMENTARY INFORMATION: Further information regarding the NACNHSC including the roster of members, past meetings summaries is available at the following Web site: *http://nhsc.hrsa.gov/corpsexperience/aboutus/nationaladvisorycouncil/index.html.*

Members of the public and interested parties may request to participate in the meeting by contacting Ashley Carothers via email at *ACarothers@hrsa.gov* to obtain access information. Access will be granted on a first come, first-served basis. Space is limited. Public participants may submit written statements in advance of the scheduled meeting. If you would like to provide oral public comment during the meeting, please register with the designated federal official (DFO), CAPT Shari Campbell. Public comment will be limited to 3 minutes per speaker. Statements and comments can be addressed to the DFO, CAPT Shari Campbell by emailing her at *SCampbell@hrsa.gov.*

In addition, please be advised that committee members are given copies of all written statements submitted from the public. Any further public participation will be solely at the discretion of the Chair, with approval of the DFO. Registration through the designated contact for the public comment session is required.

FOR FURTHER INFORMATION CONTACT: Anyone requesting information regarding the NACNHSC should contact CAPT Shari Campbell, Designated Federal Official, Bureau of Health Workforce, Health Resources and Services Administration, in one of three ways: (1) Send a request to the following address: CAPT Shari Campbell, Designated Federal Official, Bureau of Health Workforce, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857; (2) call (301) 594–4251; or (3) send an email to *scampbell@hrsa.gov.*

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2015–19652 Filed 8–10–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct; Correction

AGENCY: Office of the Secretary, HHS.

ACTION: Correction of notice.

SUMMARY: This document corrects an error that appeared in the notice published in the July 31, 2015, **Federal Register** entitled ''Findings of Research Misconduct.''

DATES: *Effective Date:* August 11, 2015. *Applicability Date:* The correction notice is applicable for the Findings of Research Misconduct notice published on July 31, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Gorirossi or Dr. Kristen Grace at 240–453–8800.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2015–18794 of July 31, 2015 (80 FR 45661–45662), there is an error in the grant information. The error is identified and corrected in the Correction of Errors section below.

II. Correction of Errors

In FR Doc. 2015–18794 of July 31, 2015 (80 FR 45661–45662), make the following correction:

1. On page 45661, third column, in FR Doc. 2015–18794, second paragraph, last line, delete ''and TA MH020002'' so that the last two lines of the paragraph read ''grants R01 MH087214 and R01 MH077105.''

Dated: July 31, 2015.

Donald Wright,

Acting Director, Office of Research Integrity.

[FR Doc. 2015–19738 Filed 8–10–15; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Effects of GxE Interactions on Aging.

Date: September 3, 2015.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carmen Moten, Ph.D., MPH, Scientific Review Officer, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7703, *cmoten@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–19625 Filed 8–10–15; 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: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

Date: September 3, 2015.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 4H200, 5601 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jay R. Radke, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G11B, National Institutes of Health, NIAID, 5601 Fishers Lane MSC–9823, Bethesda, MD 20892–9823, (240) 669–5046, *jay.radke@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: August 5, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–19706 Filed 8–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in 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 materials, 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: Fogarty International Center Advisory Board.

Date: September 14–15, 2015.

Closed: September 14, 2015, 1:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, B2C03, Bethesda, MD 20892.

Open: September 15, 2015, 9:00 a.m. to 3:00 p.m.

Agenda: Update and discussion of current and planned FIC activities.

Place: National Institutes of Health, 16 Center Drive, Lawton L. Chiles International House (Stone House), Bethesda, MD 20892.

Contact Person: Kristen Weymouth, Public Health Advisor, Fogarty International Center, National Institutes of Health, 31 Center Drive, Room B2C02, Bethesda, MD 20892, (301) 496–1415, *Kristen.Weymouth@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nih.gov/fic/about/advisory.html,* where an agenda and any additional information for the meeting will be posted when available.

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. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health HHS)

Dated: August 5, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–19624 Filed 8–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should

notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in 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 Advisory Mental Health Council.

Date: September 11, 2015.

Open: 9:00 a.m. to 1:00 p.m.

Agenda: Presentation of the NIMH Director's Report and discussion of NIMH program and policy issues.

Place: Bethesda North Marriott Hotel & Conference Center, Ballroom (Main Floor, Lobby Level), 5701 Marinelli Road, Bethesda, MD 20852.

Closed: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Ballroom (Main Floor, Lobby Level), 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Tracy Waldeck, Ph.D., Chief, Extramural Policy Branch, DEA, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6160, MSC 9607, Bethesda, MD 20892–9607, 301–443–5047, *waldeckt@mail.nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: August 5, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–19705 Filed 8–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; RFP2–15–05 Ghrelin Vaccines.

Date: August 27, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIAAA, NIH, 5635 Fishers Lane, Room CR2098, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, NIH, 5635 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 92.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Supports Awards, National Institutes of Health, HHS)

Dated: August 5, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–19626 Filed 8–10–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Treatment Episode Data Set (TEDS) (OMB No. 0930–0335)—Revision

The Substance Abuse and Mental Health Services Administration (SAMHSA) is requesting a revision of the Treatment Episode Data Set (TEDS) data collection (OMB No. 0930–0335), which expires on January 31, 2016. TEDS is a compilation of client-level substance abuse treatment admission and discharge data submitted by states on clients treated in facilities that receive state funds. SAMHSA is requesting the addition of client-level mental health admission and update/discharge data (MH–TEDS/CLD) submitted by states on clients treated in facilities that receive state funds. These mental health data have been previously

collected in support of the Community Mental Health Services Block Grant (MHBG) and Substance Abuse and Prevention Treatment Block Grant (SABG) Application Guidance and Instructions (OMB No. 0930–0168).

TEDS/MH–TEDS/CLD data are collected to obtain information on the number of admissions and updates/discharges at publicly-funded substance abuse treatment and mental health services facilities and on the characteristics of clients receiving services at those facilities. TEDS/MH–TEDS/CLD also monitors trends in the demographic, substance use, and mental health characteristics of admissions. In addition, several of the data elements used to calculate performance measures for the Substance Abuse Block Grant (SABG) and Mental Health Block Grant (MHBG) applications are collected in TEDS/MH–TEDS/CLD.

This request includes:

- Continuation of collection of TEDS (substance abuse) client-level admissions and discharge data;
- Continuation of collection of MH–TEDS client-level admissions and update/discharge data of mental health clients beyond the pilot phase; and
- Addition of collection of MHCLD client-level admissions and update/discharge data (transferred from OMB No. 0930–0168).

Most states collect the TEDS/MH–TEDS/CLD data elements from their treatment providers for their own administrative purposes and are able to submit a cross-walked extract of their data to TEDS/MH–TEDS/CLD. No changes are expected in the (substance abuse) TEDS collection. No changes are expected in the (mental health) MH–CLD collection (other than recording the MH–TEDS/CLD burden hours separately from the Substance Abuse Block Grant (SABG) and Mental Health Block Grant (MHBG) application approval instructions (OMB No. 0930–0168) and the addition of MH–TEDS beyond the pilot phase. No data element changes for TEDS/MH–TEDS/CLD are expected.

The estimated annual burden for the separate TEDS/MH–TEDS/CLD activities is as follows:

Type of activity	Number of respondents (states/ jurisdictions)	Responses per respondent	Total responses	Hours per response	Total burden hours
TEDS Admission Data	52	4	208	6.25	1,300
TEDS Discharge Data	52	4	208	8.25	1,716
TEDS Crosswalks	5	1	5	10	50
MH–CLD BCI Data	30	1	30	30	900
MH–CLD SHR Data	30	1	30	5	150
MH–TEDS Admissions Data	29	4	116	6.25	725
MH–TEDS Update/Discharge Data	29	4	116	8.25	957
MH–TEDS Crosswalks	.....	1	10	10	100
State Total	59	.....	723	.....	5,898

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 or email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by October 13, 2015.

Summer King,

Statistician.

[FR Doc. 2015–19651 Filed 8–10–15; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0124]

Agency Information Collection Activities: Cargo Container and Road Vehicle Certification for Transport Under Customs Seal

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Cargo Container and Road Vehicle for Transport under Customs Seal. CBP is proposing that this information collection be extended with no change to the burden hours or to the Information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before October 13, 2015 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Cargo Container and Road Vehicle for Transport under Customs Seal.

OMB Number: 1651–0124.

Abstract: The United States is a signatory to several international Customs conventions and is responsible for specifying the technical requirements that containers and road vehicles must meet to be acceptable for transport under Customs seal. Customs and Border Protection (CBP) has the responsibility of collecting information for the purpose of certifying containers and vehicles for international transport under Customs seal. A certification of compliance facilitates the movement of containers and road vehicles across international territories. The procedures for obtaining a certification of a container or vehicle are set forth in 19 CFR part 115.

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 25.

Estimated Number of Annual Responses per Respondent: 120.

Estimated Time per Response: 3.5 hours.

Estimated Total Annual Burden Hours: 10,500.

Dated: August 5, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–19638 Filed 8–10–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–C–38]

30-Day Notice of Proposed Information Collection: CDBG–DR Expenditure Deadline Extension Request Template (Pub. L. 113–2 Grantees Only)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: On July 31, 2015 at 80 FR 45675, HUD published a 60 day notice of proposed information collection entitled CDBG–DR Expenditure Deadline Extension Request Template (Pub. L. 113–2 Grantees Only). This notice is a 30 day notice of proposed information collection.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

Dated: July 6, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–19712 Filed 8–10–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5832–N–07]

60-Day Notice of Proposed Information Collection: Continuum of Care Homeless Assistance Grant Application

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:* October 13, 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: Diane Schmutzler, SNAPS Specialist, CPD, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Diane Schmutzler at *Diane.M.Schmutzler@hud.gov* or telephone 202–402–4385. 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. Schmutzler.

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: Continuum of Care Homeless Assistance Grant Application.

OMB Approval Number: 2506–0112.

Type of Request: Revision of a currently approved collection.

Form Number: CoC Consolidated Application (all parts), SF 424, HUD SF 424 SUPP, HUD–2991, HUD–92041, HUD–27300, HUD–2880, SF–LLL, HUD–40090–4, HUD–50070.

Description of the need for the information and proposed use: The regulatory authority to collect this information is contained in 24 CFR part 578, and is authorized by the McKinney-Vento Act, as amended by section 896 The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 (42 U.S.C. 11371 *et seq.*) which states that ''The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.'' (section 422(a))

The CoC Homeless Assistance Grant Application (OMB 2506–0112) is the second phase of the information collection process to be used in HUD's CoC Program Competition authorized by the HEARTH Act. During this phase, HUD collects information from the state and local Continuum of Cares (CoCs) through the CoC Consolidated Application which is comprised of the CoC Application, and the Priority Listing which includes the individual project recipients' project applications.

The CoC Consolidated Grant Application is necessary for the selection of proposals submitted to HUD (by State and local governments, public housing authorities, and nonprofit organization) for the grant funds available through the Continuum of Care Program, in order to make

decisions for the awarding CoC Program funds.

Respondents (*i.e.* affected public): States, local governments, private nonprofit organizations, public housing authorities, and community mental health associations that are public nonprofit organizations.

Estimated Number of Respondents: 4,577 applicants.

Estimated Number of Responses: 8,869 applications.

Frequency of Response: 1 response per year.

Average Hours per Response: 22.75 hours.

Total Estimated Burdens: 201,779.87 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: August 3, 2015.

Harriet Tregoning,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2015–19713 Filed 8–10–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–ACAD–18756; PPNEACADSO, PPMPSPDIZ.YM0000]

Notice of September 14, 2015, Meeting for Acadia National Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: This notice sets the date of September 14, 2015, meeting of the Acadia National Park Advisory Commission.

DATES: The public meeting of the Advisory Commission will be held on Monday, September 14, 2015, at 1:00 p.m. (EASTERN).

ADDRESSES: The meeting will be held at Schoodic Education and Research Center, Winter Harbor, Maine 04693.

Agenda

The Commission meeting will consist of the following proposed agenda items:

1. Committee Reports
   - Land Conservation
   - Park Use
   - Science and Education
   - Historic
2. Old Business
3. Superintendent's Report
4. Chairman's Report
5. Public Comments
6. Adjournment

FOR FURTHER INFORMATION CONTACT: Sheridan Steele, Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone (207) 288–3338.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting. Before including your address, telephone 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 4, 2015.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2015–19639 Filed 8–10–15; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–CACO–18771; PPNECACOS0, PPMPSD1Z.YM0000]

Notice of September 14, 2015, Meeting for Cape Cod National Seashore Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: This notice sets forth the date of the 299th Meeting of the Cape Cod National Seashore Advisory Commission.

DATES: The public meeting of the Cape Cod National Seashore Advisory Commission will be held on Monday, September 14, 2015, at 1:00 p.m. (EASTERN).

ADDRESSES: The 299th meeting of the Cape Cod National Seashore Advisory Commission will take place on Monday, September 14, 2015, at 1:00 p.m., in the conference room at park headquarters, 99 Marconi Station Road, in Wellfleet, Massachusetts 02667 to discuss the following:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting (March 30, 2015)
3. Reports of Officers
4. Reports of Subcommittees
   - Update of Pilgrim Nuclear Plant Emergency Planning Subcommittee
   - State Legislation Proposals
5. Superintendent's Report
   - Shorebird Management Plan/ Environmental Assessment
   - Nauset Spit Update
   - National Park Service Centennial
   - Improved Properties/Town Bylaws
   - Herring River Wetland Restoration
   - Highlands Center Update
   - Ocean Stewardship Topics—Shoreline Change
   - Climate Friendly Parks
6. Old Business
   - Live Lightly Campaign Progress Report
7. New Business
8. Date and Agenda for Next Meeting
9. Public Comment
10. Adjournment

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from George E. Price, Jr., Superintendent, Cape Cod National Seashore, 99 Marconi Site, Wellfleet, MA 02667, or via telephone at (508) 771–2144.

SUPPLEMENTARY INFORMATION: The Commission was reestablished pursuant to Public Law 87–126, as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or her designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members. Interested

persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent prior to the meeting. Before including your address, telephone 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 4, 2015.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2015–19640 Filed 8–10–15; 8:45 am]

BILLING CODE 4310–EE–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committees on the Federal Rules of Bankruptcy Procedure and the Federal Rules of Evidence

AGENCY: Advisory Committees on the Federal Rules of Bankruptcy Procedure and the Federal Rules of Evidence, Judicial Conference of the United States.

ACTION: Notice of proposed amendments and open hearings.

SUMMARY: The Advisory Committees on the Federal Rules of Bankruptcy Procedure and the Federal Rules of Evidence have proposed amendments to the following rules:

Bankruptcy Rule 1006
Evidence Rules 803 and 902

The text of the proposed rules amendments and the accompanying Committee Notes can be found at the United States Federal Courts' Web site at: *http://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment.*

All written comments and suggestions with respect to the proposed amendments may be submitted on or after the opening of the period for public comment on August 14, 2015, but no later than February 16, 2016. Written comments must be submitted electronically, following the instructions provided at the Web site address provided above. In accordance with established procedures, all comments submitted are available for public inspection.

Public hearings are scheduled to be held on these proposed amendments as follows:

- Bankruptcy Rule 1006 in Washington, DC on January 22, 2016, and in Pasadena, CA, on January 29, 2016;
- Rules of Evidence 803 and 902 in Phoenix, AZ, on January 6, 2016, and in Washington, DC, on February 12, 2016.

Those wishing to testify should contact the Secretary at the address below in writing at least 30 days before the hearing.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Secretary, Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE., Suite 7–240, Washington, DC 20544, Telephone (202) 502–1820.

Dated: August 5, 2015.

Rebecca A. Womeldorf,

Secretary, Committee on Rules of Practice and Procedure, Judicial Conference of the United States.

[FR Doc. 2015–19634 Filed 8–10–15; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,821A]

Maverick Tube Corporation; a Subsidiary of Tenaris S.A.; 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 March 18, 2015, applicable to workers of Maverick Tube Corporation dba TenarisConroe, a subsidiary of Tenaris S.A., including on-site leased workers from TESIS Automation and Janus Automation, Conroe, Texas. The Department's Notice of Determination was published in the **Federal Register** on April 13, 2015 (80 FR 19691).

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 oil country tubular goods.

The investigation confirmed that worker separations from Maverick Tube Corporation, Houston, Texas are attributable to the increased imports that were the basis for the original certification. The worker group includes workers at the following locations: 2200 West Loop South, Suite 800, Houston, Texas 77027; 8204 Fairbanks N Houston Road, Houston, Texas 77064; and 302 McCarty Street, Houston, Texas 77029.

The amended notice applicable to TA–W–85,821 is hereby issued as follows:

''All workers of Maverick Tube Corporation dba TenarisConroe, a subsidiary of Tenaris S.A., including on-site leased workers from TESIS Automation and Janus Automation, Conroe, Texas (TA–W–85,821) and Maverick Tube Corporation, a subsidiary of Tenaris S.A., Houston, Texas (TA–W–85,821A) who became totally or partially separated from employment on or after February 2, 2014 through March 18, 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 20th day of May, 2015.

Del Min Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–19716 Filed 8–10–15; 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; Temporary Labor Camps Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Temporary Labor Camps 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 September 10, 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=201507-1218-002 (this link will only become active on the day following publication of this notice) 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: 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 Temporary Labor Camp Standards information collection requirements codified in regulations 29 CFR 1910.142. It is mandatory for an Occupational Safety and Health Act (OSH Act) covered employer subject to the Standard to report to the local public health officer the name and address of any individual in the camp known to have, or suspected of having, a communicable disease. The employer is also required to notify local public health authorities of each occurrence of a suspected case of food poisoning or of an unusual prevalence of any illnesses in which fever, diarrhea, sore throat, vomiting, or jaundice is a prevalent symptom. These reporting requirements are necessary to minimize the possibility of communicable disease epidemics spreading throughout the camps and endangering the health of the camp residents. In addition, the Standard requires marking ''for men'' and ''for women'' on certain toilet rooms. 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 1218–0096.

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 October 31, 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 29, 2015 (80 FR 23822).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0096. 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: Temporary Labor Camps Standard.

OMB Control Number: 1218–0096.

Affected Public: Private Sector—farms.

Total Estimated Number of Respondents: 1,933.

Total Estimated Number of Responses: 1,933.

Total Estimated Annual Time Burden: 155 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: August 4, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–19632 Filed 8–10–15; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Guam Military Base Realignment Contractors Recruitment Standards

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Guam Military Base Realignment Contractors Recruitment Standards,'' 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 September 10, 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=201507-1205-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–

395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: 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 Guam Military Base Realignment Contractors Recruitment Standards information collection. National Defense Authorization Act (NDAA) for Fiscal Year 2010 (Public Law 111–84, enacted October 28, 2009) section 2834(a) amended Military Construction Authorization Act for Fiscal Year 2009 section 2824(c) to require an expanded effort to recruit U.S. and other eligible workers for employment on Guam military base realignment construction projects. *See* Public Law 110–417, Div. B, tit. XXVIII, sec. 2824(c)(6) (10 U.S.C. 2687 note), *as amended* by Public Law 111–84, Div. B, tit. XXVIII, sec. 2834(a). This reporting structure features electronic posting of construction job opportunities on an Internet job banks site with national coverage, posting job opportunities on several state workforce agency job banks, and documentation of worker recruitment results reports that will be submitted to the Guam Department of Labor (GDOL). All data collection and reporting will be done by military base construction contractors, and the data and recruitment results in a report that will be submitted to the GDOL. Military Construction Authorization Act for Fiscal Year 2009 section 2824(c)(6) authorizes this information collection. *See* 10 U.S.C. 2687 note; Public Law 110–417, Div. B, tit. XXVIII, sec. 2824(c)(6), as amended by Public Law 111–84, Div. B, tit. XXVIII, sec. 2834(a).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0484.

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 September 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 23, 2015 (80 FR 22743).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0484. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Guam Military Base Realignment Contractors Recruitment Standards.

OMB Control Number: 1205–0484.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 25.

Total Estimated Number of Responses: 999.

Total Estimated Annual Time Burden: 333 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: August 4, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–19633 Filed 8–10–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This **Federal Register** Notice notifies the public that MSHA has investigated and issued a final decision on certain mine operator petitions to modify a safety standard.

ADDRESSES: Copies of the final decisions are posted on MSHA's Web site at *http://www.msha.gov/READROOM/PETITION.HTM*. The public may inspect the petitions and final decisions during normal business hours in MSHA's Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202. All visitors are required to check in at the receptionist's desk in Suite 4E401.

FOR FURTHER INFORMATION CONTACT: Roslyn B. Fontaine, Office of Standards, Regulations, and Variances at 202–693–9475 (Voice), *fontaine.roslyn@dol.gov* (Email), or 202–693–9441 (Telefax), or Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 101 of the Federal Mine Safety and Health Act of 1977, a mine operator may petition and the Secretary of Labor (Secretary) may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) the application of the standard will

result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a petition for modification on the condition that the mine operator complies with other requirements noted in the decision.

II. Granted Petitions for Modification

On the basis of the findings of MSHA's investigation, and as designee of the Secretary, MSHA has granted or partially granted the following petitions for modification:

- *Docket Number:* M–2013–058–C.
FR Notice: 79 FR 11141 (2/27/2014).
Petitioner: Kimmel Mining, Inc., P.O. Box 8, Williamstown, Pennsylvania 17098.
Mine: Williamstown Mine #1, MSHA I.D. No. 36–09435, located in Schuylkill County, Pennsylvania.
Regulation Affected: 30 CFR 75.1200(d) & (i) (Mine maps).

- *Docket Number:* M–2014–020–C.
FR Notice: 79 FR 38569 (7/8/2014).
Petitioner: McElroy Coal Company, 57 Goshorn Woods Road, Cameron, West Virginia 26033.
Mine: McElroy Mine, MSHA I.D. No. 46–01437, located in Marshall County, West Virginia.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

- *Docket Number:* M–2014–021–C.
FR Notice: 79 FR 38571 (7/8/2014).
Petitioner: Consolidation Coal Company, RD 1 Box 62A, Dallas, West Virginia 26036.
Mine: Shoemaker Mine, MSHA I.D. No. 46–01436, located in Marshall County, West Virginia.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

- *Docket Number:* M–2014–027–C.
FR Notice: 79 FR 59301 (10/1/2014).
Petitioner: Oak Grove Resources, LLC, 8360 Taylors Ferry Road, Hueytown, Alabama 35023.
Mine: Oak Grove Mine, MSHA I.D. No. 01–00851, located in Jefferson County, Alabama.
Regulation Affected: 30 CFR 75.364(b)(2) (Weekly examination).

- *Docket Number:* M–2014–035–C.
FR Notice: 79 FR 69135 (11/20/2014).
Petitioner: Sunrise Coal, LLC, 12661 Agricare Road, Oaktown, Indiana 47561.
Mine: Oaktown Fuels Mine No. 1, MSHA I.D. No. 12–02394, located in Knox County, Indiana.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

- *Docket Number:* M–2014–036–C.
FR Notice: 79 FR 69135 (11/20/2014).
Petitioner: Sunrise Coal, LLC, 12661 Agricare Road, Oaktown, Indiana 47561.
Mine: Oaktown Fuels Mine No. 2, MSHA I.D. No. 12–02418, located in Knox County, Indiana.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

- *Docket Number:* M–2014–037–C.
FR Notice: 79 FR 70570 (11/26/2014).
Petitioner: Jesse Creek Mining, LLC, 1615 Kent Dairy Road, Alabaster, Alabama 35007.
Mine: Clark No. 1 Mine, MSHA I.D. No. 01–03422, located in Shelby County, Alabama.
Regulation Affected: 30 CFR 75.364(b)(2) (Weekly examination).

Dated: August 6, 2015.

Sheila McConnell,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2015–19653 Filed 8–10–15; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 15–067]

NASA International Space Station Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA International Space Station (ISS) Advisory Committee. The purpose of the meeting is to review all aspects related to the safety and operational readiness of the ISS, and to assess the possibilities for using the ISS for future space exploration.

DATES: Tuesday, September 1, 2015, 2:00–3:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Glennan Conference Room (1Q39), 300 E Street SW., Washington, DC 20546. Note: 1Q39 is located on the first floor of NASA Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Finley, Office of International and Interagency Relations, (202) 358–5684, NASA Headquarters, Washington, DC 20546–0001.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. This meeting is also accessible via teleconference. To participate telephonically, please contact Mr. Patrick Finley (202) 358–5684, before 4:30 p.m., Local Time, August 26, 2014. You will need to provide your name, affiliation, and phone number.

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Due to the Real ID Act, Public Law 109–13, any attendees with drivers licenses issued from non-compliant states/territories must present a second form of ID [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on Form I–9]. Non-compliant states/territories are: American Samoa, Arizona, Idaho, Louisiana, Maine, Minnesota, New Hampshire, and New York. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Mr. Finley via email at *patrick.t.finley@nasa.gov* or by telephone at (202) 358–5684. U.S. Citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation no less than 3 working days prior to the meeting to Mr. Patrick Finley.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–19628 Filed 8–10–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–057]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide agencies with mandatory instructions for what to do with records when agencies no longer need them for current Government business. The instructions authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies propose to destroy records not previously authorized for disposal or to reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: NARA must receive requests for copies in writing by September 10, 2015. Once NARA appraises the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send you these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR); 8601 Adelphi Road; College Park, MD 20740–6001

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency that submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Management Services (ACNR); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media-neutral unless otherwise specified. An item in a schedule is media-neutral when an agency may apply the disposition instructions to records regardless of the medium in which it has created or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media-neutral unless the item is specifically limited to a specific medium. (See 36 CFR 1225.12(e).)

No agencies may destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice states that the schedule has agency-wide applicability (in the case of schedules that cover records that may be accumulated throughout an agency) or lists the organizational unit(s) accumulating the records, provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction), and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of the Army, Agency-wide (DAA–AU–2015–0035, 2 items, 2 temporary items). Master files of an electronic information system that contains drug testing records including specimen tracking and tests results.

2. Department of the Army, Agency-wide (DAA–AU–2015–0036, 1 item, 1 temporary item). Master files of an electronic information system that contains records relating to work performance reviews.

3. Department of Defense, Army Air Force Exchange Service (DAA–0334–2015–0001, 1 item, 1 temporary item). Daily financial transaction logs created at point-of-sale sites in military exchanges.

4. Department of Defense, Defense Contract Audit Agency (DAA–0372–2015–0001, 1 item, 1 temporary item). Master files of an electronic information system used to manage professional training for auditors.

5. Department of Health and Human Services, Indian Health Service (DAA–0513–2015–0006, 1 item, 1 temporary item). Epidemiological outbreak investigation records, including reports, surveys, studies, results, internal correspondence, and after action reports.

6. Department of Health and Human Services, Indian Health Service (DAA–0513–2015–0007, 2 items, 2 temporary items). Facility construction project files, to include internal correspondence, estimates, agreements, summaries, and reports.

7. Department of Homeland Security, United States Citizenship and Immigration Services (DAA–0566–2015–0002, 2 items, 2 temporary items). Copies of intake forms from organizations providing resettlement services for eligible Cuban and Haitian refugees, and related statistical reports.

8. Department of the Interior, Agency-wide (DAA–0048–2015–0002, 1 item, 1 temporary item). Routine surveillance recordings.

9. Department of Justice, Federal Bureau of Investigation (DAA–0065–2015–0005, 1 item, 1 temporary item). Health and medical records for persons not employed by the Bureau, including non-hired applicants, contractors,

visitors to Bureau facilities, family members of Bureau employees, subjects in custody, and members of the public.

10. Department of Justice, Bureau of Prisons (DAA–0129–2015–0002, 11 items, 11 temporary items). Treatment files of inmates in re-entry facilities, and treatment staff vendor contracts.

11. Department of the Navy, United States Marine Corps (DAA–0127–2013–0014, 2 items, 2 temporary items). Master files of an electronic information system used to manage the enlistment process for individual Marines, including records relating to non-selected prospective personnel.

12. Department of the Treasury, United States Mint (DAA–0104–2013–0002, 4 items, 4 temporary items). Master files and outputs of an electronic information system used to track criminal incidents that occur on agency property.

13. Department of the Treasury, United States Mint (DAA–0104–2013–0003, 4 items, 4 temporary items). Records collected in the investigation of criminal activity committed by juvenile offenders on agency property.

Dated: August 3, 2015.

Laurence Brewer,

Director, National Records Management Program.

[FR Doc. 2015–19636 Filed 8–10–15; 8:45 am]

BILLING CODE 7515–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Annuity Supplement Earnings Report, RI 92–22, 3206–0194

AGENCY: Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request collection request (ICR) 3206–0194, Annuity Supplement Earnings Report. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until October 13, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Retirement Services, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–3500, Attention: Alberta Butler, Room 2349, or sent by email to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, U.S. Office of Personnel Management, 1900 E Street NW., Room 3316–AC, Washington, DC 20415, Attention: Cyrus S. Benson or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 92–22, Annuity Supplement Earnings Report, is used each year to obtain the earned income of Federal Employees Retirement System (FERS) annuitants receiving an annuity supplement. The annuity supplement is paid to eligible FERS annuitants who are not retired on disability and are not yet age 62. The supplement approximates the portion of a full career Social Security benefit earned while under FERS and ends at age 62. Like Social Security benefits, the annuity supplement is subject to an earnings limitation.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Annuity Supplement Earnings Report.

OMB Number: 3206–0194.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 13,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 3,250.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2015–19679 Filed 8–10–15; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75613; File No. SR–NASDAQ–2015–059]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, To List and Trade Shares of the Reaves Utilities ETF of ETFis Series Trust I

August 5, 2015.

I. Introduction

On June 2, 2015, The NASDAQ Stock Market LLC (''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 list and trade shares (''Shares'') of the Reaves Utilities ETF (''Fund'') of ETFis Series Trust I (''Trust'') under Nasdaq Rule 5735. On June 12, 2015, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission published notice of the proposed rule change, as modified by Amendment No. 1, in the **Federal Register** on June 22, 2015.[3] On June 17, 2015, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The Commission received no comments on the proposal, as modified by Amendment No. 1. This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75178 (June 16, 2015), 80 FR 35682 (''Notice'').

[4] In Amendment No. 2, the Exchange clarified the term ''cash equivalents'' in the Other Investments section means only money market instruments, short duration repurchase agreements, and short duration commercial paper. Amendment No. 2 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

II. The Exchange's Description of the Proposal [5]

General

The Fund will be an actively-managed exchange-traded fund (''ETF''). The Shares will be offered by the Trust, which was established as a Delaware statutory trust on September 20, 2012. The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission.[6] The Fund will be a series of the Trust. Etfis Capital LLC will be the investment adviser (''Adviser'') to the Fund, and W.H. Reaves & Co., Inc. (d/b/a Reaves Asset Management) will be the investment sub-adviser (''Sub-Adviser'') to the Fund.[7] ETF Distributors LLC will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon (''BNY Mellon'') will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

Principal Investments

The Fund's investment objective will be to seek to provide total return through a combination of capital appreciation and income. Under normal market conditions, the Fund will invest not less than 80% of its total assets in exchange-listed equity securities of companies in the Utility Sector (''Utility Sector Companies''). The Fund considers a company to be a ''Utility Sector Company'' if the company is a utility or if at least 50% of the company's assets or customers are committed to (or at least 50% of the company's revenues, gross income or profits are derived from) the provision of products, services, or equipment for the generation or distribution of electricity, gas, or water.

Other Investments

To seek its investment objective, the Fund may hold cash and invest in U.S. exchange-traded options overlying securities and securities indexes and the following cash equivalents: money market instruments; short-duration, high-quality repurchase agreements; [8] and short duration commercial paper.[9] The Fund also may make short sales.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [10] and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[12] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the initial and continued listing criteria in Nasdaq Rule 5735 for the Shares to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[13] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares and any underlying exchange-traded products other than options will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. Quotation and last-sale information for options is available via the Options Price Reporting Authority (''OPRA''). In addition, the Intraday Indicative Value,[14] as defined in Nasdaq Rule 5735(c)(3), available on the NASDAQ OMX Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Regular Market Session.[15] On each business day, before commencement of trading in Shares in the Regular Market Session [16] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (the ''Disclosed Portfolio'' as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[17] BNY Mellon, through the National Securities Clearing Corporation, will make available on each business day, prior to the opening of business of the Exchange (currently 9:30 a.m., E.T.), the list of the names and the quantity of each Deposit

[5] The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, net asset value (''NAV'') calculation, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions, and taxes, among other information, is included in the Notice and the Registration Statement, as applicable. Terms not defined herein are defined in the Notice. *See* Notice and Registration Statement, *supra* note 3 and *infra* note 6, respectively.

[6] *See* Registration Statement on Form N–1A for the Trust filed on January 30, 2015 (File Nos. 333–187668 and 811–22819) (''Registration Statement'').

[7] The Adviser is not registered as a broker-dealer; however the Adviser is affiliated with a broker-dealer. The Sub-Adviser is registered as a broker-dealer. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate, and the Sub-Adviser has also implemented a firewall, regarding access to information concerning the composition and/or changes to the portfolio. In addition, personnel of both the Adviser and the Sub-Adviser who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. In the event (a) the Adviser registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. *See* Notice, *supra* note 3, 80 FR at 35683.

[8] *See id.* at 35682, n.3.

[9] *See* Amendment No. 2, *supra* note 4.

[10] 15 U.S.C. 78f.

[11] 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).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[14] The Intraday Indicative Value will be calculated using estimated intraday values of the components of the Fund's Disclosed Portfolio. For the definition of ''Disclosed Portfolio'', see *infra* note 17 and accompanying text.

[15] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service. The Exchange represents that GIDS offers real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs and that GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs.

[16] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., E.T.; (2) Regular Market Session from 9:30 a.m. to 4:00 p.m. or 4:15 p.m., E.T.; and (3) Post-Market Session from 4:00 p.m. or 4:15 p.m. to 8:00 p.m., E.T.).

[17] The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio.

Security to be included in the current Fund Deposit (based on information at the end of the previous business day). The NAV of the Fund will be determined as of the close of trading (normally 4:00 p.m., E.T.) on each day the New York Stock Exchange is open for business.[18] Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Price information regarding the equity securities, options, money market instruments and money market funds held by the Fund will be available through the U.S. exchanges trading such assets, in the case of exchange-traded securities, as well as automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Intra-day price information for all assets held by the Fund will also be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other investors. The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in the Shares will be halted under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pause provisions under Nasdaq Rules 4120(a)(11) and (12). Trading in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable,[19] and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which trading in the Shares may be halted. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Further, the Commission notes that the Reporting Authority[20] that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[21] In addition, the Exchange states that the Adviser is not registered as a broker-dealer; however the Adviser is affiliated with a broker-dealer, and the Sub-Adviser is registered as a broker-dealer. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate, and the Sub-Adviser has also implemented a firewall regarding access to information concerning the composition and/or changes to the portfolio, and personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio.[22] The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[23] The Exchange further represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Moreover, prior to the commencement of trading, the Exchange states that it will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including the following:

(1) The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''),[24] and FINRA may obtain trading information regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing

[18] NAV will be calculated for the Fund by taking the market price of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, and dividing this amount by the total number of Shares outstanding.

[19] These reasons may include: (1) The extent to which trading is not occurring in the securities and/or the other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares.

[20] Nasdaq Rule 5730(c)(4) defines ''Reporting Authority.''

[21] *See* Nasdaq Rule 5735(d)(2)(B)(ii).

[22] *See supra* note 7. The Exchange states that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940.

[23] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[24] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[25]

(6) The Fund's net assets that are invested in exchange-traded equities, including ETPs and common stock, will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(7) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities and other illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities or other illiquid assets.

(8) Under normal market conditions, the Fund will invest not less than 80% of its total assets in exchange-listed equity securities of companies in the utility sector.

(9) Under normal market conditions, no more than 20% of the value of the Fund's net assets will be invested in any combination of cash and cash equivalents, which include only money market instruments, short duration repurchase agreements, and short duration commercial paper, and U.S. exchange-traded options on securities and securities indexes.

(10) The Fund's investments will be consistent with its investment objective. The Fund does not presently intend to engage in any form of borrowing for investment purposes, except in the case of short sales and will not be operated as a ''leveraged ETF,'' *i.e.,* it will not be operated in a manner designed to seek a multiple of the performance of an underlying reference index.

(11) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[26] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–NASDAQ–2015–059), as modified by Amendment Nos. 1 and 2, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–19646 Filed 8–10–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 204; SEC File No. 270–586, OMB Control No. 3235–0647.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 204 (17 CFR 242.204), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 204 requires that, subject to certain limited exceptions, if a participant of a registered clearing agency has a fail to deliver position at a registered clearing agency it must immediately close out the fail to deliver position by purchasing or borrowing securities by no later than the beginning of regular trading hours on the settlement day following the day the participant incurred the fail to deliver position. Rule 204 is intended to help further the Commission's goal of reducing fails to deliver by maintaining the reductions in fails to deliver achieved by the adoption of temporary Rule 204T, as well as other actions taken by the Commission. In addition, Rule 204 is intended to help further the Commission's goal of addressing potentially abusive ''naked'' short selling in all equity securities.

The information collected under Rule 204 will continue to be retained and/or provided to other entities pursuant to the specific rule provisions and will be available to the Commission and self-regulatory organization (''SRO'') examiners upon request. The information collected will continue to aid the Commission and SROs in monitoring compliance with these requirements. In addition, the information collected will aid those subject to Rule 204 in complying with its requirements. These collections of information are mandatory.

Several provisions under Rule 204 will impose a ''collection of information'' within the meaning of the Paperwork Reduction Act.

I. Allocation Notification Requirement: As of December 31, 2014, there were 4,184 registered broker-dealers. Each of these broker-dealers could clear trades through a participant of a registered clearing agency and, therefore, become subject to the notification requirements of Rule 204(d). If a broker-dealer has been allocated a portion of a fail to deliver position in an equity security and after the beginning of regular trading hours on the applicable close-out date, the broker-dealer has to determine whether or not that portion of the fail to deliver position was not closed out in accordance with Rule 204(a). We estimate that a broker-dealer will have to make such determination with respect to approximately 2.44 equity securities per day.[1] We estimate a total of 2,572,657 notifications in accordance with Rule 204(d) across all broker-dealers (that were allocated responsibility to close out a fail to deliver position) per year (4,184 broker-dealers notifying participants once per day [2] on 2.44 securities, multiplied by 252 trading days in a year). The total estimated annual burden hours per year will be approximately 411,625 burden hours (2,572,657 multiplied by 0.16 hours/notification).

II. Demonstration Requirement for Fails to Deliver on Long Sales: As of

[25] *See* 17 CFR 240.10A–3.

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

[1] The Commission's Division of Economic and Risk Analysis (''DERA'') estimates that there are approximately 10,208 fail to deliver positions per settlement day as of January 2015. Across 4,184 broker-dealers, the number of securities per broker-dealer per day is approximately 2.44 equity securities.

[2] Because failure to comply with the close-out requirements of Rule 204(a) is a violation of the rule, we believe that a broker-dealer would make the notification to a participant that it is subject to the borrowing requirements of Rule 204(b) at most once per day.

December 31, 2014, there were 175 participants of NSCC, the primary registered clearing agency responsible for clearing U.S. transactions that were registered as broker-dealers.[3] If a participant of a registered clearing agency has a fail to deliver position in an equity security at a registered clearing agency and determines that such fail to deliver position resulted from a long sale, we estimate that a participant of a registered clearing agency will have to make such determination with respect to approximately 38 securities per day.[4] We estimate a total of 1,675,800 demonstrations in accordance with Rule 204(a)(1) across all participants per year (175 participants checking for compliance once per day on 38 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 268,128 burden hours (1,675,800 multiplied by 0.16 hours/documentation).

III. Pre-Borrow Notification Requirement: As of December 31, 2014, there were 175 participants of NSCC, the primary registered clearing agency responsible for clearing U.S. transactions that were registered as broker-dealers.[5] If a participant of a registered clearing agency has a fail to deliver position in an equity security and after the beginning of regular trading hours on the applicable close-out date, the participant has to determine whether or not the fail to deliver position was closed out in accordance with Rule 204(a). We estimate that a participant of a registered clearing agency will have to make such determination with respect to approximately 58 equity securities per day.[6] We estimate a total of 2,557,800 notifications in accordance with Rule 204(c) across all participants per year (175 participants notifying broker-dealers once per day on 58 securities, multiplied by 252 trading days in a year). The total estimated annual burden hours per year will be approximately 409,248 burden hours (2,557,800 @0.16 hours/documentation).

IV. Certification Requirement: If the broker-dealer determines that it has not incurred a fail to deliver position on settlement date in an equity security for which the participant has a fail to deliver position at a registered clearing agency or has purchased securities in accordance with the conditions specified in Rule 204(e), we estimate that a broker-dealer will have to make such determinations with respect to approximately 2.44 securities per day. As of December 31, 2014, there were 4,184 registered broker-dealers. Each of these broker-dealers may clear trades through a participant of a registered clearing agency. We estimate that on average, a broker-dealer will have to certify to the participant that it has not incurred a fail to deliver position on settlement date in an equity security for which the participant has a fail to deliver position at a registered clearing agency or, alternatively, that it is in compliance with the requirements set forth in Rule 204(e), 2,572,657 times per year (4,184 broker-dealers certifying once per day on 2.44 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 411,625 burden hours (2,572,657 multiplied by 0.16 hours/certification).

V. Pre-Fail Credit Demonstration Requirement: If a broker-dealer purchases or borrows securities in accordance with the conditions specified in Rule 204(e) and determines that it has a net long position or net flat position on the settlement day on which the broker-dealer purchases or borrows securities we estimate that a broker-dealer will have to make such determination with respect to approximately 2.44 securities per day.[7] As of December 31, 2014, there were 4,184 registered broker-dealers. We estimate that on average, a broker-dealer will have to demonstrate in its books and records that it has a net long position or net flat position on the settlement day for which the broker-dealer is claiming credit, 2,572,657 times per year (4,184 broker-dealers checking for compliance once per day on 2.44 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 411,625 burden hours (2,572,657 multiplied by 0.16 hours/demonstration).

The total aggregate annual burden for the collection of information undertaken pursuant to all five provisions is thus 1,912,251 hours per year (411,625 + 268,128 + 409,248 + 411,625 + 411,625). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may review background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 5, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–19649 Filed 8–10–15; 8:45 am]

BILLING CODE 8011–01–P

[3] Those participants not registered as broker-dealers include such entities as banks, U.S.-registered exchanges, and clearing agencies. Although these entities are participants of a registered clearing agency, generally these entities do not engage in the types of activities that will implicate the close-out requirements of the rule. Such activities of these entities include creating and redeeming Exchange Traded Funds, trading in municipal securities, and using NSCC's Envelope Settlement Service or Inter-city Envelope Settlement Service. These activities rarely lead to fails to deliver and, if fails to deliver do occur, they are small in number and are usually closed out within a day.

[4] DERA estimates approximately 65.1% of trades are long sales as of March 2014 and applies this percentage to the number of fail to deliver positions per day. DERA estimates that there are approximately 10,208 fail to deliver positions per settlement day. Across 175 broker-dealer participants of the NSCC, the number of securities per participant per day is approximately 58 equity securities. 65.1% of 58 securities per day is approximately 38 securities per day.

[5] *See supra* note 3.

[6] DERA estimates that there are approximately 10,208 fail to deliver positions per day. Across 175 broker-dealer participants of the NSCC, the number of securities per participant per day is approximately 58 equity securities.

[7] *See supra* note 1.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75614; File No. SR–NYSEMKT–2015–62]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule To Modify the Securities That Are Subject to the NYSE Amex Options Market Maker Premium Product Fees

August 5, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the

[1] 15 U.S.C. 78s(b)(1).

''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 4, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') to modify the securities that are subject to the NYSE Amex Options Market Maker Premium Product Fees. The Exchange proposes to implement the fee change effective August 4, 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 purpose of this filing is to modify the securities that are subject to the NYSE Amex Options Market Maker Premium Product Fees. The Exchange proposes to implement the fee change effective August 4, 2015.

In August, 2012, the Exchange introduced the Premium Product Fees, which charges a monthly fee to any NYSE Amex Options Market Maker transacting in the most active issues trading on the Exchange.[4] Section III.D. of the Fee Schedule sets forth the list of 10 Premium Products—SPY, AAPL, IWM, QQQ, BAC, EEM, GLD, JPM, XLF, and VXX. Subject to exceptions, NYSE Amex Options Marker Makers that transact in these issues are subject to a fee of $1,000 per product traded with a monthly cap of $7,000.[5]

The Exchange proposes to amend the list of Premium Products to reflect the most actively traded securities on the Exchange today, which have changed since the fees were introduced in 2012.[6] Specifically, the Exchange proposes to remove GLD, JPM, and XLF from the list of Premium Products and to replace them with BABA, FB and USO. The Exchange believes that the proposed change would continue to encourage meaningful Market Maker participation in the most active issues on the Exchange. In this regard, the Exchange proposes to amend Section III.D. to the Fee Schedule to reflect the proposed changes to the list of Premium Product.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the change to the list of Premium Products is reasonable, equitable, and not unfairly discriminatory because the proposed change applies to all NYSE Amex Options Market Makers equally, except for those market makers who qualify as NYSE Amex Floor Market Makers and achieve 75% or more of their volumes in open or public outcry, which Marker Makers are exempt because the Exchange believes that public outcry markets serve an important role in the price discovery process that benefits all participants on the Exchange and in the marketplace.[9] As the Exchange noted in 2012 in the Premium Products Filing, because the Exchange does not limit the number of participants who may act as market makers, either electronically or in public outcry, the Exchange has more than sufficient liquidity in the most active options on the Exchange. The proposed change simply updates the list of Premium Products to include those names most actively traded on the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] 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 Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [11] of the Act and subparagraph (f)(2) of Rule 19b–4 [12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 67634 (August 9, 2012), 77 FR 49038 (August 15, 2012) (SR–NYSEMKT–2012–33) (''Premium Product Filing'').

[5] The Premium Product Fees do not apply to Market Makers that qualify as NYSE Amex Options Floor Market Makers as described in note 1 to Section III.A of the Fee Schedule. *See* Fee Schedule, Section III.D. and III.A.

[6] The Exchange represented in the Premium Product Filing that ''any change to the list of Premium Products would be done through a fee filing.'' *See supra* n. 4, 77 FR at 49038.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] *See supra* n. 5.

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

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–NYSEMKT–2015–62 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–NYSEMKT–2015–62. 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. 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–2015–62 and should be submitted on or before September 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–19647 Filed 8–10–15; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

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, August 13, 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), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, 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: August 6, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–19754 Filed 8–7–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17Ad–13; SEC File No. 270–263; OMB Control No. 3235–0275.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 17Ad–13 (17 CFR 240.17Ad–13). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ad–13 (17 CFR 240.17Ad–13) requires an annual study and evaluation of internal accounting controls under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). It requires approximately 100 registered transfer agents to obtain an annual report on the adequacy of their internal accounting controls from an independent accountant. In addition, transfer agents must maintain copies of any reports prepared pursuant to Rule 17Ad–13 plus any documents prepared to notify the Commission and appropriate regulatory agencies in the event that the transfer agent is required to take any corrective action. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. Small transfer agents are exempt from Rule 17Ad–13 as are transfer agents that service only their own companies' securities.

Approximately 100 independent, professional transfer agents must file the independent accountant's report annually. We estimate that the annual internal time burden for each transfer agent to comply with Rule 17Ad–13 by submitting the report prepared by the independent accountant to the Commission is minimal. The time required for the independent accountant to prepare the accountant's report varies with each transfer agent depending on the size and nature of the transfer agent's operations. The Commission estimates that, on average, each report can be completed by the independent accountant in 120 hours, resulting in a total of 12,000 external hours annually (120 hours × 100 reports). The burden

was estimated using Commission review of filed Rule 17Ad–13 reports and Commission conversations with transfer agents and accountants. The Commission estimates that, on average, 120 hours are needed to perform the study, prepare the report, and retain the required records on an annual basis. Assuming an average hourly rate of an independent accountant of $60, the average total annual cost of the report is $7,200. The total annual cost for the approximate 100 respondents is approximately $720,000.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the performance of the functions of the agency, including whether the information will have any practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington DC 20549, or send an email to: *PRA_Mail_Box@sec.gov.*

Dated: August 5, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–19648 Filed 8–10–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Rule 17Ad–15;
SEC File No. 270–360, OMB Control No. 3235–0409.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17Ad–15 (17 CFR 240.17Ad–15) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17Ad–15 (17 CFR 240.17Ad-15) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the ''Act'') requires approximately 429 transfer agents to establish written standards for the acceptance or rejection of guarantees of securities transfers from eligible guarantor institutions. Transfer agents are required to establish procedures to ensure that those standards are used by the transfer agent to determine whether to accept or reject guarantees from eligible guarantor institutions. Transfer agents must maintain, for a period of three years following the date of a rejection of transfer, a record of all transfers rejected, along with the reason for the rejection, identification of the guarantor, and whether the guarantor failed to meet the transfer agent's guarantee standard. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule.

There are approximately 429 registered transfer agents. The staff estimates that each transfer agent will spend about 40 hours annually to comply with Rule 17Ad–15, or a total of 17,160 hours for all transfer agents (429 × 40 hours = 17,160 hours). The Commission staff estimates that compliance staff work at each registered transfer agent will result in an internal cost of compliance (at an estimated hourly wage of $283) of $11,320 per year per transfer agent (40 hours x $283 per hour = $ 11,320 per year). Therefore, the aggregate annual internal cost of compliance for the approximately 429 registered transfer agents is approximately $4,856,280 ($11,320 × 429 = $4,856,280).

This rule does not involve the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: August 5, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–19644 Filed 8–10–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75609; File No. SR–NYSEMKT–2015–59]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule To Discontinue the Market Access and Connectivity Subsidy

August 5, 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 July 31, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') to discontinue the Market Access and Connectivity (''MAC'') Subsidy. The Exchange proposes to implement the fee change effective August 1, 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,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 purpose of this filing is to discontinue the MAC Subsidy as described below. The Exchange proposes to implement this fee change effective August 1, 2015.

The Exchange proposes to discontinue fees for the MAC Subsidy, which is paid to ATP Holders that provide access and connectivity to the Exchange to other ATP Holders and/or utilize such access themselves. In February 2014, the Exchange implemented the MAC Subsidy for those ATP Holders that provide access and connectivity to the Exchange for the purposes of electronic order routing either to other ATP Holders and/or utilize such access themselves.[4] The MAC Subsidy pays a certain rebate to qualifying ATP Holders based on certain executed electronic volumes delivered to the Exchange by the qualifying ATP Holders' connection(s) to the Exchange. The MAC Subsidy was designed to attract higher volumes of electronic equity and Exchange-Traded Fund (''ETF'') volume to the Exchange from certain market participants. However, the Exchange does not believe that the MAC Subsidy has achieved its intended objective of attracting additional volume and, therefore, proposes to discontinue it. Thus, the Exchange proposes to delete the MAC Subsidy, and the description thereof, from Section I.H. of the Fee Schedule and to hold that section as Reserved.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[6] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes the discontinuance of the MAC Subsidy is reasonable, equitable and not unfairly discriminatory because it would result in all similarly situated ATP Holders being treated in the same manner, regardless of volume delivered to the Exchange. The Exchange further believes the proposed rule change is reasonable because removing the MAC Subsidy from the Fee Schedule will provide clarity and greater transparency regarding the Exchange's fees.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[7] 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 Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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)[10] 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–2015–59 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–2015–59. 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

[4] *See* Securities Exchange Act Release No. 71532 (February 12, 2014), 79 FR 9663 (February 19, 2014) (SR–NYSEMKT–2014–12).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

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–2015–59 and should be submitted on or before September 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–19645 Filed 8–10–15; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14403 and #14404]

Iowa Disaster #IA–00064

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Iowa (FEMA–4234–DR), dated 07/31/2015.

Incident: Severe Storms, Tornadoes, Straight-Line Winds, and Flooding.

Incident Period: 06/20/2015 through 06/25/2015.

Effective Date: 07/31/2015.

Physical Loan Application Deadline Date: 09/29/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 05/02/2016.

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: Notice is hereby given that as a result of the President's major disaster declaration on 07/31/2015, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Allamakee; Appanoose; Butler; Clayton; Dallas; Davis; Des Moines; Guthrie; Howard; Jefferson; Lee; Lucas; Marion; Mitchell; Monroe; Warren; Wayne; Winneshiek; Wright.

The Interest Rates are:

For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14403B and for economic injury is 14404B

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–19630 Filed 8–10–15; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WTO/DS491]

WTO Dispute Settlement Proceeding Regarding United States—Anti-Dumping and Countervailing Measures on Certain Coated Paper From Indonesia

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 the Republic of Indonesia has requested the establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* and the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). That request may be found at *www.wto.org* contained in a document designated as WT/DS491/2. 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 September 9, 2015, to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to *www.regulations.gov,* docket number USTR–2015–0005. 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.

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: Micah Myers, Associate General Counsel, or Juli Schwartz, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508, (202) 395–3150.

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 the establishment of a dispute settlement panel has been requested pursuant to the DSU. The panel will hold its meetings in Geneva, Switzerland.

Major Issues Raised by Indonesia

On November 17, 2010, the U.S. Department of Commerce (''DOC'') published antidumping (''AD'') and countervailing duty (''CVD'') orders (75 FR 70205; 75 FR 70206) on certain coated paper from Indonesia. On March 13, 2015, Indonesia requested WTO dispute settlement consultations regarding some of DOC's determinations in the CVD investigation, as well as the U.S. International Trade Commission's (''ITC'') threat of material injury determinations in both the AD and CVD proceedings. Indonesia and the United States held consultations in Geneva on June 25, 2015.

On July 9, 2015, Indonesia requested that the WTO establish a dispute settlement panel. In its panel request, Indonesia contends that the DOC's findings of countervailable subsidies with respect to a number of government practices in the logging and paper industries are inconsistent with Article VI of the *General Agreement on Tariffs And Trade 1994* (''GATT 1994'') and the *Agreement on Subsidies and*

[11] 17 CFR 200.30–3(a)(12).

Countervailing Measures (''SCM Agreement''). Indonesia also contends that the ITC's affirmative threat determinations in both the AD and CVD investigations breach Article VI of the GATT 1994, the *Agreement on Implementation of Article VI of the General Agreement on Tariffs And Trade 1994* (''AD Agreement''), and the SCM Agreement. In addition, Indonesia raises an ''as such'' challenge to the statutory tie-vote provision set out in section 771(11)(B) of the Tariff Act of 1930 (*codified at* 19 U.S.C. 1677(11)(B)), claiming that this provision breaches Article VI of the GATT 1994, Articles 1 and 3.8 of the AD Agreement, and Articles 10 and 15.8 of the SCM Agreement.

Indonesia also lists in its panel request the following items as part of its challenge: ''the determinations by the [DOC] and [ITC] to initiate certain anti-dumping duty and countervailing duty investigations, the conduct of those investigations, any preliminary or final anti-dumping duty and countervailing duty determinations issued in those investigations, any definitive anti-dumping duties and countervailing duties imposed as a result of those investigations, including any notices, annexes, orders, decision memoranda, or other instruments issued by the United States in connection with the anti-dumping duty and countervailing duty measures.''

Indonesia contends DOC's determination that Indonesia provided standing timber for less than adequate remuneration breaches Article 2.1 of the SCM Agreement because DOC failed to properly examine whether the purported subsidy was ''specific to an enterprise . . . within the jurisdiction of the granting authority'' and did not cite to evidence establishing the existence of a ''plan or scheme sufficient to constitute a 'subsidy programme.''' Indonesia also alleges DOC breached Article 14(d) of the SCM Agreement because it failed to determine the adequacy of remuneration ''in relation to prevailing market conditions for the good . . . in question in the country of provision.'' Indonesia alleges that these provisions were also breached through DOC's determinations that Indonesia's log export ban and debt forgiveness practices each conferred a benefit which constitutes a countervailable subsidy. With respect to debt forgiveness, Indonesia alleges that DOC improperly applied adverse facts available ''without examining information Indonesia provided, and without examining whether Indonesia 'refuse[d] access to, or otherwise [did] not provide''' the information, in breach of Article 12.7 of the SCM Agreement.

Indonesia alleges that the ITC's threat determinations in the investigations at issue breach Article 3.5 of the AD Agreement and Article 15.5 of the SCM Agreement because the ITC did not demonstrate ''the existence of a causal relationship between the imports and the purported threat of injury to the domestic industry'' and failed to ''sufficiently examine known factors other than the allegedly dumped and subsidized imports which at the same time were in fact injuring the domestic injury.'' In addition, Indonesia alleges the ITC's threat determinations breach Article 3.7 of the AD Agreement and Article 15.7 of the SCM Agreement because the threat findings were based on ''allegation, conjecture [and] remote possibility''; were not supported by record evidence; and did not indicate a change in circumstances that was ''clearly foreseen and imminent.'' Further, Indonesia alleges the ITC's threat determinations breach Article 3.7 of the AD Agreement and Article 15.7 of the SCM Agreement because the ITC failed to demonstrate that the ''totality of the factors considered lead to the conclusion that material injury would have occurred unless protective action was taken.'' Indonesia alleges the ITC did not apply or consider ''special care'' in its threat of injury determinations, in contravention of Article 3.8 of the AD Agreement and Article 15.8 of the SCM Agreement.

Indonesia also claims the ''requirement contained in 19 U.S.C. 1677(11)(B) that a tie vote in a threat of injury determination must be treated as an affirmative . . . [ITC] determination,'' is, ''as such,'' inconsistent with Article 3.8 of the AD Agreement and Article 15.8 of the SCM Agreement ''because the requirement does not consider or exercise special care.''

Finally, Indonesia alleges that these actions are inconsistent with Article 1 of the AD Agreement, Article 10 of the SCM Agreement, and Article VI of the GATT 1994.

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–2015–0005. 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–2015–0005 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 ''Comment Now!'' (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/she 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 to *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 to *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–2015–0005, 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 panel report 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,

Acting Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 2015–19631 Filed 8–10–15; 8:45 am]

BILLING CODE 3290–F5–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Submission for OMB Review; Bank Appeals Follow-Up Questionnaire

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

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a new information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning a new collection of information titled, ''Bank Appeals Follow-Up Questionnaire.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be submitted on or before September 10, 2015.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–NEW, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–NEW, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Bank Appeals Follow-Up Questionnaire.

OMB Control No.: To be assigned by OMB.

Type of Review: Regular.

Description: The OCC's Office of the Ombudsman (Ombudsman) is committed to assessing its efforts to provide a fair and expeditious appeals process to institutions under its supervision. To perform this assessment, it is necessary to obtain feedback from individual appellant institutions on the effectiveness of the Ombudsman's current efforts to provide a fair and expeditious appeals process and suggestions on ways to enhance the bank appeals process. The Ombudsman will use the information gathered to assess adherence to OCC Bulletin 2013–15, ''Bank Appeals Process,'' dated June 7, 2013, for each appeal submitted and to enhance its bank appeals program.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 15.
Estimated Number of Responses: 15.
Estimated Annual Burden: 2.5 hours.

Frequency of Response: On occasion.

Comments: The OCC published a notice for 60 days of comment on June 5, 2015 (80 FR 32204). No comments were received. Comments continue to be invited on:

(a) Whether the collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections 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.

Dated: August 5, 2015.

Mary H. Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division.

[FR Doc. 2015–19622 Filed 8–10–15; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Orders 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: OFAC's actions described in this notice are effective on August 5, 2015.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On August 5, 2015, OFAC blocked the property and interests in property of the following two individuals pursuant to E.O. 13224, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'':

1. AL-KAWARI, 'Abd al-Latif Bin 'Abdallah Salih Muhammad (a.k.a. AL-KAWARI, 'Abd-al-Latif 'Abdallah; a.k.a. AL-KAWARI, 'Abd-al-Latif 'Abdallah Salih; a.k.a. AL-KAWWARI, 'Abd-al-Latif 'Abdallah; a.k.a. AL-KUWARI, 'Abd-al-Latif 'Abdallah Salih; a.k.a. ''Abu Ali al-Kawari''), al-Laqtah, Qatar; DOB 28 Sep 1973; nationality Qatar; Passport 01020802 (Qatar); alt. Passport 00754833 (Qatar) issued 20 May 2007; alt. Passport 00490327 (Qatar) issued 28 Jul 2001; National ID No. 27363400684 (Qatar) (individual) [SDGT]. (Linked to: ISLAMIC ARMY)

2. AL-KA'BI, Sa'd bin Sa'd Muhammad Shariyan (a.k.a. AL-KA'BI, Sa'd al-Sharyan; a.k.a. AL-KA'BI, Sa'd Bin Sa'd Muhammad Shiryan; a.k.a. AL-KA'BI, Sa'd Sa'd Muhammad Shiryan; a.k.a. ''Abu Haza'''; a.k.a. ''Abu Hazza'''; a.k.a. ''Abu Sa'd''; a.k.a. ''Abu Suad''; a.k.a. '''Umar al-Afghani''); DOB 15 Feb 1972; nationality Qatar; Passport 00966737 (Qatar) (individual) [SDGT]. (Linked to: AL NUSRAH FRONT)

Dated: August 5, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–19704 Filed 8–10–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Orders 13382 and 13551

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing (1) the names of one individual and one entity whose property and interests in property are blocked pursuant to Executive Order (E.O.) 13551; (2) the name of one vessel in which one of these persons has an interest; (3) revised information on OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List) to update identifiers for one entity previously designated pursuant to E.O. 13551; and (4) revised information on OFAC's SDN List to update identifiers for two individuals previously designated pursuant to E.O. 13382.

DATES: OFAC's actions described in this notice were effective July 23, 2015.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On July 23, 2015, OFAC blocked the property and interests in property of the following two persons pursuant to E.O. 13551, ''Blocking Property of Certain Persons With Respect to North Korea'':

Individual

1. LAI, Leonard (a.k.a. LAI, Yong Chian); DOB 16 Jun 1958; Passport E3251534E (Singapore) expires 20 Mar 2018 (individual) [DPRK].

Entity

2. SENAT SHIPPING LIMITED (a.k.a. SENAT SHIPPING & TRADING PTE LTD; a.k.a. SENAT SHIPPING AGENCY LTD; a.k.a. SENAT SHIPPING AND TRADING LTD; a.k.a. SENAT SHIPPING AND TRADING PRIVATE LIMITED), 36–02 A, Suntec Tower, 9, Temasek Boulevard, Singapore 038989, Singapore; 9 Temasek Boulevard, 36–02A, Singapore 038989, Singapore; Panama City, Panama; PO Box 957, Offshore Incorporations Centre Road Town, Tortola, Virgin Islands, British; Identification Number IMO 5179245; alt. Identification Number IMO 5405737 [DPRK].

In addition, on July 23, 2015, OFAC identified the following vessel as blocked property of Senat Shipping Limited, an entity whose property and interests in property are blocked pursuant to E.O. 13551:

Vessel

1. DAWNLIGHT; General Cargo; Mongolia flag; Vessel Registration Identification IMO 9110236 (vessel) [DPRK].

In addition, on July 23, 2015, OFAC published the following revised information on the SDN List to reflect new names or other information for one entity previously designated pursuant to E.O. 13551:

Aliases

1. OCEAN MARITIME MANAGEMENT COMPANY LIMITED (a.k.a. EAST SEA SHIPPING COMPANY; a.k.a. HAEYANG CREW MANAGEMENT COMPANY; a.k.a. KOREA MIRAE SHIPPING CO. LTD.), Dongheung-dong Changgwang Street, Chung-ku, PO Box 125, Pyongyang, Korea, North; Donghung Dong, Central District, PO Box 120, Pyongyang, Korea, North; No. 10, 10th Floor, Unit 1, Wu Wu Lu 32–1, Zhong Shan Qu, Dalian City, Liaoning Province, China; 22 Jin Cheng Jie, Zhong Shan Qu, Dalian City, Liaoning Province, China; 43–39 Lugovaya, Vladivostok, Russia; CPO Box 120, Tonghung-dong, Chung-gu, Pyongyang, Korea, North; Bangkok, Thailand; Lima, Peru; Port Said, Egypt; Singapore; Brazil; Hong Kong, China; Shenzhen, China; Identification Number IMO 1790183 [DPRK].

In addition, on July 23, 2015, OFAC published the following revised information on the SDN List to reflect new names or other information for two individuals previously designated pursuant to E.O. 13382, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'':

Aliases

1. RA, Kyong-Su (a.k.a. CHANG, MYONG HO; a.k.a. CHANG, MYONG–HO; a.k.a. CHANG, MYO'NG–HO), Beijing, China;

Tanchon Commercial Bank Representative to Beijing, China (individual) [NPWMD] (Linked To: TANCHON COMMERCIAL BANK).

2. KIM, Tong-Myo'ng (a.k.a. KIM, CHIN–SO'K; a.k.a. KIM, HYOK CHOL; a.k.a. KIM, TONG MYONG; a.k.a. ''KIM, JIN SOK''); DOB 1964; alt. DOB 28 Aug 1962; nationality Korea, North; Passport 290320764 (individual) [NPWMD] (Linked To: TANCHON COMMERCIAL BANK).

Dated: July 23, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–19703 Filed 8–10–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0042]

Proposed Information Collection—Statement of Accredited Representative in Appealed Case; Comment Request

AGENCY: Board of Veterans' Appeals, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Board of Veterans' Appeals (BVA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on information needed to summarize a claimant's disagreement of denied VA benefits before the Board of Veterans' Appeals.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 13, 2015.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov*; or to Sue Hamlin, Board of Veterans' Appeals (01C2), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *sue.hamlin@va.gov.* Please refer to ''OMB Control No. 2900–0042'' in any correspondence. During the comment period, comments may be viewed online through FDMS at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sue Hamlin at (202) 632–5100 or FAX (202) 632–5841.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, BVA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of BVA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Statement of Accredited Representative in Appealed Case, VA Form 646.

OMB Control Number: 2900–0042.

Type of Review: Revision of a currently approved collection.

Abstract: A recognized organization, attorney, agent, or other authorized person representing VA claimants before the Board of Veterans' Appeals complete VA Form 646 to provide identifying data describing the basis for their claimant's disagreement with the denial of VA benefits. VA uses the data collected to identify the issues in dispute and to prepare a decision responsive to the claimant's disagreement.

Affected Public: Individuals or Households.

Estimated Annual Burden: 50,286 hours.

Estimated Average Burden per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50,286.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2015–19674 Filed 8–10–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0113]

Agency Information Collection (Application for Fee or Roster Personnel Designation, VA Form 26–6681) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 10, 2015.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0113'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0113.''

SUPPLEMENTARY INFORMATION:

Title: Application for Fee or Roster Personnel Designation, VA Form 26–6681.

OMB Control Number: 2900–0113.

Type of Review: Revision of a currently approved collection.

Abstract: Applicants complete VA form 26–6681 to apply for a position as a designate fee appraiser or compliance inspector. VA will use the data collected to determine the applicant's experience in the real estate valuation field.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 80 FR 8949 on February 19, 2015.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 2,000.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2015–19702 Filed 8–10–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Diplacus vandenbergensis* (Vandenberg Monkeyflower); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0049; 4500030113]

RIN 1018–AZ33

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Diplacus vandenbergensis (Vandenberg Monkeyflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for *Diplacus vandenbergensis* (Vandenberg monkeyflower) under the Endangered Species Act (Act). In total, approximately 5,755 acres (2,329 hectares) in Santa Barbara County, California, fall within the boundaries of the critical habitat designation. The effect of this regulation is to designate critical habitat for Vandenberg monkeyflower under the Act.

DATES: This rule is effective on September 10, 2015.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and at *http://www.fws.gov/ventura/.* Comments and materials we received, as well as some supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003; telephone 805–644–1766; facsimile 805–644–3958.

The coordinates or plot points or both from which the maps are generated are included in the decision record for this critical habitat designation and are available at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0049, and at the Ventura Fish and Wildlife Office (*http://www.fws.gov/ventura*) (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 Field Office set out above, and may also be included in the preamble and at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen P. Henry, Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 493 Portola Road, Suite B, Ventura, CA 93003; telephone 805–644–1766; facsimile 805–644–3958. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (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.

On August 26, 2014, we published in the **Federal Register** the final rule to list Vandenberg monkeyflower as an endangered species under the Act (79 FR 50844). This is a final rule to designate critical habitat for Vandenberg monkeyflower. 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 Vandenberg monkeyflower. In total, we are designating as critical habitat approximately 5,755 acres (ac) (2,329 hectares (ha)) of land in four units for the species.

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 (Industrial Economic, Incorporated (IEc) 2014, entire). The analysis, dated March 19, 2014, was made available for public comment from May 6, 2014, through June 5, 2014 (79 FR 25797). The DEA addressed probable economic impacts of critical habitat designation for Vandenberg monkeyflower. 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 have incorporated comments received into 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 requested opinions from three knowledgeable individuals with scientific expertise to review our technical assumptions and analysis, and whether or not we had used the best available information. We received comments from two of the peer reviewers on the proposed critical habitat rule. These peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve this final rule. Information we received from peer review is incorporated in this final revised designation. We also considered all comments and information we received from the public during the comment period.

Previous Federal Actions

The proposed listing rule for Vandenberg monkeyflower (78 FR 64840; October 29, 2013) contains a detailed description of previous Federal actions concerning this species.

On October 29, 2013, we published in the **Federal Register** a proposed critical habitat designation for Vandenberg monkeyflower (78 FR 64446). On May 6, 2014, we revised the proposed critical habitat designation and announced the availability of our draft economic analysis (DEA) (79 FR 25797).

From October 29, 2013, Proposed Rule

In this final critical habitat designation, we first make final the minor changes that we proposed in the document that published in the **Federal Register** on May 6, 2014 (79 FR 25797). At that time, we proposed to increase the designation (from that proposed on October 29, 2013 (78 FR 64446)), by approximately 24 ac (10 ha). This increase occurred in Unit 3 (Encina) as a result of new information received from several commenters who pointed out that we had omitted a portion of a parcel along the boundaries of this unit that contained the physical or biological features essential to the conservation of the species.

Second, in coordination with the U.S. Bureau of Prisons Federal Penitentiary Complex at Lompoc (Lompoc Penitentiary), we conducted a visual inspection of the vegetation communities and existing land uses within proposed critical habitat Unit 1 (Vandenberg). Subsequently, we have reduced the size of this unit because we found that a portion of the proposed critical habitat area did not contain the physical or biological features essential to the conservation of Vandenberg monkeyflower. Unit 1 occurs exclusively on lands owned and managed by the Department of Justice. As a result of our evaluation, Unit 1 has

decreased by 54 ac (22 ha) from 277 ac (112 ha) proposed as critical habitat on October 29, 2013 (78 FR 64446), to 223 ac (90 ha) as described in this final rule. Specifically, we eliminated:

(1) Flat lands in the eastern portion of the unit (*i.e.,* lands east of a drainage that separates the eastern and western areas in this unit) at the break in slope and below 100 feet (ft) (30 meters (m)) in elevation.

(2) Flat lands in the western portion of the unit below 100 ft (30 m) in elevation (noting that the eastern and western portions are divided by a drainage), with the exception of the extreme western portion of the unit where we eliminated lands below 160 ft (49 m) in elevation where there is a break in slope, because the topography below 160 ft (49 m) flattens out in an alluvial floodplain that is used as a cattle pasture.

We are also recognizing other changes and clarifications recommended by one peer reviewer and the public specifically related to two aspects of the species' biology: Seed dispersal and pollinator foraging distances. Both of these discussions are revised in full and described in the ''*Physical or Biological Features*—Contiguous Chaparral Habitat'' and ''*Criteria Used to Identify Critical Habitat*'' sections of this rule.

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 (PCEs) 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 present 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 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) with respect to wildlife, 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 sections 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 Vandenberg monkeyflower from studies of this species' habitat, ecology, and life history as described in the Critical Habitat section of the proposed rule to designate critical habitat published in the **Federal Register** on October 29, 2013 (78 FR 64446), and in the information presented below. Additional information can be found in the final listing rule published on August 26, 2014, in the **Federal Register** (79 FR 50844). We have determined that Vandenberg monkeyflower requires the following physical or biological features:

Canopy Openings

Vandenberg monkeyflower only occurs in sandy openings (canopy gaps) within dominant vegetation consisting of Burton Mesa chaparral (see the ''Background'' section in the proposed listing rule published October 29, 2013 (78 FR 64840), in the **Federal Register**). The sunny openings provide the space needed for individual and population growth, including sites for germination, reproduction, seed dispersal, seed banks, and pollination.

Canopy gaps are important for seed germination and seedling establishment, and for maintaining the seed banks of many chaparral species (Davis *et al.* 1989, pp. 60–64; Zammit and Zedler 1994, pp. 11–13). As the canopy closes and grows in height, the understory is generally bare, with most herbs restricted to remaining canopy gaps (Van Dyke *et al.* 2001, p. 9). Because gaps receive more light, soil temperatures may be as much as 23 °C (73 °F) higher than under the surrounding shrub canopy (Christensen and Muller 1975b, p. 50). Such temperatures are high enough to stimulate seed germination in many species (for example, *Helianthemum scoparium* (rush-rose)) (Christensen and Muller 1975a, p. 77). Additionally, herbivory is less pronounced in openings than under or near the canopy (Halligan 1973, pp. 430–432; Christensen and Muller 1975b, p. 53; Davis and Mooney 1985, p. 528). Furthermore, allelopathic (biochemical) effects of the shrub canopy are probably reduced in openings (Muller *et al.* 1968, pp. 227–230).

Numerous studies have recognized canopy gaps in mature chaparral as important microhabitats where some subshrubs and herbs (such as Vandenberg monkeyflower) persist between fires (Horton and Kraebel 1955, pp. 258–261; Vogl and Schorr 1972, pp. 1182–1187; Keeley *et al.* 1981, pp. 1615–1617; Davis *et al.* 1989, p. 64). Additionally, many chaparral plants have characteristics that promote reestablishment after fires. Thus, fire plays a significant role in maintaining chaparral community heterogeneity and in nutrient cycling, and its role has been extensively documented (see Christensen and Muller 1975a, b; Keeley 1987) (See ''Factor A—Anthropogenic Fire'' section in the proposed listing rule (78 FR 64840; October 29, 2013).

When fire occurs, it clears out aboveground living vegetation and dead wood, deposits nutrient-rich ash, and makes space and sunlight available for seedling establishment. High numbers of herbaceous annuals and perennials appear shortly after fire has cleared away the tall, dense shrubs (Gevirtz *et al.* 2007, p. 58). Many of these fire-followers decline over time after a fire, although some persist in small numbers for decades after their peak post-fire densities (Gevirtz *et al.* 2007, p. 103). In the first few years, habitat may appear as coastal scrub rather than chaparral, both in structure and in the species present (*e.g.,* (*Salvia mellifera*) black sage, (*Artemisia californica*) California sagebrush, (*Frangula californica*) coffee berry, (*Baccharis pilularis*) coyote brush, *Toxicodendron diversilobum* (poison oak)). Gradually, however, (*Arctostaphylos* spp.) manzanita, (*Ceanothus* spp.) ceanothus, (*Adenostoma fasciculatum*) chamise, and other species overtop the early species and come to dominate the landscape. The response of Vandenberg monkeyflower to fire is not currently known; however, because this species occurs within maritime chaparral, it is likely adapted to a naturally occurring fire regime of the Burton Mesa. Because Vandenberg monkeyflower occurs within the canopy gaps of Burton Mesa chaparral, these gaps are important for the plants' persistence between fire events. As the canopy closes with dominant vegetation, the gaps provide the space for annuals small in stature, such as Vandenberg monkeyflower, to grow and reproduce. Therefore, we identify canopy gaps to be a physical or biological feature for Vandenberg monkeyflower.

Loose Sandy Soils

The gaps in the canopy where this species occurs consist of loose, sandy soils. The Burton Mesa dune sheet is comprised of layers of wind-blown sand, each of which was deposited during different geologic time periods. The oldest dune deposits are referred to as the Orcutt ''paleodunes,'' and were deposited in the Santa Maria Basin during the mid-Pleistocene era up to 200,000 years ago (Johnson 1983 in Hunt 1993, p. 14). These dunes are old enough to have developed a soil profile, classified as Tangair and Narlon soils (Soil Conservation Service 1972). Subsurface soils are typically hardened by iron oxides, though surface exposures, where they occur, are

commonly composed of loose sand (Hunt 1993, p. 15).

These oldest dune deposits have been buried beneath more recent dunes that were wind-deposited approximately 10,000 to 25,000 to as much as 125,000 years ago (Orme and Tchakerian 1986, pp. 155–156; Johnson 1983, in Hunt 1993, p. 15). Contributing to the formation of these vast dune systems was a rapid fall in sea level approximately 18,000 years ago, perhaps as much as 300 ft (91 m) below the present shoreline, which exposed vast quantities of sediment that were later transported miles inland by onshore winds (Hunt 1993, p. 16).

The more recent dune deposits comprise the bulk of the dunes found on Burton Mesa. These newer dunes on Burton Mesa are composed of poorly consolidated to unconsolidated red to yellow sands with a clay-enriched B-horizon profile; the substratum is generally a dense, cemented sand layer (Hunt 1993 p. 16). This cemented layer may contribute to the water-holding capacity of the soil, which in turn affects the types of plants and vegetation communities observed. Additionally, both the older and newer dune deposits have substrates with significantly higher proportions of fine sands relative to even more recent sand deposits, thus forming a dense soil (Hunt 1993, p. 16). Topsoil in Burton Mesa is uniformly medium sand, but the depth of soil to bedrock varies throughout the mesa, and several soil types are present (Davis *et al.* 1988, pp. 170–171). The most widespread soils are Marina, Tangair, and Narlon sands; however, other soil types, such as Arnold Sand, Botella Loam, Terrace Escarpments, and Gullied Land, are present on Burton Mesa where Vandenberg monkeyflower grows (Soil Conservation Service 1972).

This species appears more closely tied to loose, sandy soil than to a specific soil type. Therefore, because Vandenberg monkeyflower occurs on all soil types listed above, but appears to be more closely associated with loose, sandy soils regardless of the soil type, we identify loose, sandy soils on Burton Mesa as a physical or biological feature for Vandenberg monkeyflower.

Contiguous Chaparral Habitat

The structure of the chaparral habitat on Burton Mesa is a mosaic of maritime chaparral vegetation (which includes maritime chaparral and maritime chaparral mixed with coastal scrub, oak woodland, and small patches of native grasslands (Wilken and Wardlaw 2010, p. 2)) and sandy openings (canopy gaps) that varies from place to place (see *Background—Habitat* in the proposed listing rule (78 FR 64840; October 29, 2013). The invasion of nonnative plants can directly alter the structure of this habitat by displacing native vegetation, including individuals of Vandenberg monkeyflower (see ''Factor A—Invasive, Nonnative Species'' section in the proposed listing rule (78 FR 64840; October 29, 2013)). Fragmentation of the habitat (due to invasive, nonnative plants) has negative effects on rare plant populations (Franklin *et al.* 2002, pp. 20–29; Alberts *et al.* 1993, pp. 103–110). Therefore, the presence of contiguous chaparral habitat on Burton Mesa is important for population growth of Vandenberg monkeyflower because it provides available habitat for seed dispersal and establishment.

Seeds of this species are small and light in weight and short-distance dispersal is achieved primarily by gravity but also by wind and water (Fraga *in litt.* 2012; Thompson 2005, p. 130) (see *Life History* section of the final listing rule (79 FR 50844) for additional discussion of literature related to seed dispersal). It is well-accepted that, for most plant species, a small fraction of seed is subject to long-distance dispersal events. While these events occur infrequently, they can be important in dispersing seeds between populations, and from established populations to new sites with suitable habitat. Determining long-distance seed-dispersal distances for any species is challenging, however, because of the difficulty of observing and quantifying rare long-distance dispersal events. On Burton Mesa, the principal wind direction in all seasons is north-northwest (Bowen and Inman 1966, p. 3; Cooper 1967, pp. 73–74; Hunt 1993, p. 27), which could aid local dispersal of Vandenberg monkeyflower seeds after falling from the parent plant. Long-distance seed dispersal of other plant species can occur through high-velocity horizontal winds, as well as wind updrafts (Greene and Johnson 1995). Landscape fragmentation over time may reduce the ability of seeds to move longer distances (Cain *et al.* 2000, p. 1223; Trakhtenbrot *et al.* 2005, p. 177), and, therefore, maintaining the integrity of the habitat is important to providing opportunities for the species to disperse across the landscape into suitable habitat patches. Wind updrafts could potentially carry seed from one suitable habitat patch to another across a fragmented landscape; while this may occur infrequently, it may be important in contributing to the long-term persistence of the species.

Contiguous chaparral habitat on Burton Mesa is important for population growth of Vandenberg monkeyflower because it also provides habitat for insect pollinators. Pollinators move pollen from one flower to another predominantly within the same plant population, but they can move pollen to another plant population if it is close enough and the pollinator is capable of carrying the pollen across that distance. Annual *Diplacus* species have a variety of visitors, including insects, bees, and butterflies. Although no research has been done to determine the effectiveness of various pollinators for Vandenberg monkeyflower (Fraga *in litt.* 2012), based on observations of other small annual *Diplacus* species, small- to medium-sized solitary bees are likely an important class of pollinator. Therefore, because contiguous chaparral habitat on Burton Mesa provides habitat connectivity that ensures space for seed dispersal and establishment and movement of pollinators, we identify contiguous chaparral habitat as a physical or biological feature for Vandenberg monkeyflower.

Primary Constituent Elements (PCEs) for Vandenberg Monkeyflower

Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of Vandenberg monkeyflower in areas occupied at the time of listing, focusing on the features' PCEs. 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 PCEs specific to Vandenberg monkeyflower are:

(1) Native maritime chaparral communities of Burton Mesa comprising maritime chaparral and maritime chaparral mixed with coastal scrub, oak woodland, and small patches of native grasslands. The mosaic structure of the native plant communities (arranged in a mosaic of dominant vegetation and sandy openings (canopy gaps)), may change spatially as a result of succession, and physical processes such as windblown sand and wildfire.

(2) Loose sandy soils on Burton Mesa. As mapped by the Natural Resources Conservation Service (NRCS), these could include the following soil series: Arnold Sand, Marina Sand, Narlon Sand, Tangair Sand, Botella Loam, Terrace Escarpments, and Gullied Land.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection. All areas designated as critical habitat contain features that will require some level of management to address the current and future threats. In all units, special management may be required to ensure that the habitat is able to provide for the growth and reproduction of the species.

The habitat where Vandenberg monkeyflower occurs faces threats from urban development, maintenance of existing utility pipelines, anthropogenic fire, unauthorized recreational activities, and most substantially the expansion of invasive, nonnative plants (see *Factors A and E* in the final listing rule published on August 26, 2014, in the **Federal Register** (79 FR 50844). Management activities that may reduce these threats include, but are not limited to: (1) Protecting from development lands that provide suitable habitat; (2) minimizing habitat fragmentation; (3) minimizing the spread of invasive, nonnative plants; (4) limiting authorized casual recreational use to existing paths and trails (as opposed to off-trail use that can spread invasive species to unaffected areas); (5) controlled burning; and (6) encouraging habitat restoration. These management activities would limit the impact to the physical or biological features for Vandenberg monkeyflower by decreasing the direct loss of habitat, maintaining the appropriate vegetation structure that provides the sandy openings that are necessary components of Vandenberg monkeyflower habitat, and minimizing the spread of invasive, nonnative plants to areas where they currently do not exist. Preserving large areas of contiguous suitable habitat throughout the range of the species should maintain the mosaic structure of the Burton Mesa chaparral that may be present at any given time, and maintain the genetic and demographic diversity of Vandenberg monkeyflower.

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. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing that contain the features essential to the conservation of the species. If, after identifying these specific areas, we determine the areas are inadequate to ensure conservation of the species, in accordance with the Act and our implementing regulations at 50 CFR 424.12(e), we then consider whether designating additional areas outside of the geographic area occupied by the species are essential for the conservation of the species. We are not designating any areas outside the geographical area presently occupied by the species because its present range is sufficient to ensure the conservation of Vandenberg monkeyflower.

We used data from research published in peer-reviewed articles; reports and survey forms prepared for Federal, State, and local agencies and private corporations; site visits; regional Geographic Information Systems (GIS) layers, including soil and land use coverage; and data submitted to the California Natural Diversity Database (CNDDB). We also reviewed available information that pertains to the ecology, life history, and habitat requirements of this species. This material included information and data in peer-reviewed articles, reports of monitoring and habitat characterizations, reports submitted during section 7 consultations, and information received from local experts regarding Burton Mesa or Vandenberg monkeyflower.

Determining specific areas that Vandenberg monkeyflower occupies is challenging because areas may be occupied by the species even if no plants appear above ground (*i.e.,* resident seed banks may be present with little or no visible aboveground expression of the species) (see ''Background—Life History'' section of the proposed listing rule published on October 29, 2013, in the **Federal Register** (78 FR 64840). Additionally, depending upon the climate and other annual variations in habitat conditions, the observed distribution of the species may shrink, temporarily disappear, or enlarge to encompass more locations on Burton Mesa. Because Vandenberg monkeyflower occurs in sandy soils within canopy gaps, and plant communities may undergo changes in which the gaps may shift spatially over time, the degree of cover that is provided by a vegetation type may favor the presence of Vandenberg monkeyflower or not. Furthermore, the way the current distribution of Vandenberg monkeyflower is mapped by the various agencies, organizations, or surveyors has varied depending on the scale at which occurrences of individuals were recorded (such as many small occurrences versus one large occurrence). Therefore, we considered areas as occupied where suitable habitat is present and contiguous with an extant occurrence of Vandenberg monkeyflower, but which may not currently contain aboveground individuals.

We used a multistep process to delineate critical habitat boundaries.

(1) Using Burton Mesa as a palette, we placed a minimum convex polygon around all nine extant occurrences and one potentially extirpated occurrence (Lower Santa Lucia Canyon) of Vandenberg monkeyflower based on CNDDB and herbarium records, as well as survey information not yet formalized in a database. This resulted in a data layer of Vandenberg monkeyflower's current and historical range on Burton Mesa (see ''Distribution of Vandenberg Monkeyflower'' section of the proposed listing rule (78 FR 64840; October 29, 2013). We eliminated the occurrence noted in 1931 that was identified approximately 5 mi (8 km) downwind and to the east in the Santa Rita Valley because there is no suitable habitat remaining at this site; thus, we consider this occurrence to be extirpated (see ''Historical Locations'' section in the proposed listing rule (78 FR 64840; October 29, 2013).

(2) We used GIS to overlay soil data (NRCS) across Burton Mesa, not excluding any soil types at this time because Vandenberg monkeyflower appears to be tied more closely to loose sandy soil than to a specific soil type. Therefore, to define suitable sandy soil where Vandenberg monkeyflower may occur, we included all soil types where the species is currently extant. These soil types include Arnold Sand, Marina Sand, Narlon Sand, Tangair Sand, Botella Loam, Terrace Escarpments, and Gullied Land. Additionally, we did not remove areas that comprise a small percentage of a different soil type if it was within a larger polygon of a suitable soil type because these areas were below the mapping resolution of the NRCS soil data we utilized.

(3) We expanded the distance from each extant occurrence and one potentially extirpated occurrence up to 1 mi (1.6 km) beyond the known outer edge of each occurrence of Vandenberg monkeyflower for the following reasons:

(a) We sought to maintain connectivity between occurrences of Vandenberg monkeyflower because seeds are primarily dispersed by gravity, along with wind, water, and small mammals. Habitat connectivity,

especially canopy gaps where the species occurs, provides the necessary space needed for reproduction, dispersal, and individual and population growth (see ''Physical or Biological Features'' section above).

(b) A 1-mi (1.6-km) distance from each extant occurrence would provide adequate space for pollinator habitat. Vandenberg monkeyflower has a mixed mating system, and is dependent on pollinators to achieve seed production. As noted in the *Life History* section in the final listing rule published on August 26, 2014, in the **Federal Register** (79 FR 50844), likely pollinators of Vandenberg monkeyflower include smaller solitary bees to medium and larger social bees. Therefore, general pollinator travel distances described in the literature can help determine a distance that would capture pollinator habitat most representative of invertebrate species that visit annual Vandenberg monkeyflower. Although pollinators typically fly distances that are in proportion to their body sizes, with larger pollinators flying longer distances (Greenleaf *et al.* 2007, pp. 593–596), a recent study by Zurbechen *et al.* (2010, entire) indicates that maximum flight distances of solitary bees have been underestimated and are greater than expected strictly based on body size. Therefore, if a pollinator can fly long distances, pollen transfer is also possible across these distances. Pollinators often focus on small, nearby areas where floral resources are abundant; however, occasional longer distance pollination may occur, especially in years when other floral resources are limited.

Although Chesnut (*in litt.* 2014) observed a ''medium-sized'' bumblebee on Vandenberg monkeyflower, we have removed previous reference to bumblebee flight distances in this section because their large size (generally 0.6–0.9 in (15–23 mm)) makes it unlikely they would be a frequent pollinator of Vandenberg monkeyflower, and the reference was confusing to readers. Our review of other pollinator flight distance studies described in Zurbechen *et al.* (2010) indicates that honeybees (considered a medium- to large-sized bee, and which have been observed to visit Vandenberg monkeyflower) can fly upwards of 8.7 mi (14,000 m). Based on observations of other small annual *Diplacus* species, small- and medium-sized solitary bees, which on average have shorter foraging distances than honeybees, are likely an important class of pollinator. Therefore, we use shorter foraging distances of the small- to medium-sized solitary bees. The foraging distances of these bees are highly variable, but range up to 0.75 mi (1,200 m)) (Zurbechen *et al.* 2010). We also note that, since flight distances have been measured from one direction from a hive or nest, over the course of several foraging trips bees could travel double that distance, 1.5 mi (2,400 m) between two plant populations that are in opposite directions from a hive or nest. See additional discussion in this section under (d) below for a rationale of why other distance values are inappropriate.

(c) Providing a critical habitat boundary that is 1 mi (1.6 km) from the nine extant occurrences and one potentially extirpated occurrence of Vandenberg monkeyflower captures most of the remaining native vegetation on Burton Mesa, from east of the developed area on Vandenberg Air Force Base (AFB) through La Purisima Mission State Historic Park (SHP) (see ''Distribution of Vandenberg Monkeyflower'' section of the proposed listing rule (78 FR 64840)). In some instances, we expanded critical habitat farther than 1 mi (1.6 km) if the PCEs were contiguously present up-canyon. Expanding the boundary to 1 mi (1.6 km) created larger and contiguous blocks of suitable habitat, which have the highest likelihood of persisting through the environmental extremes that characterize California's climate, and of retaining the genetic variability to withstand future stressors (such as invasive, nonnative species or climate change). Additionally, contiguous blocks of habitat maintain connectivity, which is important because habitat fragmentation can result in loss of genetic variation (Young *et al.* 1996, pp. 413–417), has negative effects on biological populations (especially rare plants), and affects survival and recovery (Franklin *et al.* 2002, pp. 20–29; Alberts *et al.* 1993, pp. 103–110). Furthermore, fragmentation has been shown to disrupt plant-pollinator interactions and predator-prey interactions (Steffan-Dewenter and Tscharntke 1999, p. 437), alter seed germination percentages (Menges 1991, pp. 158–164), and result in low fruit set (Jennerston 1988, pp. 359–366; Cunningham 2000, pp. 1149–1152). Fragments are often not of sufficient size to support the natural diversity prevalent in an area and thus exhibit a decline in biodiversity (Noss and Cooperrider 1994, pp. 50–54).

(d) We considered a critical habitat boundary at a distance of 0.5 mi (0.8 km) from the nine extant locations and one potentially extirpated location. This shorter distance, however, did not maintain connectivity of occurrences, did not encompass the remaining native vegetation of Burton Mesa, and did not represent a sufficient distance to encompass long-distance seed dispersal or the distance that pollinators may travel. Except as described above in (c), we did not consider any distance larger than 1 mi (1.6 km) because the 1-mile distance captures the remaining native vegetation and the distribution of Vandenberg monkeyflower, and any distance greater than 1 mi (1.6 km) also captured habitat that is not suitable for this species. Therefore, the areas within our critical habitat boundaries include the range of plant communities and soil types in which Vandenberg monkeyflower is found, maintain connectivity of occurrences, and provide for the sandy openings mixed within the dominant vegetation. The delineated critical habitat contains the elements of physical and biological features that are essential to the conservation of the species.

We did not include agricultural areas because, while the underlying dune sheet may be present depending on the land use practices, the topsoil would most likely not consist of loose sandy soil and the associated vegetation community would not exist. A few smaller agriculture and grazing plots exist within the Burton Mesa Ecological Reserve (Reserve), but agricultural lands mostly occur to the south and east of the Reserve and La Purisima Mission SHP.

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 physical or biological features necessary for Vandenberg monkeyflower. 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.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the rule portion. We include more detailed information on the boundaries of the critical habitat designation in the unit descriptions section of this document. We will make

the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0049, on our Internet site *http://www.fws.gov/ventura/*, and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT** above).

We are designating critical habitat on lands that we have determined are within the geographical area occupied by the species at the time of listing (occupied at the time of listing) and contain the physical or biological features essential to the conservation of the species and which may require special management considerations or protection.

Four units are designated based on sufficient elements of physical or biological features being present to support Vandenberg monkeyflower life-history processes. All of the units contain all of the identified elements of physical or biological features and support multiple life-history processes.

Final Critical Habitat Designation

We are designating four units as critical habitat for Vandenberg monkeyflower, all of which are considered occupied. The critical habitat areas described below constitute our best assessment at this time of areas that meet the definition of critical habitat. Those four units are: (1) Vandenberg, (2) Santa Lucia, (3) Encina, and (4) La Purisima (see Table 1 below). Table 1 lists the critical habitat units and the area of each.

TABLE 1—DESIGNATED CRITICAL HABITAT UNITS FOR VANDENBERG MONKEYFLOWER

[Area estimates reflect all land within the critical habitat boundary]

CH unit	Unit name	Land ownership (acres (hectares))				Total area acres (hectares)
		Federal	State	Local agency	Private	
1	Vandenberg	223 (90)	.....	.....	.....	223 (90)
2	Santa Lucia	.....	1,422 (576)	10 (4)	52 (21)	1,484 (601)
3	Encina	.....	1,460 (591)	24 (10)	540 (218)	2,024 (819)
4	La Purisima	.....	1,792 (725)	4 (2)	228 (92)	2,024 (819)
Total [1]		223 (90)	4,674 (1,892)	38 (16)	820 (331)	5,755 (2,329)

Note: Area sizes may not sum due to rounding.

[1] This total does not include 4,159 ac (1,683 ha) of lands within Vandenberg AFB that were identified as areas that meet the definition of critical habitat but are exempt from critical habitat designation under section 4(a)(3)(B) of the Act (see Exemptions section below).

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for Vandenberg monkeyflower, below.

Unit 1: Vandenberg

Unit 1 is within the geographical area occupied by Vandenberg monkeyflower at the time of listing and consists of 223 ac (90 ha). Unit 1 is located adjacent to and between two extant occurrences (Oak Canyon and Pine Canyon, which are located on Vandenberg AFB) and is known to support suitable habitat for Vandenberg monkeyflower. Although Vandenberg monkeyflower plants are not currently present above-ground within this unit, the area harbors the PCEs, and is contiguous with and between Vandenberg AFB lands that are known to be occupied; thus, the area within the unit (and the adjacent, contiguous land on Vandenberg AFB) is considered to be within the geographical area occupied by the species at the time of listing. The adjacent land on Vandenberg AFB is essential to the conservation of the species; however, we are not designating Vandenberg AFB as critical habitat within this subunit because we have exempted Vandenberg AFB from critical habitat designation under section 4(a)(3)(B)(i) of the Act (see Exemptions section below).

Therefore, Unit 1 is composed entirely of Federal land (100 percent) exclusively owned and managed by the Department of Justice (DOJ) and which contains the Lompoc Penitentiary. The unit consists of the westernmost portion of DOJ lands, from the Vandenberg AFB boundary line to roughly the break in slope at 100 ft (30 m) in elevation above the bottom slope of Santa Lucia Canyon. Unit 1 contains the appropriate vegetation structure of contiguous chaparral habitat with canopy gaps (PCE 1) and loose, sandy soils (PCE 2) that support Vandenberg monkeyflower. Unit 1 provides connectivity of habitat between occurrences, habitat for pollinators, and space for establishment of new plants from seeds that are dispersed from adjacent extant occurrences of Vandenberg monkeyflower.

The features essential to the conservation of the species may require special management considerations or protection due to threats from invasion of nonnative plants. Ground disturbance within this unit could remove suitable habitat and create additional openings for nonnative plants to invade and degrade the quality of the habitat.

Unit 2: Santa Lucia

Unit 2 is within the geographical area occupied by Vandenberg monkeyflower at the time of listing, is currently occupied by the species, and consists of 1,484 ac (601 ha). This unit includes State lands (96 percent) within the Reserve, relatively small portions of local agency lands (for example, school districts, water districts, community services districts) (less than 1 percent) and private lands (3 percent). Unit 2 contains the appropriate vegetation structure of contiguous chaparral habitat with canopy gaps (PCE 1) and loose, sandy soils (PCE 2) that support Vandenberg monkeyflower. The eastern boundary of Vandenberg AFB delineates the western boundary of this unit. Unit 2 includes most of the Vandenberg and Santa Lucia Management Units of the Reserve. Unit 2 extends from Purisima Hills at the northern extent through the width of Burton Mesa to the agricultural lands south of the Reserve, and to the eastern boundary of the Vandenberg and Santa Lucia Management Units where these units abut Vandenberg Village.

Unit 2 supports one extant occurrence (Volans Avenue) and one potentially extirpated occurrence (Lower Santa Lucia Canyon) of Vandenberg monkeyflower. Between 2006 and 2011, the Volans Avenue occurrence has consisted of no more than 25 individuals; the potentially extirpated occurrence was last observed in 1985 (see the ''Distribution of Vandenberg Monkeyflower—Historical Locations'' section of the proposed listing rule (78

FR 64840; October 29, 2013)). Unit 2 provides connectivity of habitat between occurrences within this unit, habitat for pollinators, space for establishment of seeds blown from upwind seed sources, and space for establishment of new plants from seeds that are dispersed from existing Vandenberg monkeyflower plants within the unit.

The features essential to the conservation of the species may require special management considerations or protection due to threats from invasion of nonnative plants, and activities such as utility maintenance, and off-road vehicle and casual recreational uses. These activities could remove suitable habitat and Vandenberg monkeyflower individuals, and create additional openings for nonnative plants to invade and degrade the quality of the habitat.

Unit 3: Encina

Unit 3 is within the geographical area occupied by Vandenberg monkeyflower at the time of listing and consists of 2,024 ac (819 ha). This unit contains State-owned lands (72 percent), including most of the Encina Management Unit of the Reserve, local agency lands (1.2 percent), and privately owned lands such as areas adjacent to the Clubhouse Estates residential development (27 percent) (see Table 1 above). Unit 3 contains the appropriate vegetation structure of contiguous chaparral habitat with canopy gaps (PCE 1) and loose, sandy soils (PCE 2) that support Vandenberg monkeyflower. Unit 3 extends from approximately the Purisima Hills to the north, through the Reserve and to the agricultural lands just south of the Reserve boundary, and is between Vandenberg Village and State Route 1 to the east and the residential communities of Mesa Oaks and Mission Hills to the west. Unit 3 supports two extant occurrences of Vandenberg monkeyflower (Clubhouse Estates and Davis Creek). Between 2006 and 2011, hundreds of individuals have been observed on more than one occasion at each of these occurrences (see ''Current Status of Vandenberg Monkeyflower'' section of the proposed listing rule (78 FR 64840; October 29, 2013). Unit 3 provides connectivity of habitat between occurrences within this unit, habitat for pollinators, space for establishment of seeds blown from upwind seed sources, and space for establishment of new plants from seeds that are dispersed from existing Vandenberg monkeyflower plants within the unit.

The features essential to the conservation of the species may require special management considerations or protection due to threats from invasion of nonnative plants, development, utility maintenance, and off-road vehicle and casual recreational uses (including bicycling). These activities could remove suitable habitat and Vandenberg monkeyflower individuals, result in trampling of individual plants, and create additional openings for nonnatives to invade and degrade the quality of the habitat.

Unit 4: La Purisima

Unit 4 is within the geographical area occupied by Vandenberg monkeyflower at the time of listing and consists of 2,024 ac (819 ha). Unit 4 contains mostly State-owned lands (89 percent) consisting of most of La Purisima Mission SHP and a small portion of the La Purisima Management Unit of the Reserve that is north of La Purisima Mission SHP. This unit also contains private land to the east of La Purisima Mission SHP (11 percent), and a small portion of local agency lands (less than 1 percent) (see Table 1 above). Unit 4 contains the appropriate vegetation structure of contiguous chaparral habitat with canopy gaps (PCE 1) and loose, sandy soils (PCE 2) that support Vandenberg monkeyflower. This unit extends approximately from the Purisima Hills in the north to the southern boundary of La Purisima Mission SHP, and between the residential communities of Mesa Oaks and Mission Hills to the west and to just east of, and outside, the State Park's eastern boundary. Unit 4 supports two extant occurrences of Vandenberg monkeyflower in La Purisima Mission SHP (La Purisima East and La Purisima West). Between 2006 and 2011, more than 2,000 individuals of Vandenberg monkeyflower have been observed among the sites on both the east and west side of Purisima Canyon (see ''Current Status of Vandenberg Monkeyflower'' section of the proposed listing rule (78 FR 64840; Otober 29, 2013). This unit provides connectivity of habitat between occurrences within this unit, habitat for pollinators, space for establishment of seeds blown from upwind seed sources, and space for establishment of new plants from seeds that are dispersed from existing Vandenberg monkeyflower plants within the unit.

The features essential to the conservation of the species may require special management considerations or protection due to threats from invasion of nonnative plants that could reduce the amount and quality of suitable habitat.

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, 443 (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 Vandenberg monkeyflower. 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 Vandenberg monkeyflower. These activities include, but are not limited to:

(1) Actions that would lead to the destruction or alteration of Vandenberg monkeyflower habitat. Such activities could include, but are not limited to, development, road and utility repairs and maintenance, anthropogenic fires, and some casual recreational uses. These activities could lead to loss of habitat; removal of the seed bank; introduction and proliferation of invasive, nonnative plants; reduction of pollinators; and habitat fragmentation.

(2) Actions that create ground disturbance and would lead to significant invasive, nonnative plant competition. Such activities could include, but are not limited to, any activity that results in ground disturbance and creates additional open areas for invasive, nonnative plants to invade Vandenberg monkeyflower habitat. Invasive, nonnative plants quickly establish in disturbed areas and outcompete native vegetation, including Vandenberg monkeyflower in the sandy openings (see *Factor A—Invasive, Nonnative Species* in the proposed listing rule (78 FR 64840; October 29, 2013)).

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an Integrated Natural Resources Management Plan (INRMP) by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

(1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;

(2) A statement of goals and priorities;

(3) A detailed description of management actions to be implemented to provide for these ecological needs; and

(4) A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an 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.''

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the critical habitat designation for Vandenberg monkeyflower to determine if they meet the criteria for exemption from critical habitat under section 4(a)(3) of the Act. The following areas are Department of Defense lands with completed, Service-approved INRMPs within the area that meets the definition of critical habitat for Vandenberg monkeyflower.

Approved INRMPs

Vandenberg AFB has a Service-approved INRMP. The U.S. Air Force (on Vandenberg AFB) committed to working closely with us and California Department of Fish and Wildlife (CDFW) to continually refine the existing INRMP as part of the Sikes Act's INRMP review process. Based on our review of the INRMP for this military installation, and in accordance with section 4(a)(3)(B)(i) of the Act, we

have determined that certain lands within this installation meet the definition of critical habitat, and that conservation efforts identified in this INRMP, as modified by the 2012 Addendum, will provide a benefit to Vandenberg monkeyflower (see the following sections that detail this determination for the installation). Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3)(B)(i) of the Act. In summary, we are not including as critical habitat in this final rule approximately 4,159 ac (1,683 ha) on Vandenberg AFB that meet the definition of critical habitat but are exempt from designation under section 4(a)(3)(B)(i) of the Act.

Vandenberg Air Force Base

Vandenberg AFB is headquarters for the 30th Space Wing, the Air Force's Space Command unit that operates Vandenberg AFB and the Western Test Range and Pacific Missile Range. Vandenberg AFB operates as an aerospace center supporting west coast launch activities for the Air Force, Department of Defense, National Aeronautics and Space Administration, and commercial contractors. The three primary operational missions of Vandenberg AFB are to launch, place, and track satellites in near-polar orbit; to test and evaluate the Intercontinental ballistic missile systems; and to support aircraft operations in the western range. Vandenberg AFB lies on the south-central California coast, approximately 275 mi (442 km) south of San Francisco, 140 mi (225 km) northwest of Los Angeles, and 55 mi (88 km) northwest of Santa Barbara. The 99,100-ac (40,104-ha) base extends along approximately 42 mi (67 km) of Santa Barbara County coast, and varies in width from 5 to 15 mi (8 to 24 km).

The Vandenberg AFB INRMP was prepared to provide strategic direction to ecosystem and natural resources management on the Base. The long-term goal of the INRMP is to integrate all management activities in a manner that sustains, promotes, and restores the health and integrity of ecosystems using an adaptive management approach. The INRMP was designed to: (1) Summarize existing management plans and natural resources literature pertaining to Vandenberg AFB, (2) identify and analyze management goals in existing plans, (3) integrate the management goals and objectives of individual plans, (4) support Base compliance with applicable regulatory requirements, (5) support the integration of natural resource stewardship with the Air Force mission, and (6) provide direction for monitoring strategies.

Vandenberg AFB completed an INRMP in May 2011 (Air Force 2011c). The INRMP includes chapters that identify invasive, nonnative plants on the Base as well as step-down goals for the management of threatened and endangered species on the Base. However, since Vandenberg monkeyflower was not a listed species at that time, specific goals for this plant were not included. In 2012, the Air Force approved an addendum to the May 2011 INRMP that addresses specific goals for Vandenberg monkeyflower (Air Force 2012). Management considerations that provide a conservation benefit to Vandenberg monkeyflower in the addendum are:

(1) Avoiding Vandenberg monkeyflower and its habitat to the maximum extent practicable by relocating and redesigning proposed projects, and using biological monitors during project activities.

(2) Conducting nonnative species control efforts that target veldt grass across Vandenberg AFB. The Air Force has programmed more than $500,000 to treat veldt grass, with funding that started in 2009 and would continue through 2019.

(3) Training Base personnel in the identification of sensitive species and their habitats, including Vandenberg monkeyflower, prior to implementing nonnative species control actions.

(4) Implementing a fire response program, such as a Burned Area Emergency Response project, which includes post-fire monitoring, habitat restoration, erosion control, and nonnative species management.

(5) Developing a controlled burning program that would include portions of Vandenberg monkeyflower habitat.

(6) Conducting habitat and threat assessments to help decide the best approach for restoration actions.

(7) Periodic surveys of Vandenberg monkeyflower populations on the Base.

Vandenberg AFB supports four extant occurrences of Vandenberg monkeyflower located in Oak, Pine, Lakes, and Santa Lucia Canyons. Between 2006 and 2011, these four locations contained multiple occurrences; in 2010 specifically, more than 5,000 individuals were observed amongst all occurrences (see ''Occurrences Located on Vandenberg AFB'' section of the proposed listing rule (78 FR 64840; October 29, 2013)). Vandenberg AFB provides approximately half of the available suitable habitat (Burton Mesa chaparral) for Vandenberg monkeyflower and has four out of nine extant occurrences.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the Vandenberg AFB INRMP and addendum, and the conservation efforts identified in the INRMP addendum will provide a benefit to Vandenberg monkeyflower. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3)(B)(i) of the Act. We are not including approximately 4,159 ac (1,683 ha) of habitat in this final critical habitat designation because of this exemption.

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 scientific data available 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.

Consideration of Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impact 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, constitute our DEA of the proposed critical habitat designation and related factors (IEc 2014, entire). The analysis, dated March 19, 2014, was made available for public review from May 6, 2014, through June 5, 2014 (IEc 2014, entire) (79 FR 25797). The DEA addressed potential economic impacts of critical habitat designation for Vandenberg monkeyflower. 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. Information relevant to the probable incremental economic impacts of critical habitat designation for the Vandenberg monkeyflower is summarized below and available in the screening analysis for the Vandenberg monkeyflower (IEc 2014), available at *http://www.regulations.gov.*

Critical habitat designation for Vandenberg monkeyflower is unlikely to generate combined direct and indirect costs exceeding $100 million in a single year. Data limitations prevent the quantification of critical habitat benefits (IEc 2014, pp. 3, 22, 24).

All critical habitat units are considered occupied. However, Vandenberg monkeyflower is an annual plant that may only be expressed above ground once a year or even less frequently (Service 2014, p. 15). Even though all units contain Vandenberg monkeyflower seed banks below ground, some project proponents may not be aware of the presence of the species absent a critical habitat designation. The characteristics of the plant make it difficult to determine whether future consultations will result from the presence of the listed species or designated critical habitat.

Throughout our analysis (IEc, 2014, entire), we have considered two scenarios:

(1) *Low-end scenario.* Project proponents identify the monkeyflower at their site, and most costs and benefits are attributable to listing the species.

(2) *High-end scenario.* Costs and benefits are attributed to the designation of critical habitat.

Projects with a Federal nexus within Vandenberg monkeyflower critical habitat are likely to be rare. We project fewer than three projects annually, associated with the Lompoc Penitentiary, the existing oil pipeline and utilities running through the Reserve, and road projects using Federal funding (IEc 2014, pp. 3, 12). In the high-end scenario, costs in a single year are likely to be on the order of magnitude of tens to hundreds of thousands of dollars (IEc 2014, pp. 3, 12). In the low-end scenario, assuming above-ground expression of the monkeyflower, total costs in a single year will likely be less than $100,000.

The potential exists for critical habitat to trigger additional requirements under the California Environmental Quality Act (CEQA). In the low-end scenario, impacts at all sites except the Burton Ranch Specific Plan area would be attributed to listing Vandenberg monkeyflower. In the high-end scenario, properties that could experience relatively larger impacts include the Burton Ranch Specific Plan area (Unit 3), potentially developable parcels along the northern border of Vandenberg Village (Units 2 and 3), the Freeport-McMoRan Inc., parcels overlapping the State-designated Lompoc Oil Field (Units 2 and 3), and preferred sites for new drinking water wells in the Reserve (Unit 3). Given the value of possible impacts in these areas, we conclude that designating critical habitat for Vandenberg monkeyflower will not generate combined direct and indirect costs that exceed $100 million in a single year (*i.e.,* the threshold according to Executive Order 12866 for determining if the costs and benefits of regulatory actions may have a significant economic impact in any one year).

The changes to Units 1 and 3 described in this final rule do not modify the results of the screening analysis. Additional information and discussion regarding our economic analysis is available in our screening analysis and IEM (IEc 2014, entire; Service 2014, entire) available on the Internet at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0049.

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 Vandenberg monkeyflower based on economic impacts.

A copy of the screening analysis with supporting documents may be obtained by contacting the Ventura 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 Vandenberg monkeyflower 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.

There are currently two management plans in existence for State lands at the Reserve and La Purisima Mission SHP. We considered for exclusion State lands at the Reserve (3,132 ac (1,268 ha) at the Reserve) and at La Purisima Mission SHP (1,542 ac (624 ha) at La Purisima Mission SHP), which together account for approximately 81 percent of the critical habitat designation. For Vandenberg monkeyflower, we considered the following criteria for our exclusion analysis: (1) If the plan was complete and provided a conservation benefit for the species and its habitat; (2) if there was a reasonable expectation that the conservation management strategies and actions would be implemented into the future, based on past practices, written guidance, or regulations; and (3) if the plan provided conservation strategies and measures consistent with currently accepted principles of conservation biology.

We did not exclude these areas from this final designation because: (1) These lands contain the physical and biological features essential to the conservation of Vandenberg monkeyflower; (2) the State has developed general management plans for the Reserve and La Purisima Mission SHP that support a conservation strategy consistent with currently accepted principles of conservation biology and that may provide a benefit to Vandenberg monkeyflower and its habitat; however, these plans are general in nature and do not contain specific management goals for Vandenberg monkeyflower; and (3) we are concerned whether adequate resources (*i.e.,* staffing and funding) will be available to implement these plans to protect Vandenberg monkeyflower into the future. The State is supportive of our critical habitat designation on the Reserve; the State did not provide any comments regarding La Purisima Mission SHP. However, we verbally

discussed designation of critical habitat with State Parks staff and received no substantive comments from them. Therefore, because the State lands at the Reserve and La Purisima Mission SHP meet the definition of critical habitat, the management plans do not include management goals specific to Vandenberg monkeyflower, we have concerns regarding implementation of these management plans into the future, and the State is generally supportive of critical habitat designated on these lands, the Reserve and La Purisima Mission SHP are included in the final critical habitat designation.

In preparing this final rule, we have determined that there are currently no permitted HCPs or other management plans for Vandenberg monkeyflower beyond those two identified above, and the final designation does not include any tribal lands or tribal trust resources. We anticipate no impact on tribal lands, partnerships, or HCPs from this critical habitat designation. Accordingly, the Secretary is not exercising her discretion to exclude any areas from this final designation based on other relevant impacts.

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for Vandenberg monkeyflower during two comment periods. The first comment period associated with the publication of the proposed rule to designate critical habitat (78 FR 64446) opened on October 29, 2013, and closed on December 30, 2013. We also requested comments on the proposed critical habitat designation and associated DEA during a comment period that opened May 6, 2014, and closed on June 5, 2014 (79 FR 25797). 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 DEA during these comment periods. We received State comments from the CDFW regarding the Reserve, but received none from State Parks regarding La Purisima Mission SHP.

During the first comment period, we received seven comment letters directly addressing the proposed critical habitat designation. During the second comment period, we received six comment letters addressing the proposed critical habitat designation or the DEA. All substantive information provided during comment periods has either been incorporated directly into this final determination or is addressed below. Comments we received 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 three knowledgeable individuals with scientific expertise that included familiarity with Vandenberg monkeyflower and its habitat, the geographic region in which the species occurs, and conservation biology principles. Our request included peer review of both the proposed listing rule (78 FR 64840) and proposed critical habitat rule (78 FR 64446). Although we received responses from all three peer reviewers on the proposed listing rule, only two commented specifically on the proposed critical habitat rule. We reviewed all comments received from the peer reviewers for substantive issues and new information regarding critical habitat for Vandenberg monkeyflower. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Reviewer Comments Received

(1) Comment: One peer reviewer stated that designation of lands within the Reserve and La Purisima Mission SHP as critical habitat is necessary for preserving the few extant populations of Vandenberg monkeyflower, and preserving sites for potential new populations or currently unknown populations. The peer reviewer believes that this species likely persists as a metapopulation that consists of a mix of currently occupied and unoccupied patches, and the currently unoccupied patches are critical for the long-term persistence of the species. Additionally, the peer reviewer stated that fires, floods, anthropogenic disturbances, and vegetation succession will inevitably degrade the quality of some currently occupied patches, yet improve the quality of other patches or create new sandy openings suitable for colonization. Finally, the peer reviewer stated that it is critical to maintain the network of occupied, unoccupied, and potential new patches within the region of the metapopulation, particularly for a species such as the Vandenberg monkeyflower that has limited dispersal capabilities and a persistent seed bank.

Our Response: We agree with the peer reviewer that occupied, unoccupied and potential new patches of habitat for VM are important for the long-term persistence and recovery of the species. We have designated areas that are considered occupied; although Vandenberg monkeyflower plants are not presently above ground in some areas of unit 1, we agree with the peer reviewer that these areas are critical for the long-term persistence of the species. With respect to the state lands, as described above under ''Exclusions Based on Other Relevant Impacts,'' we did not exclude the State lands within the Reserve and La Purisima Mission SHP from this final critical habitat designation because: (1) They contain the physical and biological features essential to the conservation of Vandenberg monkeyflower; (2) the State's general management plans for the Reserve and La Purisima Mission SHP support a conservation strategy consistent with currently accepted principles of conservation biology and that may provide a benefit to Vandenberg monkeyflower and its habitat, but these plans are general in nature and do not contain specific management goals important for Vandenberg monkeyflower; and (3) we are concerned whether adequate resources (*i.e.,* staffing and funding) will be available to implement these plans to protect Vandenberg monkeyflower into the future. We will continue to work with our State partners to address the conservation needs of the species, and we will consider the network of occupied and unoccupied areas when we develop recovery criteria for a recovery plan in the future.

(2) Comment: One peer reviewer said that our description of Vandenberg monkeyflower as occurring ''only at low elevations and close to the coast in a distinct region in western Santa Barbara County known as Burton Mesa'' was too definitive. The peer reviewer pointed out that, although we only know it to occur on Burton Mesa currently, with additional information, we could find that it occurs at higher elevations or at other locations (such as in Santa Ynez Valley where the species was collected in 1931).

Our Response: We agree that it is possible that, with additional surveys over time, more populations of the species may be located at higher elevations or outside the currently known range. Our Policy on Information Standards under the Endangered Species Act (see discussion under Critical Habitat above) directs us to base our decisions on the best scientific data available. It is possible that additional populations of Vandenberg monkeyflower will be found in the future, and that they may occur on lands not designated as critical habitat. We note, however, 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) the prohibitions of section 9 of the Act. 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, HCPs, or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

State Comments Received

(3) Comment: The CDFW is generally supportive of critical habitat on the Reserve because it would assist the Department in obtaining funding and grants to enhance management and recovery of the species and its habitat.

Our Response: We appreciate the State's comment.

(4) Comment: The CDFW suggested that designation of critical habitat would provide an additional level of attention and protection for areas known to support the species and its pollinators.

Our Response: We appreciate CDFW's concern for protection of Vandenberg monkeyflower, its habitat, and its pollinators. The benefits of designating critical habitat for Vandenberg monkeyflower include, but are not limited to, public awareness of the presence of Vandenberg monkeyflower, the importance of habitat protection, and in cases where a Federal nexus exists, the potential for greater habitat protection for Vandenberg monkeyflower due to the legally binding duty of Federal agencies to avoid destruction or adverse modification of critical habitat. Therefore, the rules designating critical habitat and listing the species as an endangered species serve to educate the public on the sensitivity of Vandenberg monkeyflower and its habitat on Burton Mesa.

(5) Comment: The CDFW is concerned that lands on the Reserve are at risk from requests by outside parties to obtain additional leases that could result in direct effects to Vandenberg monkeyflower (such as removal of occupied habitat), or indirect effects (such as from changing adjoining land uses and fragmenting remaining areas). CDFW stated that they specifically support critical habitat designation on the 106 ac (43 ha) that the Vandenberg Village Community Services District (VVCSD) requested for exclusion from the critical habitat designation because CDFW believes this area supports Vandenberg monkeyflower and other rare and endangered plant and animal species, provides essential connectivity for wildlife, and contains the only perennial stream (Davis Creek) in the Reserve.

Our Response: We agree with CDFW that leases could affect Vandenberg monkeyflower and its habitat. Because the 106 ac (43 ha) that the VVCSD requested to exclude from the final critical habitat designation contains the physical or biological features essential to conservation of the species, including a known population of Vandenberg monkeyflower, and do not otherwise meet our standards for excluding areas from the designation, we are not excluding this area within the Reserve from the final critical habitat designation.

(6) Comment: The CDFW suggested that the designation of critical habitat on the Reserve and nearby private lands would strengthen their ability to protect biological resources, such as Vandenberg monkeyflower, and help ensure avoidance measures and mitigation efforts are undertaken for this species.

Our Response: Under the Act, the only regulatory effect of a critical habitat designation 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. The designation of critical habitat on private lands does not impose a legally binding duty on non-Federal Government entities or private parties, although, again, there may be indirect impacts if there is a federal nexus. Local land use planning and permitting agencies, such as the County of Santa Barbara and the City of Lompoc, serve as lead agencies for purposes of compliance with CEQA. The designation of critical habitat on private lands will serve to notify these agencies concerning the importance of conserving this habitat for Vandenberg monkeyflower during project planning and review.

(7) Comment: The CDFW noted that Reserve lands include numerous easements by various entities; unmarked rights-of-way; and old and sometimes abandoned infrastructure. In addition, the Central Coastal Water Authority's (CCWA) State water-line traverses Vandenberg monkeyflower habitat just north of the Reserve. CDFW stated that maintenance and emergency repairs of such infrastructure should address conservation and protection of this habitat area.

Our Response: We appreciate this information and look forward to working with the CDFW to develop best management practices that could be used during routine maintenance activities, emergency repairs, and other opportunities that may arise. These practices would likely be important to contribute to the conservation of Vandenberg monkeyflower and its habitat.

(8) Comment: The CDFW commented that designating critical habitat on the Clubhouse Estates project area would be beneficial for the conservation of Vandenberg monkeyflower.

Our Response: We appreciate the comment. In the revised proposed rule to designate critical habitat (79 FR 25797), we added 24 ac (10 ha) of private land inadvertently left out of the original proposal to Unit 3 of the proposed critical habitat designation (78 FR 64446). The 24 ac (10 ha) is on a portion of the open space parcel at Clubhouse Estates. This portion of the open space parcel meets the definition of critical habitat for Vandenberg monkeyflower and contains the physical or biological features essential to the conservation of Vandenberg monkeyflower, and is contiguous with Reserve lands that also support Vandenberg monkeyflower. See *Summary of Changes from October 29, 2013, Proposed Rule* above.

(9) Comment: The CDFW noted that there is potential for oil and gas exploration and development to occur on lands adjoining the Reserve, and that directional drilling, hydraulic fracking, or steam injection techniques could affect surface resources on the Reserve.

Our Response: In our proposed rule to list Vandenberg monkeyflower, we

discussed that there were oil and gas fields adjacent to Burton Mesa (see *Background—Land Ownership* section in the proposed listing rule (78 FR 64840)). However, we did not identify these activities as threats to the species because we had no information regarding the potential for them to affect Vandenberg monkeyflower or its habitat. There has been an increase in oil well permit applications in Santa Barbara County over the past 5 years (IEc 2014); even so, we have no specific information regarding the extent that these activities may occur in the future, or the extent that they may affect surface resources on the Reserve. However, should these activities be proposed in the future, they may be subject to review by Santa Barbara County pursuant to CEQA depending on the impact to environmental resources and whether there is a possible impact to a sensitive species or its habitat. State oil and gas fields are regulated by the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources.

(10) Comment: The CDFW states that there is potential for oil and gas exploration to occur on lands adjoining the Reserve, and that directional drilling beneath the Reserve for hydraulic fracking or steam injection could adversely affect surface resources. The CDFW explains that the designation of critical habitat would provide an additional layer of protection for the species, and would help ensure that avoidance measures and mitigation efforts are undertaken to protect the species. The CDFW is in favor of the proposed designation.

Our Response: As discussed in the DEA, there has been an increase in oil and gas permit applications in Santa Barbara County over the past 5 years (IEc 2014, p. 19). It is possible that new directional drilling projects could be initiated in the area, but it is difficult to predict whether these may occur within the critical habitat area. Because new directional drilling technologies are rapidly being developed and becoming economically viable, it is unclear whether a new project may involve hydraulic fracking, steam injection, or a different drilling technique. Furthermore, hydraulic fracking and steam injection are relatively new techniques and there is limited knowledge and evidence of their potential to affect surface resources. Due to these uncertainties, data limitations prevent us from quantifying the likelihood or magnitude of such directional drilling involving hydraulic fracking in areas designated as critical habitat. Thus we are unable, at this time, to estimate the potential impact of hydraulic fracking on surface resources in the Reserve. Therefore, data limitations prevent us from estimating the potential for economic impacts associated with this activity.

Other Comments Received

(11) Comment: One commenter suggested that we open a nursery at the Lompoc Penitentiary and transplant all Vandenberg monkeyflowers to this nursery. The commenter believes that letting the prisoners raise Vandenberg monkeyflower would save the species from being endangered and it would also create a profit for the prison because they could sell Vandenberg monkeyflower that is grown in the nursery.

Our Response: We agree that cooperation among agencies is important to prevent further losses of currently occupied habitat, as well as for developing options for future management and conservation of Vandenberg monkeyflower. However, section 2(b) of the Act directs us ''to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved.'' Because approximately 50 percent of the habitat on which Vandenberg monkeyflower occurs still remains, and this habitat contains the appropriate physical or biological features essential to the conservation of the species, we expect this remaining habitat would support the recovery of the species with appropriate management and conservation actions. The critical habitat designation will provide an educational tool to our partners regarding the importance of managing the remaining habitat appropriately.

Specific recovery objectives and criteria to delist Vandenberg monkeyflower in the future will be developed during the formal recovery planning process. This process will involve species experts, scientists, and interested members of the public, in accordance with the interagency policy on recovery plans under the Act, published on July 1, 1994 (59 FR 34272). We anticipate that recovery objectives and criteria for Vandenberg monkeyflower will focus on *in situ* (within its natural habitat) conservation efforts, and whether *ex situ* (outside of its natural habitat) conservation efforts such as propagating plants in a nursery are called for would be determined through the recovery planning process. We look forward to working with the Bureau of Prisons during the recovery planning process to determine how they can assist in the recovery of the species.

(12) Comment: Three commenters submitted similar comments regarding their concern that designation of critical habitat would limit recreational activities for local residents in Burton Mesa chaparral. Specifically, these commenters are concerned that the critical habitat designation would reduce mountain bicycling opportunities for the local residents.

Our Response: The only regulatory effect of a critical habitat designation is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7 of the Act. 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.

For State lands included in the critical habitat designation (*i.e.,* the Reserve and La Purisima Mission SHP), recreational activities, including mountain-biking, are regulated and managed by the CDFW (in the case of the Reserve) and California State Parks (in the case of La Purisima Mission SHP). Mountain-biking is prohibited at the Reserve, and is restricted to authorized roads and trails at La Purisima Mission SHP. These State agencies have already completed analyses of the potential impacts of various recreational activities on the natural resources they manage; these analyses are contained in their management plans (Gevirtz *et al.* 2007; California State Parks 1991) and other regulatory documents. The designation of critical habitat on these lands imposes no additional restrictions on these uses beyond what is imposed by these State agencies. For Federal lands included in the critical habitat designation, the Bureau of Prisons manages Lompoc Penitentiary, and riding bicycles by members of the public is prohibited. On private lands, the designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties.

In summary, the designation of critical habitat requires Federal agencies not to destroy or adversely modify critical habitat, but does not impose any additional regulations or prohibitions beyond those described above on the current management that the State agencies administer at the Reserve or La Purisima Mission SHP, or that private landowners impose on their lands.

(13) Comment: One commenter stated that he has lived and enjoyed the chaparral near Vandenberg Village since he was child, and as an adult he enjoys it often by running, walking dogs, riding off-road bikes, and geo-caching. The commenter stated that these experiences provide a healthy respect for the environment, and the government should not pursue respect of the environment by outlawing the enjoyment of the surrounding environment through legislation. We interpret the commenter's statement that ''Ordinary, casual, non-invasive access to public lands should never be criminalized'' to reflect the commenter's belief that a critical habitat designation for a federally endangered plant would prevent further access to public lands that harbor chaparral habitat.

Our Response: Recreational activities on the Reserve and at La Purisima Mission SHP are governed by state management plans. According to the Reserve's management plan, hiking on designated trails, wildlife watching, environmental education, walking with a pet on a leash less than 10 ft (3 m) in length, and research allowed by the CDFW are public recreational uses allowed at the Reserve (Gevirtz *et al.* 2007, p. 70). In addition, according to the La Purisima Mission SHP management plan, current recreational uses allowed by State Parks include tours (guided mission tours and self-guided tours); nature walks, hiking, jogging, dog-walking, and horseback riding on designated trails; and picnicking (California State Parks 1991, p. 148). However, riding of off-road bikes is not an allowed recreational activity at the Reserve, and is restricted to authorized roads and trails at La Purisima Mission SHP. As stated above (see our response to *Comment 12* above), the designation of critical habitat would not preclude the recreational activities already allowed at the Reserve and La Purisima Mission SHP, nor create additional restrictions. Therefore, the public would be able to participate in the recreational activities as allowed under the management plans of the Reserve and La Purisima Mission SHP, respectively.

(14) Comment: Two commenters suggested that primary action for us to conserve Vandenberg monkeyflower would be to educate the public on the sensitivity of the chaparral as opposed to ''closing it down'' and ''locking the public away from it.''

Our Response: Absent explanation from the commenters, we have assumed that ''closing it down'' and ''locking the public away from it'' refers to the commenters' concern that the designation would prevent public use of the Reserve and La Purisima Mission SHP. See our response to *Comments 12 and 13* above regarding what duty the designation of critical habitat places on non-Federal landowners and non-Federal agencies and the relationship of designating critical habitat to the current management at the Reserve and La Purisima Mission SHP; designation of critical habitat would not affect the current management plans of these State lands.

Regarding educating the public on the sensitivity of the chaparral habitat, in the case of Vandenberg monkeyflower, the benefits of critical habitat include public awareness of the presence of Vandenberg monkeyflower, the importance of habitat protection, and in cases where a Federal nexus exists, the potential for greater habitat protection for the species due to the legally binding duty of Federal agencies to avoid destruction or adverse modification of critical habitat (see *''Exclusions—Application of Section 4(b)(2) of the Act''* section in the proposed critical habitat rule) (78 FR 64446). Therefore, the final rules to designate critical habitat and list Vandenberg monkeyflower as an endangered species serve to educate the public on the sensitivity of this species and its habitat on Burton Mesa.

(15) Comment: A mountain-biking association noted that the DEA (screening memo and associated IEM) do not discuss nor provide evidence of the effects of human recreation on the proposed critical habitat, specifically effects related to bicycling.

Our Response: The purpose of the DEA is to discuss the economic impacts that critical habitat designation may have, above and beyond the listing of the species, to various sectors of the community. Recreational activities, including mountain-biking, are regulated by the CDFW (in the case of the Reserve) and California State Parks (in the case of La Purisima Mission SHP) on the lands they manage. Mountain-biking is prohibited on Reserve lands, and restricted to authorized roads and trails on La Purisima Mission SHP. These State agencies have already developed management plans that define the types of recreational activities on the natural resources they manage (Gevirtz *et al.* 2007; California State Parks 1991)The designation of critical habitat on these lands imposes no additional restrictions beyond what is imposed by these State agencies. Consequently, there is no economic impact to the mountain-biking community, and that is why mountain biking was not addressed in the DEA.

(16) Comment: A mountain-biking association stated that studies have been done to suggest that mountain bicycles and hiking have similar impacts on wildlife. The commenter stated that, without specific studies on how mountain-bike use would impact Vandenberg monkeyflower, it would be premature to limit or halt the use of mountain bikes in Burton Mesa chaparral habitat.

Our Response: In the proposed rule to list Vandenberg monkeyflower as an endangered species (78 FR 64840), we stated that the available information did not indicate the extent and degree to which mountain biking may be directly impacting Vandenberg monkeyflower habitat on the Reserve, which accounts for much of the Burton Mesa chaparral habitat within our critical habitat designation. However, we have recently been informed by CDFW that unauthorized mountain-bike use on the Reserve has been increasing, and that CDFW law enforcement staff have recently been meeting with local biking groups to discuss these issues.

With respect to the biological impacts that mountain bikes may have to sensitive resources, we note that the commenter did not provide information regarding studies on biking and hiking impacts. Nevertheless, in our proposed rule to list Vandenberg monkeyflower as an endangered species (78 FR 64840), we discuss threats to this species and its habitat from recreational activities (see *Factor A—The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range—Recreational and Other Human Activities*); studies have shown that wheeled recreational activities likely contribute to the spread of invasive, nonnative plant species at other locations (Gelbard and Belnap 2003; Gevirtz *et al.* 2005, p. 225). Therefore, while there may not be studies regarding the effects of mountain biking on Vandenberg monkeyflower specifically, we identified invasive, nonnative plants as the greatest threat to this species and its habitat, and it is likely that this type of impact occurs within the Reserve along the travel routes, some of which occur within Burton Mesa chaparral (Vandenberg monkeyflower) habitat.

Restrictions on mountain bike use are a result of State direction as opposed to a restriction associated though a critical habitat designation. Specifically, for State lands included in the critical habitat designation, mountain-biking is prohibited at the Reserve, and is restricted to authorized roads and trails

at La Purisima Mission SHP. The State agencies have completed analyses of potential mountain biking impacts on natural resources that they manage. See also our response to *Comment 12.*

(17) Comment: One commenter supported the designation of critical habitat because it would greatly increase Vandenberg monkeyflower's chance of survival.

Our Response: We appreciate the commenter's support to designate critical habitat for this species. The potential benefits of designating critical habitat for Vandenberg monkeyflower include, but are not limited, to: (1) Focusing conservation activities on the most essential features and areas; (2) providing educational benefits to State or county governments, private entities, and the public; and (3) reducing the potential for the public to cause inadvertent harm to the species.

(18) Comment: One commenter encouraged us to consider unoccupied habitat for the critical habitat designation, specifically where the species could be recovered in light of the extent of habitat loss of Vandenberg monkeyflower.

Our Response: Under the first prong of the Act's definition of critical habitat, areas within the geographic area occupied by the species at the time it is 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. Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographic 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. We designate critical habitat in areas outside the geographic area occupied by a species only when a designation limited to its range would be inadequate to ensure the conservation of the species.

In the case of Vandenberg monkeyflower, we are designating critical habitat under the first prong of the Act because we determined that the area that is within the geographic range of the species contains the physical or biological features that are essential to Vandenberg monkeyflower and would be adequate for the conservation of the species. In addition, habitat that is essential to Vandenberg monkeyflower occurs on Vandenberg AFB; however, we did not designate critical habitat on Vandenberg AFB because the Air Force has an approved INRMP, which provides a conservation benefit to Vandenberg monkeyflower and its habitat, and thus the Air Force is exempt from critical habitat per section 4(a)(3)(B)(i) of the Act. Finally, we note that the commenter did not include reference to any particular area in which they were concerned.

(19) Comment: One commenter suggested that we should not exclude lands from the final critical habitat designation that are managed by the State at the Reserve and La Purisima Mission SHP because their existing management plans are general plans and are not implemented specifically to protect Vandenberg monkeyflower. The commenter stated that the benefits of including State lands at the Reserve and the La Purisima Mission SHP as designated critical habitat would enhance protection for Vandenberg monkeyflower, even if the existing general plans overlap or duplicate future protections on these lands.

Our Response: Under section 4(b)(2) of the Act, the Secretary may designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, the impact on national security, and any other relevant impact of specifying any particular area as critical habitat. We consider a number of factors when excluding areas from critical habitat designations, including (but not limited to) whether landowners have developed any HCPs or other management plans for the area; whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat; tribal issues; and other relevant impacts. For Vandenberg monkeyflower, we considered if the current land management plans at the Reserve and La Purisima Mission SHP provide adequate management or protection (see *Exclusions Based on Other Relevant Impacts* for additional discussion).

For both the Reserve and La Purisima Mission SHP, the commenter is correct in that the general management plans are not implemented specifically to protect Vandenberg monkeyflower. Both the general management plans address the above criteria to some degree for exclusion of lands from critical habitat designation; for instance, they support a conservation strategy consistent with currently accepted principles of conservation biology that would provide a benefit to Vandenberg monkeyflower habitat. However, based on conversations with staff at the Reserve and La Purisima Mission SHP, we have concerns whether the resources will be available to adequately implement these plans to protect Vandenberg monkeyflower and its habitat into the future. Therefore, because these lands meet the definition of critical habitat and contain the physical or biological features essential to the conservation of the species, and we have concerns regarding the implementation of the management plans in the future, we have not excluded the Reserve and La Purisima Mission SHP in the final critical habitat designation (see *Exclusions Based on Other Relevant Impacts* section).

(20) Comment: One commenter suggested that among the economic benefits and impacts of designating critical habitat, the Service should consider such benefits as the ecological value of protecting the maritime chaparral of Burton Mesa, the added benefit of the public's enjoyment of nature, and the natural heritage of California and Santa Barbara County.

Our Response: We acknowledge the comment. Critical habitat designation can also result in ancillary conservation benefits to Vandenberg monkeyflower and its habitat by educating the public and local agencies, such as the County of Santa Barbara, about the importance of conserving Burton Mesa chaparral habitat. Section 4(b)(2) of the Act directs us to take into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular areas as critical habitat. We recognize that there may be economic benefits from the additional beneficial services that derive from conservation efforts but are not the purpose of the Act (*i.e.,* ancillary benefits). However, due to existing data limitations, we were unable to monetize these beneficial services during the development of the economic analysis.

Comment Regarding Critical Habitat Unit Boundaries

(21) Comment: One commenter was supportive of our proposal to designate critical habitat and our inclusion into critical habitat of areas with suitable habitat on Burton Mesa where the species may grow due to the shifting nature of Vandenberg monkeyflower and its habitat. However, the commenter questioned the boundaries of critical habitat because we did not include certain areas in Unit 2 (Santa Lucia) that were impacted by nonnative species and vehicle trackways (*e.g.,* the racetrack), which makes the unit unnecessarily fragmented. The commenter stated that we should include additional areas between Units 3 (Encina) and 4 (La Purisima), and northeast of Unit 3 because suitable habitat is present.

Our Response: We conducted an evaluation of the specific areas suggested by the commenter as potentially containing habitat to determine if they may have the physical or biological features essential to the conservation of the species and may require special management considerations or protection. We used aerial photographs (Google Earth 2012) and soil series mapped by the Natural Resources Conservation Service (Soil Conservation Service 1972). We found that neither the suggested areas within Unit 2 nor the area northeast of Unit 3 consist of the appropriate soil types as described in the *Physical or Biological Features—Loose Sandy Soils* section of the proposed critical habitat rule (78 FR 64446). Additionally, the ridge between Units 3 and 4 was at a higher elevation than we used for our mapping criteria, which was based in part on the elevations of known populations of Vandenberg monkeyflower. Consequently, these areas do not meet the definition of critical habitat for Vandenberg monkeyflower and thus were not included in this final rule.

Adequacy of PCEs

(22) Comment: One commenter questioned the Primary Constituent Elements (PCEs) we identified, stating that the PCEs (maritime chaparral communities of Burton Mesa and loose sandy soils) described in the proposed critical habitat designation are overly general and encompass large areas that are not currently occupied by the species, and that the link between the PCEs and these areas is not clear or supported by evidence.

Our Response: Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of Vandenberg monkeyflower in areas occupied at the time of listing, focusing on the features' PCEs. We consider PCEs to be the elements of physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species. In determining which areas within the geographic area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. Therefore, we considered the areas occupied by the species, and the elements of the physical or biological features that provide for this species' life-history processes, including: (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 Vandenberg monkeyflower.

Combined with the criteria used to identify critical habitat, we evaluated the best available information and used the best scientific data available. Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes, we determined that the structure of the maritime chaparral habitat and loose sandy soils are appropriate PCEs for Vandenberg monkeyflower (see *Primary Constituent Elements (PCEs) for Vandenberg Monkeyflower*). We note that, although the commenter stated the PCEs in and of themselves may appear overly broad, the commenter provided no new information to help better define the PCEs or improve the criteria we used to delineate boundaries.

(23) Comment: One commenter stated we should have excluded in the text description of the PCEs those areas that consist of consolidated soils because they are not suitable for Vandenberg monkeyflower.

Our Response: Consolidated soils may appear to be less suitable than loose sandy soils for Vandenberg monkeyflower and its associated life-history processes. We sought to find a means of separating out such consolidated soils from loose sandy soils; however, the best available data (as mapped by NRCS) includes a combined mix of consolidated and loose sandy soils. It is also quite likely that both the consolidated and loose sandy soils provide suitable substrate and vegetation for certain ground-nesting pollinators. For these reasons, we did not exclude consolidated soils when we created/developed PCEs for Vandenberg monkeyflower. We note further that the commenter did not provide any additional information that would assist us in excluding these soils.

(24) Comment: One commenter stated we should have excluded areas that are currently dominated by nonnative species, such as veldt grass or eucalyptus and pine groves, because these areas do not contain the ''essential features.''

Our Response: 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. Areas that currently support nonnative species, such as veldt grass or eucalyptus and pine groves, may not visually appear to be suitable habitat for Vandenberg monkeyflower. However, physical or biological features relied upon by the species are present.

For example, appropriate soil types are present throughout the areas with invasive, nonnatives present, and it is probable that pollinators and seed dispersers traverse areas consisting of nonnative plants adjacent to and in between Vandenberg monkeyflower populations (see *Criteria Used To Identify Critical Habitat* and *Physical or Biological Features—Contiguous Chaparral Habitat* sections for additional pollinator discussion). In addition, with special management of the habitat that currently consists of nonnative plants, these areas could support new or expanded populations of Vandenberg monkeyflower and its habitat, as well as associated life-history processes, in the future. Therefore, we have included in the critical habitat designation those areas containing the physical or biological features essential to the conservation of the species that are occupied at the time of listing and that may require special management considerations or protection, including some areas that currently support nonnative species.

(25) Comment: One commenter stated that no explanation was given as to why we needed to include all extant populations outside of Vandenberg AFB in the proposed critical habitat designation.

Our Response: As discussed above, the purpose of designating critical habitat is to identify the physical or biological features essential to the conservation of a threatened or endangered species in areas occupied at the time of listing that may require special management considerations or protection. In the case of Vandenberg monkeyflower, the Burton Mesa chaparral community, which harbors the full range of the species, has already sustained a loss of approximately 53 percent over the last 80 years (Service 2012a; Hickson 1987). Moreover, the

number of Vandenberg monkeyflower populations and the number of individuals are small when compared to other annual species (see, for example, Keith 1998, pp. 1076–1090; Natureserve 2012, pp. 21–22). Because the size and number of populations are small, and the habitat has already been subjected to substantial losses over the last 80 years, additional losses of habitat that support the life-history processes reduce the likelihood of the long-term persistence of the species. These factors contributed to our determination that the remaining suitable habitat (including habitat supporting all populations outside of Vandenberg AFB) for Vandenberg monkeyflower is essential to the conservation of the species.

(26) Comment: One commenter stated that seed dispersal distances, which the Service uses as part of the methodology to delineate proposed critical habitat boundaries for Vandenberg monkeyflower, are based on inappropriate examples, such as Greene and Johnson (1995). The commenter believes this reference is not appropriate because the study focused on long-distance dispersal of tree seeds that are specifically adapted to wind dispersal, rather than small-statured annual plant species like Vandenberg monkeyflower. Rather, the commenter suggested using examples such as Soons *et al.* (2004), which show dispersal distances of less than 33 ft (10 m) that may be more appropriate to compare with Vandenberg monkeyflower.

Our Response: We agree that the discussion concerning seed dispersal distances could be improved, specifically with regard to how dispersal distances were used as one criterion to help delineate boundaries of the proposed critical habitat. Therefore, we have provided revised text to clarify the seed dispersal discussion in the *Contiguous Chaparral Habitat* section of this rule. We acknowledge that one of the references cited (*i.e.,* Greene and Johnson 1995) focused on long-distance dispersal of tree seeds rather than annual plant species. However, we note that we did not compare the dispersal distances of the tree seeds with those of Vandenberg monkeyflower; we used this reference specifically to make the point that seeds may be caught in wind updrafts that could carry them longer distances than horizontal winds.

We also reviewed Soons *et al.* (2004), which the commenter suggested could be more analogous to Vandenberg monkeyflower for examining potential seed dispersal distances. We found that the focus of the Soons *et al.* (2004) study was to: (1) Determine which intrinsic and extrinsic factors were used in various dispersability models, and (2) compare how well the models simulated field studies of seed dispersal distances for four species. The study, therefore, did not attempt to determine long-distance seed dispersal distances for the four species. Further, we conducted an additional review of the best available literature regarding seed dispersal distances and recognize that determining long-distance seed dispersal distances for any species is challenging (see *Contiguous Chaparral Habitat* and *Summary of Changes From October 29, 2013, Proposed Rule* sections above). More importantly, we realize we did not explain how short-distance seed dispersal and long-distance seed dispersal differ with respect to the long-term persistence of the species, even if the latter cannot be precisely determined. Therefore, we have provided a revised discussion of seed dispersal for Vandenberg monkeyflower in the discussion of Contiguous Chaparral Habitat (see *Summary of Changes From October 29, 2013, Proposed Rule* and *Physical or Biological Features* sections).

Comments Regarding Pollinators and Pollinator Foraging Distances

(27) Comment: One commenter stated that pollinators would only use maximum foraging distances under highly stressed conditions, as compared to shorter distances that are more commonly used.

Our Response: Regarding our use of maximum pollinator foraging distances rather than average foraging distances to help delineate critical habitat boundaries, we note the following: A recent discussion of pollinator foraging distances by Zurbechen *et al.* (2010, entire) concludes that earlier studies on foraging distances had generally underestimated the maximum distances flown, such as those calculated based on body size (*e.g.,* Gathmann and Tscharntke 2002, entire). For instance, the small solitary bee *Hylaeus punctulatissimus* (no common name) had a maximum foraging distance of 3,609 ft (1,100 m), and the medium-sized solitary bee *Chelostoma rapunculi* (no common name) had a maximum foraging distance of 4,183 ft (1,275 m) (Zurbechen *et al.* 2010, p. 674). They also found that most individual bees within each species typically flew shorter distances, with 75 percent of *H. punctulatissimus* and *Hoplitis adunca* (another medium-sized solitary bee) individuals flying no farther than 1,312 ft (400 m) and 2,297 ft (700 m), respectively (Zurbechen *et al.* 2010, pp. 671–675). We agree with the commenter that pollinator flight distances would be dependent on the availability of floral resources, among other things. Pollinators for Vandenberg monkeyflower likely fly longer distances to gather required resources in less favorable years given that it is a small annual species that shows high variability in its expression depending on climatic conditions, and that other flowering plants within the maritime chaparral habitat are also affected by the annual variation in climatic conditions. Thus, when determining which areas should be critical habitat for Vandenberg monkeyflower, we considered habitat potentially used by pollinators in both favorable and unfavorable years to assist us in developing the pollinator foraging distance criteria for delineating critical habitat boundaries.

(28) Comment: One commenter stated that the discussion we included in the proposed rule regarding bumblebee foraging distances (see *Criteria Used To Identify Critical Habitat*) was irrelevant to Vandenberg monkeyflower, since they are not considered potential pollinators for this plant.

Our Response: We have provided a revised discussion of pollinator foraging distances in this final rule (see *Summary of Changes from October 29, 2013, Proposed Rule* and *Criteria Used To Identify Critical Habitat* sections). We agree that bumblebee foraging distances are not appropriate to reference with respect to Vandenberg monkeyflower because they are not likely pollinators. Therefore, we discuss foraging distances of small- to medium-sized bees that are more likely pollinators than bumblebees for Vandenberg monkeyflower.

(29) Comment: One commenter stated that we inappropriately focused on a study by Steffan-Dewenter and Tscharntke (2000) that discusses foraging distances for honeybees, rather than considering the foraging distances of solitary bee species that are more likely between 164 and 1,640 ft (50 and 500 m). The commenter believes the actual foraging distance is more appropriate to consider than maximum foraging distance.

Our Response: Relative to our use of a study by Steffan-Dewenter and Tscharntke (2000, entire), we have rewritten the discussion of pollination ecology for Vandenberg monkeyflower and the discussion of pollinator flight distances in the *Criteria Used To Identify Critical Habitat* section of this final rule. In addition, see our response to *Comment 27* relative to using maximum foraging distances of pollinators, including the need to

consider areas used by pollinators in both favorable and unfavorable years.

(30) Comment: One commenter stated that, although bees require nearly continuous habitat for foraging, habitat need not be in every direction out from the apiary (*i.e.,* hive or nest). As such, the commenter believes the existing areas of reserves and conservation areas on State and Federal land are adequate for conservation of Vandenberg monkeyflower.

Our Response: We agree with the commenter's understanding that bees require nearly continuous habitat for foraging but that suitable habitat need not be in every direction out from the apiary. However, we note that for delineating critical habitat boundaries, we considered bee foraging habitat, bee nesting habitat, and other habitat important to Vandenberg monkeyflower to support its life-history processes (see *Criteria Used To Identify Critical Habitat* section). For example, we considered space for Vandenberg monkeyflower individual and population growth, reproduction, and dispersal—not only within populations, but between populations and from existing populations to other sites that support the physical or biological features upon which Vandenberg monkeyflower depends. Principles of conservation biology stress the importance of maintaining the largest areas of contiguous habitat possible, with the least amount of fragmentation. Moreover, under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of Vandenberg monkeyflower in areas occupied at the time of listing, focusing on the features' PCEs. We are required to identify these lands irrespective of land ownership. While reserve and park lands may be viewed or considered by most as conserved areas, the management of these lands does not ensure the conservation of sensitive species. Conversely, privately owned lands may provide space for Vandenberg monkeyflower individual and population growth, reproduction, and dispersal, and so are important to identify as lands important to the species. Therefore, we have identified all the lands that are important, regardless of ownership.

Comments Regarding Habitat Fragmentation

(31) Comment: One commenter stated that designating critical habitat to address losses due to habitat fragmentation is not applicable for Vandenberg monkeyflower because of the presence of various State and Federal lands that are protected either through conservation purpose (Reserve and La Purisima Mission SHP) or by conservation plan (Vandenberg AFB INRMP), in addition to land that was purchased for mitigation for the Burton Ranch Project site and now is owned by the Land Trust for Santa Barbara County.

Our Response: 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 essential to the conservation of the species and 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. In the case of Vandenberg monkeyflower, we have determined that only those areas on Burton Mesa identified under the first part of the definition of critical habitat are considered essential to the species conservation. Once the physical or biological features were determined and mapped (see the *Physical or Biological Features* and *Criteria Used To Identify Critical Habitat* sections), the resulting proposed critical habitat included fragmented areas (which are a result of impacts such as (but not limited to) development, roads and nonnative, invasive plants (see Factors A and E discussions in the proposed listing rule (78 FR 64840)).

It was important for us to take these fragmented areas on Burton Mesa into consideration due to the threats that have caused and continue to cause habitat fragmentation throughout the final critical habitat designation and the needs of this species requiring contiguous chaparral habitat (see *Physical or Biological Features—Contiguous Chaparral Habitat*). Because Vandenberg monkeyflower occurs in a conservation area or an area with a management plan in place does not necessarily mean that there is not already, or would not be, habitat fragmentation. We have also determined that habitat within the conservation areas meets the definition of critical habitat, per the criteria outlined in the *Criteria Used To Identify Critical Habitat* section, and that special management considerations are needed in these conserved areas (*e.g.,* minimizing habitat fragmentation, minimizing the spread of invasive, nonnative plants) (see *Special Management Considerations or Protection*).

(32) Comment: One commenter stated that the proposed critical habitat designation refers to Young *et al.* (1996) for evidence that habitat fragmentation results in a loss of genetic variation (see *Criteria Used To Identify Critical Habitat* section in the proposed critical habitat rule (78 FR 64446)), and further stated that the authors concluded that genetic losses are primarily a result of genetic bottlenecks at the time of fragmentation; the proposed critical habitat rule asserted that separating populations from each other would have the greatest effect on genetic losses.

Our Response: Young *et al.* (1996, p. 416) concluded that losses are due to genetic bottlenecks at the time of habitat fragmentation and to subsequent inbreeding in small populations. We used this citation to note that habitat fragmentation generally has population genetic consequences for plants, especially species with small population numbers. Therefore, because some residual populations of Vandenberg monkeyflower are small (the numbers of populations and the numbers of individuals are small when compared to other annual species) and the habitat is fragmented due to the factors mentioned above in our response to *Comment 31,* even a small loss of genetic diversity may impact this species.

(33) Comment: One commenter stated that the proposed critical habitat designation refers to Aguilar *et al.* (2008) for evidence that habitat fragmentation affects survival and recovery, and further states that Aguilar *et al.* (2008) concluded that habitat fragmentation results in lower genetic diversity, but losses are greatest for common species. The commenter also noted that Vandenberg monkeyflower is not a common species but an uncommon species and would, therefore, be expected to have smaller losses of genetic diversity as a result of habitat fragmentation.

Our Response: While we meant to point out that habitat fragmentation affects the survival and recovery of species, the focus of Aguilar *et al.* (2008, entire) was on how habitat fragmentation may differentially affect the genetic diversity of common species compared to that of uncommon species. Therefore, we removed the reference to Aguilar *et al.* (2008) in the *Physical or Biological Features—Contiguous Chaparral Habitat* and *Criteria Used To Identify Critical Habitat* sections above, and replaced it with other references that more generally discuss the ways that habitat fragmentation can affect the

survival and recovery of species (*i.e.,* Franklin *et al.* 2002, pp. 20–29; Alberts *et al.* 1993, pp. 103–110).

(34) Comment: One commenter stated that that we inappropriately focused on Menges (1991) (see *Criteria Used To Identify Critical Habitat* section in the proposed critical habitat rule (78 FR 64446)) to support the argument that habitat fragmentation results in decreased germination rates. The commenter stated that because most populations of Vandenberg monkeyflower have at least several hundred individuals, and populations above several hundred individuals generally had germination rates equivalent to larger populations, habitat fragmentation would not be expected to result in decreased germination for this species.

Our Response: We agree with the commenter that, in general, larger populations of plant species would likely be less threatened by reduced germination rates than smaller populations. For determining critical habitat for Vandenberg monkeyflower, we chose to group the extant occurrences into nine populations based on the geographic separation between them (see *Distribution of Vandenberg Monkeyflower—Current Status of Vandenberg Monkeyflower* section in the proposed listing rule (78 FR 64840)). Five of the populations consist of several hundred individuals, while four of the populations comprise less than a hundred individuals each. These four small populations have already been affected by habitat fragmentation and invasive, nonnative plants (78 FR 64840). Furthermore, with the expansion of invasive, nonnative species on Burton Mesa, habitat quality may continue to decline and negatively affect the size of the remaining populations of Vandenberg monkeyflower (see Factor A discussion in the proposed listing rule (78 FR 64840)). Although we have no specific information about germination rates in Vandenberg monkeyflower at this time, the reference to Menges (1991, entire) relative to the example of how habitat fragmentation leads to small population size and reduced germination rates is appropriate to include in our discussion of how habitat fragmentation could affect Vandenberg monkeyflower.

(35) Comment: One commenter stated that we inappropriately focused on Jennersten (1988) and Cunningham (2000) to document that habitat fragmentation leads to reduced fruit set in Vandenberg monkeyflower populations. The commenter noted that because fragmented habitats evaluated in Jennersten (1988) were very small in size, this situation should not apply similarly to Vandenberg monkeyflower, which predominantly occurs in conserved areas with management plans.

Our Response: In regard to the study by Jennersten (1988, entire), we stated in our response to *Comment 31* above and *Summary of Factors Affecting the Species* section of the proposed listing rule (78 FR 64840) that Burton Mesa is currently fragmented by residential developments and on a smaller scale by roads, trails, and stands of invasive, nonnative plants. A large proportion (approximately 81 percent) of Vandenberg monkeyflower critical habitat occurs in conserved areas (*i.e.,* ecological reserve and State park lands with management plans); however, this does not necessarily eliminate the potential for populations of this species to be isolated in a smaller area (for example, see Volans Avenue occurrence in *Current Status of Vandenberg Monkeyflower* in the proposed listing rule (78 FR 64840)).

(36) Comment: One commenter stated that Cunningham (2000) does not provide evidence that habitat fragmentation results in reduced fruit set for Vandenberg monkeyflower because Cunningham (2000) found variable results for different species (*i.e.,* some species produced more fruit and some produced less).

Our Response: In regard to the study by Cunningham (2000, entire), study results showed that flowers received less pollen when growing in fragmented sites. Because Vandenberg monkeyflower is known to occur in fragmented areas (see *Distribution of Vandenberg Monkeyflower—Current Status of Vandenberg Monkeyflower* section in the proposed listing rule (78 FR 64840) and our response to *Comment 31,* we found it appropriate to use this study along with Jennersten (1988, entire) to explain the general principle that plants subject to habitat fragmentation may have lower fruit production.

Comments Requesting Exclusion From the Final Critical Habitat Designations

(37) Comment: One commenter stated the conservation measures currently in place for the development of Burton Ranch adequately protect Burton Mesa chaparral. The commenter stated that the owners of Burton Ranch completed a conservation easement with Land Trust of Santa Barbara County that protects 95 ac (38 ha) offsite, and they plan to maintain a buffer at the north end of the Burton Ranch property to protect onsite chaparral habitat. The commenter stated that these protections are certainly as robust as, or more robust than, other conservation measures applicable to the Reserve and La Purisima Mission SHP in which the Service has found sufficient to support excluding these lands from the final critical habitat designation. Therefore, the commenter requests that Burton Ranch be excluded from the final critical habitat designation.

Our Response: 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. For exclusions based on other relevant impacts, we consider a number of other factors, including whether the landowners have developed any Habitat Conservation Plans (HCP) or other management plans for an area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. We consider a current land management or conservation plan (HCPs as well as other types) to provide adequate management or protection if it meets the following criteria: (1) The plan is complete and provides a conservation benefit for the species and its habitat; (2) there is a reasonable expectation that the conservation management strategies and actions will be implemented into the future, based on past practices, written guidance, or regulations; and (3) the plan provides conservation strategies and measures consistent with currently accepted principles of conservation biology.

With regard to the Reserve and La Purisima Mission SHP, the purpose of the Reserve is to manage, operate, and maintain the sovereign lands for the sensitive species and habitats they support (Gevirtz *et al.* 2007, p. 3), and the goal of the State Parks natural resource management program is to protect, restore, and maintain the natural resources in the State Park system (*www.parks.ca.gov*). These State lands also have existing management plans (Gevirtz 2007; California State Parks 1991). In our proposed rule, we considered excluding the Reserve and La Purisima Mission SHP from the final designation of critical habitat under section 4(b)(2) of the Act based on partnerships with the State for their management of the Reserve and La Purisima Mission SHP, and the management and protection afforded to these lands by general management plans the State has developed for the Reserve and La Purisima Mission SHP

(see *Exclusions Based on Other Relevant Impacts* in the proposed critical habitat rule (78 FR 64446)). In this final rule, we did not exclude the State lands at the Reserve and La Purisima Mission SHP from critical habitat (see *Consideration of Impacts Under Section 4(b)(2) of the Act—Exclusions Based on Other Relevant Impacts*).

With regard to the Burton Ranch project site and specifically the Burton Ranch Development Plan, we note that up to approximately 83 out of 93 ac (34 out of 38 ha, or approximately 90 percent) of Burton Mesa chaparral is proposed to be impacted. With the estimated effect to chaparral on Burton Ranch, the conservation strategy outlined for the Burton Ranch Development Plan would not be adequate to protect the species and its remaining habitat in this area. Therefore, we did not consider Burton Ranch for exclusion from critical habitat based on other relevant impacts under section 4(b)(2) of the Act. However, we appreciate that the owners of Burton Ranch proposed to maintain a buffer between development and the Reserve to minimize effects to the chaparral habitat within the Reserve, including areas containing Vandenberg monkeyflower habitat. We also appreciate that Burton Ranch completed a conservation easement with the Land Trust for Santa Barbara County to protect 95 ac (38 ha) off-site of Vandenberg monkeyflower habitat that features Burton Mesa chaparral, coastal scrub, and oak savannah habitat.

(38) Comment: One commenter stated that Vandenberg monkeyflower was found not to exist on Burton Ranch, and, therefore, this area should not be included as critical habitat.

Our Response: According to section 4 of the Act, we designate critical habitat in areas within the geographic area occupied by the species at the time of listing that contain the physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protections. Although Vandenberg monkeyflower has not been observed above-ground on this specific property, the area harbors the PCEs, as well as the physical or biological features essential to the conservation of the species that may require special management considerations or protections (see *Primary Constituent Elements (PCEs) for Vandenberg Monkeyflower* and *Physical or Biological Features* sections), and is contiguous with State lands (*i.e.,* Reserve) that are known to be occupied. Thus, this area is considered to be within the geographical area occupied by the species at the time of listing. Unit 3 is considered occupied based on the presence of the species at multiple locations throughout the unit. In addition, Burton Ranch may contain a seed bank (see *Background—Life History* section of the proposed listing rule (78 FR 64840)) because Vandenberg monkeyflower is known to occur within 0.5 mi (0.8 km) of Burton Ranch. Therefore, Burton Ranch meets the definition of critical habitat according to the Act and is included as critical habitat in this final rule.

(39) Comment: One commenter stated that Burton Ranch is not ''prime'' habitat for Vandenberg monkeyflower because most of the area slated for development has been previously disturbed over the years. The commenter explained that several homes already exist on immediately adjacent properties, which fragments the continuity of native plant species in general. In addition, the commenter stated that the property has been previously graded and has been farmed in the past. Therefore, the commenter believes this ''less than prime'' area should be excluded from the final critical habitat designation.

Our Response: According to section 4 of the Act, we designate critical habitat in areas within the geographic area occupied by the species at the time of listing that contain the physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection (see our response to *Comment 37* above). The commenter did not define what ''prime habitat'' for Vandenberg monkeyflower is, but we presume the commenter was referring to our description of Burton Mesa chaparral (see the *Background—Habitat* section in the proposed listing rule (78 FR 64840)) that has not been subject to any disturbance. We note that Vandenberg monkeyflower habitat is disturbed at various levels, for example due to development, utilities, roadways, and invasive, nonnative plants, and that management in these areas is needed to ensure that the habitat is able to provide for the growth and reproduction of the species (see *Special Management Considerations or Protection*). The existence of disturbed habitat (whether past or current), however, would not necessarily preclude individuals of Vandenberg monkeyflower from occurring in an area or entirely remove the physical or biological features from an area. Because Burton Ranch contains the physical or biological features essential to the conservation of Vandenberg monkeyflower (see response to *Comment 38*) and may require special management consideration or protections, the area meets the definition of critical habitat according to the Act.

(40) Comment: The Vandenberg Village Community Services District (VVCSD) requested that 106 ac (43 ha) be excluded from the final critical habitat designation. The commenter stated that if finalized, the critical habitat designation may preclude future construction of water wells necessary to supply the community of Vandenberg Village with drinking water.

Our Response: We note that the 106 ac (43 ha) of land requested for exclusion from the final critical habitat designation is land owned by the State Lands Commission and managed by the California Department of Fish and Wildlife. Relative to the commenter's concern that a final critical habitat designation may preclude development of wells, designation of critical habitat does not automatically prohibit development on private or State lands because there are no statutory requirements for section 7 consultations for actions undertaken on non-Federal lands or without a Federal nexus. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area, nor does it require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. 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. At this time, we have not received any information indicating there is a Federal nexus for the construction of new water wells. Without such a nexus, potential future construction of water wells would not require section 7 consultation. We welcome the opportunity to work with VVCSD to minimize the effects to Vandenberg monkeyflower and its habitat relative to the potential construction of new wells.

(41) Comment: One commenter stated that Unit 3 (Encina) contains plant communities not consistent with Vandenberg monkeyflower habitat, such as oak woodland and chamise chaparral, and may provide areas where Vandenberg monkeyflower does not occur and where wells could be constructed.

Our Response: Unit 3 contains the physical or biological features essential to the conservation of Vandenberg monkeyflower (see *Physical or*

Biological Features). We note that we identified oak woodland and chamise chaparral as aspects of the composition of vegetation on Burton Mesa (see *Background—Habitat* section in the proposed listing rule (78 FR 64840)). We also note that we discussed the structure of the chaparral habitat as a mosaic of maritime chaparral vegetation (which includes maritime chaparral and maritime chaparral mixed with coastal scrub, oak woodland, and small patches of native grasslands (Wilken and Wardlaw 2010, p. 2)) and sandy openings (canopy gaps) that varies from place to place (see *Background—Habitat* in the proposed listing rule (78 FR 64840)). Thus, within a given substrate, the chaparral composition is a reflection of stand age or shrub canopy cover, disturbance history, history of wildfire, and distance from the coast (Davis *et al.* 1988, p. 188; Gevirtz *et al.* 2007, p. 97). Therefore, even though Unit 3 may contain habitat such as oak woodland and chamise chaparral, the structure of the habitat may shift over time, and the unit currently contains the physical or biological features essential to the conservation of the species that may require special management considerations or protection. As such, Unit 3 meets the definition of critical habitat for Vandenberg monkeyflower according to the Act.

Economic Comments Related to the Draft Economic Analysis (DEA)

(42) Comment: Three commenters stated that public lands near Vandenberg Village provide important recreational opportunities. They expressed the concern that if critical habitat is designated, access to public lands would be reduced, and recreational activities such as hiking and bicycling would no longer be allowed. One of these commenters was also concerned that this would negatively affect local bike shops.

Our Response: The majority (approximately 81 percent) of the total proposed critical habitat designation is located on State lands consisting of the Reserve and La Purisima Mission SHP. Both of these areas have land management plans that specify allowable recreational activities. According to the Final Land Management Plan for the Reserve, bicycling is not allowed (see Gevirtz *et al.* 2007, *Final Land Management Plan for Burton Mesa Ecological Reserve).* The La Purisima Mission SHP Park General Plan states that bicycles are permitted on approximately 5 miles of fire roads (see California State Parks 1991, *La Purisima Mission State Historic Park General Plan).* Both plans also specify areas in which hiking is allowed.

If these land management plans are changed or updated, section 7 consultation with the Service is unlikely because a Federal nexus does not exist. Hence, it is unlikely that the designation of critical habitat would limit the recreational activities that are allowed in the Reserve and the La Purisima Mission SHP. To the extent that biking or other recreational activities occur on private lands, a Federal nexus requiring consultation with the Service is also unlikely. Therefore, it is unlikely that this designation of critical habitat for Vandenberg monkeyflower will have a significant effect on use of the areas designated for bicycling.

(43) Comment: One commenter stated that the proposed critical habitat designation would lead to numerous environmental and social benefits, including: (a) Requiring Federal agencies to review their actions to assess effects on critical habitat, (b) helping focus Federal and State conservation efforts, (c) increasing public awareness of the species, (d) creating educational opportunities, and (e) creating greater protection for Vandenberg monkeyflower. This commenter supported the designation of critical habitat for Vandenberg monkeyflower, and stated that as much land as possible should be included in the designation.

Our Response: While the primary intended benefit of critical habitat is to support the conservation of endangered or threatened species, the designation would lead to numerous ancillary benefits, as discussed in the screening analysis under the high-end section 7 consultation scenario (IEc 2014, pp. 22–23). This scenario assumes that project proponents are unaware of the presence of Vandenberg monkeyflower and would, therefore, not consult with the Service absent critical habitat. Therefore, under this scenario, all section 7 consultations are an incremental effect of the critical habitat designation, and the designation would create multiple ancillary benefits. These include requiring Federal agencies to review their actions to assess effects on critical habitat, which would not only help protect Vandenberg monkeyflower but also benefit the general health of the chaparral ecosystem. Further benefits of the designation of critical habitat may include improved water and soil quality, and improved ecosystem health for coexisting species.

(44) Comment: One commenter stated that the Reserve is at risk of being removed from the regulatory protections afforded under the Title 14 ecological reserve designation (see California Code of Regulations, Title 14, § 630). The commenter supported the proposal to designate critical habitat because, among other reasons, they believe it would provide an additional level of attention and protection for areas known to support the species and its pollinators. More specifically, the commenter stated that the area is at risk from requests from outside parties to obtain additional leases for projects within occupied habitat, such as the construction of water wells by the VVCSD.

Our Response: The primary purpose of designating critical habitat is to identify the specific areas within the geographic area occupied by the species at the time of listing that contain the physical or biological features essential to the conservation of the species and that may need special management considerations or protection and to identify areas that may be essential for the conservation of the species. Critical habitat designations affect only Federal agency actions or federally funded or permitted activities. While the Final Land Management Plan for the Reserve provides baseline protection within the Reserve, the critical habitat designation could serve as an additional layer of protection if a Federal nexus (*i.e.,* funding or authorization) exists for future actions that could affect critical habitat for Vandenberg monkeyflower.

At this time, we have not received any information indicating there is a Federal nexus for the construction of new water wells within the VVCSD. Without such a nexus, potential future construction of water wells would not require section 7 consultation (see also our response to *Comment 40*). However, as discussed in the DEA, it is possible that the presence of critical habitat would require the project to undergo additional review under the CEQA (IEc 2014, p. 20). As a result, the permitting agency, at their discretion, could require modification of the project plan to avoid adverse impacts to Vandenberg monkeyflower critical habitat.

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 Executive Order 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. Executive Order 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 this 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.

Based on information in the economic analysis, energy-related impacts associated with Vandenberg monkeyflower 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 it would not produce a Federal mandate of $100 million or greater in any year; that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. Our economic analysis concludes that the economic costs of implementing the rule through section 7 of the Act will most likely be limited to the additional administrative effort required to consider adverse modification. This finding is based on the following factors:

(a) All units are considered occupied, providing baseline protection;

(b) Activities occurring within designated critical habitat with a potential to affect critical habitat are also likely to adversely affect the species, either directly or indirectly; and

(c) In occupied habitat, project modifications requested to avoid adverse modification are likely to be the same as those needed to avoid jeopardy.

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 Vandenberg monkeyflower in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or 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. Our DEA found (and our FEA reaffirms) that no significant economic impacts are likely to result from the designation of critical habitat for Vandenberg monkeyflower. Because the Act's critical habitat protection requirements apply only to Federal agency actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the DEA and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, the takings implications assessment concludes that this designation of critical habitat for Vandenberg monkeyflower 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 California. We received comments from the State of California (CDFW, who manages the Reserve) but did not receive comments from State Parks (La Purisima Mission SHP), in response to our request for information on the proposed rule. However, we verbally discussed this critical habitat rule with State Parks staff. 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) would 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 Vandenberg monkeyflower. 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 Vandenberg monkeyflower at the time of listing that contain the physical or biological features essential to conservation of the species, and there are no tribal lands not occupied by Vandenberg monkeyflower that are essential for the conservation of the species. Therefore, we are not designating critical habitat for Vandenberg monkeyflower 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 Ventura 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 Ventura 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; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h), the List of Endangered and Threatened Plants, by adding an entry for ''*Diplacus vandenbergensis''* in alphabetical order under Flowering Plants, to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Diplacus vandenbergensis.	Vandenberg monkeyflower.	U.S.A. (CA)	Phrymaceae	E	847	17.96(a)	NA
*	*	*	*	*	*	*	

■ 3. In § 17.96, amend paragraph (a) by adding the family Phrymaceae and an entry for *''Diplacus vandenbergensis* (Vandenberg monkeyflower)'' in alphabetical order to read as follows:

§ 17.96 Critical habitat—plants.

* * * * *

Family Phrymaceae: *Diplacus vandenbergensis* (Vandenberg monkeyflower)

(1) Critical habitat units are depicted for Santa Barbara County, California, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of Vandenberg monkeyflower consist of two components:

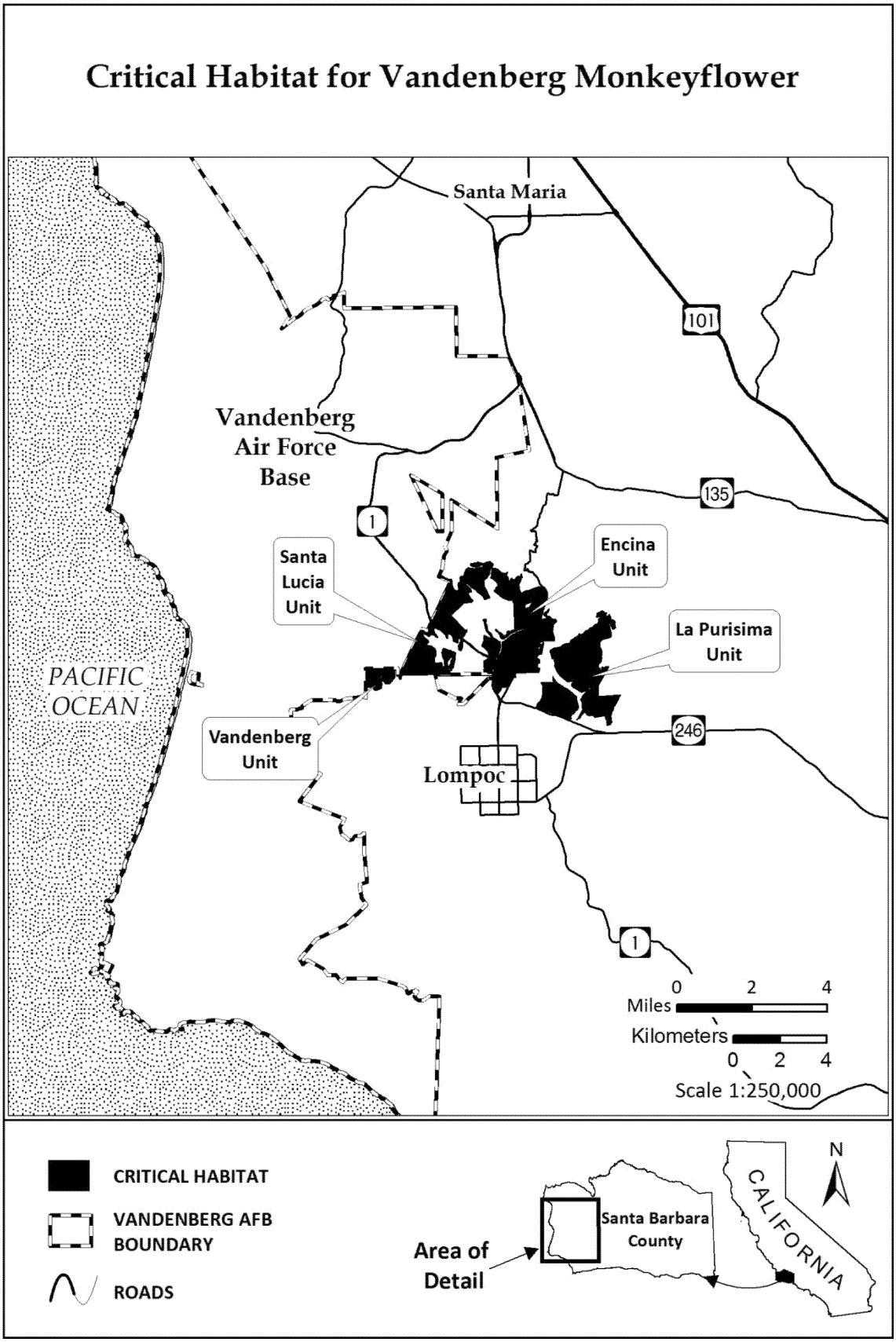
(i) Native maritime chaparral communities of Burton Mesa comprising maritime chaparral and maritime chaparral mixed with coastal scrub, oak woodland, and small patches of native grasslands. The mosaic structure of the native plant communities (arranged in a mosaic of dominant vegetation and sandy openings (canopy gaps)) may change spatially as a result of succession, and physical processes such as windblown sand and wildfire.

(ii) Loose sandy soils on Burton Mesa. As mapped by the Natural Resources Conservation Service (NRCS), these could include the following soil series: Arnold Sand, Marina Sand, Narlon Sand, Tangair Sand, Botella Loam, Terrace Escarpments, and Gullied Land.

(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 September 10, 2015.

(4) *Critical habitat map units.* Data layers defining map units were created on a base of USGS 1:24,000 maps, and critical habitat units were then mapped using Universal Transverse Mercator (UTM) Zone 15N coordinates.

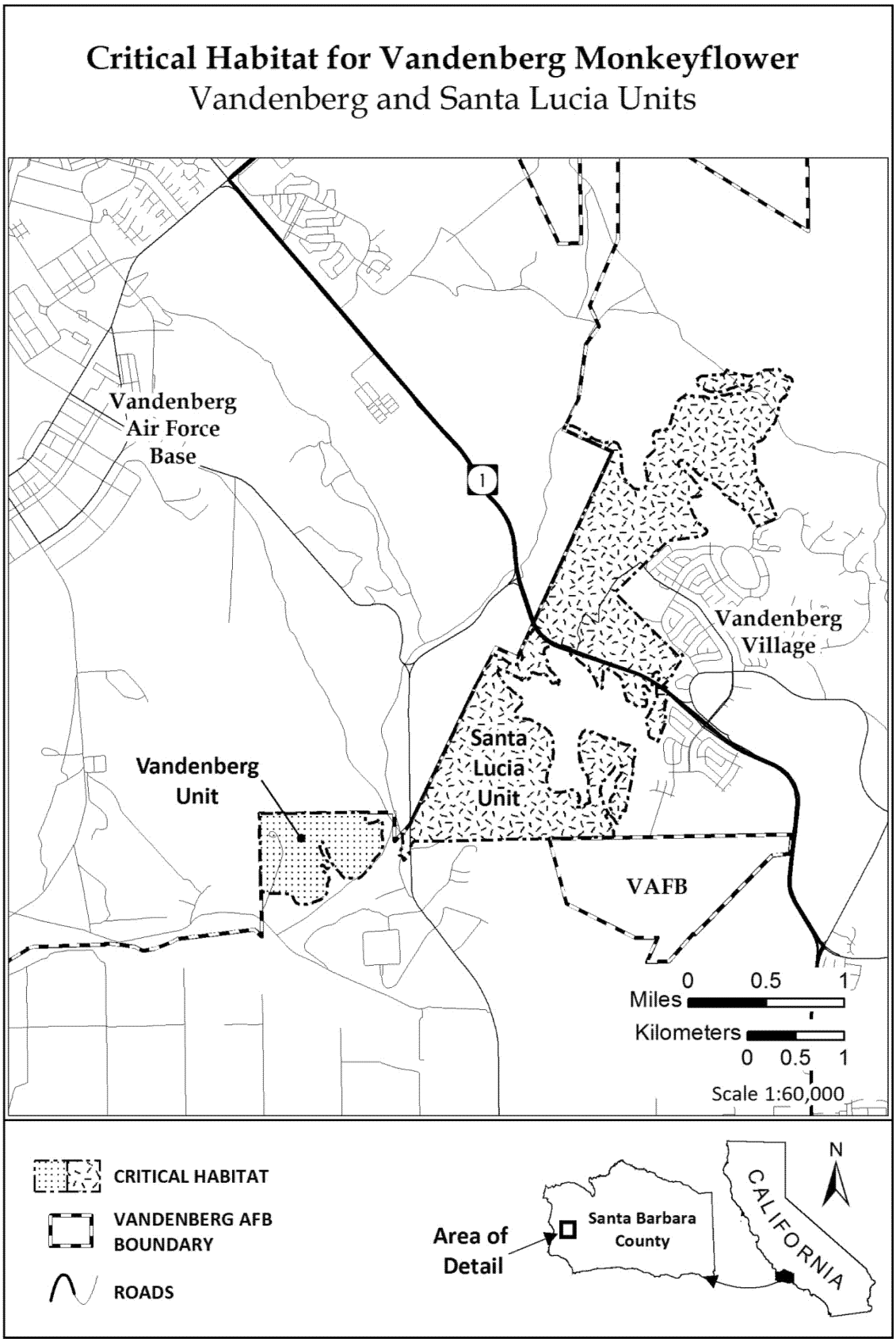
(5) Index map follows:


Critical Habitat for Vandenberg Monkeyflower
Santa Maria
101
Vandenberg Air Force Base
135
1
Santa Lucia Unit
Encina Unit
La Purisima Unit
PACIFIC OCEAN
Vandenberg Unit
246
Lompoc
1
0 2 4
Miles
Kilometers
0 2 4
Scale 1:250,000
CRITICAL HABITAT
VANDENBERG AFB BOUNDARY
ROADS
Area of Detail
Santa Barbara County
CALIFORNIA
N

(6) Unit 1 (Vandenberg) and Unit 2 (Santa Lucia): Santa Barbara County, California.

(i) Unit 1 includes 223 ac (90 ha), and Unit 2 includes 1,484 ac (601 ha).

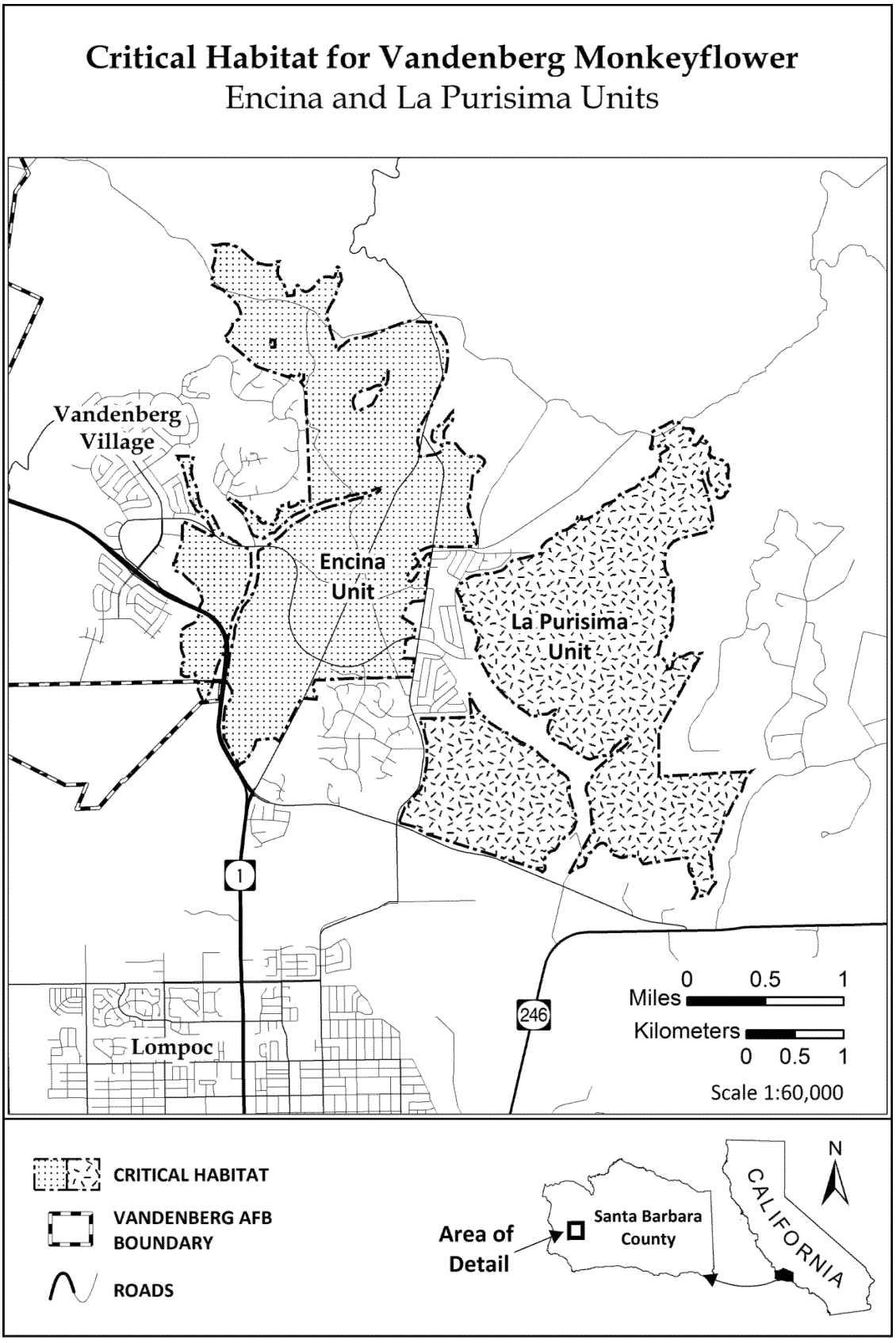
(ii) Map of Units 1 and 2 follows:



(7) Unit 3 (Encina) and Unit 4 (La Purisima): Santa Barbara County, California.

(i) Unit 3 includes 2,024 ac (819 ha), and Unit 4 includes 2,024 ac (819 ha).

(ii) Map of Units 3 and 4 follows:



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Dated: July 29, 2015.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 216

Fish and Fish Product Import Provisions of the Marine Mammal Protection Act; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 216

[Docket No. 0907301201–4923–02]

RIN 0648–AY15

Fish and Fish Product Import Provisions of the Marine Mammal Protection Act

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to revise its regulations to implement the import provisions of the Marine Mammal Protection Act (MMPA). These proposed regulations would establish conditions for evaluating a harvesting nation's regulatory program for reducing marine mammal incidental mortality and serious injury in fisheries that export fish and fish products to the United States. Under this proposed rule, harvesting nations must apply for and receive a comparability finding for each fishery identified by the Assistant Administrator in the List of Foreign Fisheries in order to import fish and fish products into the United States. The proposed rule establishes procedures that a harvesting nation must follow, and conditions to meet, to receive a comparability finding for a fishery. The proposed rule also establishes procedures for intermediary nations to certify that exports from those nations to the United States do not contain fish or fish products subject to an import prohibition. Agency actions and recommendations under this rule will be in accordance with U.S. obligations under applicable international trade law, including the World Trade Organization (WTO) Agreement.

DATES: Written comments must be received by 5 p.m. Eastern Time on November 9, 2015. Information and comments concerning this proposed rule may be submitted by any one of several methods (see **ADDRESSES**). NMFS will consider all comments and information received during the comment period in preparing a final rule. NMFS will also seek input from other nations on the proposed rule at bilateral and multilateral meetings, as appropriate.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2010–0098, by any of the following methods:

1. *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2010-0098,* click the ''Comment Now!'' icon, complete the required fields and enter or attach your comments.

2. *Mail:* Submit written comments to: Director, Office of International Affairs, Attn: MMPA Fish Import Provisions, NMFS, F/IA, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe portable document file (PDF) formats only.

National Environmental Policy Act (NEPA)

NMFS prepared a draft Environmental Assessment (EA) to accompany this proposed rule and will consider comments on the EA submitted in response to this notice. The EA was developed as an integrated document that includes a Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA). Copies of the proposed rule and draft EA/RIR/IRFA analysis are available by writing to the mailing address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the NMFS Web site at *http://www.nmfs.noaa.gov/ia/.* This proposed rule is also accessible on the Government Printing Office Web site at *http://www.gpo.gov/fdsys/.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Nina Young, NMFS F/IA at *Nina.Young@noaa.gov* or 301–427–8383.

SUPPLEMENTARY INFORMATION:

MMPA Requirements

The U.S. Ocean Commission stated in its 2005 report that the ''biggest threat to marine mammals worldwide is their accidental capture or entanglement in fishing gear (bycatch), which kills hundreds of thousands of them each year.'' Scientists estimate the global annual bycatch of marine mammals at more than 600,000 animals. The MMPA contains provisions to address the incidental mortality and serious injury of marine mammals in both domestic and foreign commercial fisheries. With respect to foreign fisheries, section 101(a)(2) of the MMPA states that the Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. For purposes of applying the preceding sentence, the Secretary of Commerce shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States. (see 16 U.S.C. 1371(a)(2)) Throughout the 1970s and 1980s, section 101(a)(2) was implemented by regulations under 50 CFR 216.24(e) and was tied to standards governing U.S. fisheries under general permits. In 1994, Congress reauthorized the MMPA and created a regime for governing the incidental take of marine mammals in U.S. commercial fisheries (16 U.S.C. 1387). This regime replaced the general permit thereby rendering those regulations obsolete and narrowing their focus to fish and fish products caught with driftnets (50 CFR 216.24(e)) (See EA for details on the regulatory history).

Section 102(c)(3) of the MMPA states that it is unlawful to import into the United States any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner which the Secretary of Commerce (Secretary) has proscribed for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish. (see 16 U.S.C. 1372(c)(3)). Section 102(c)(3) is implemented by regulations under 50 CFR 216.12(d). This section among other provisions implements the MMPA's prohibition on the intentional killing or serious injury of marine mammals in the course of commercial fishing, under 16 U.S.C. 1378.

U.S. Standards Governing Incidental Marine Mammal Mortality and Serious Injury in Commercial Fisheries Under the Jurisdiction of the United States

Since the MMPA was first passed in 1972, one of its goals has been that the incidental kill or incidental serious injury of marine mammals permitted in the course of [U.S.] commercial fishing operations be reduced to insignificant levels approaching a zero mortality and injury rate. (see 16 U.S.C. 1371(a)(2)).

The MMPA establishes a moratorium on taking marine mammals (with limited exceptions) within U.S. waters or by persons or vessels subject to U.S. jurisdiction on the high seas or in waters of another nation seaward of its territorial sea (16 U.S.C. 1371(a)), where ''take'' means to ''harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill any marine mammal'' (16 U.S.C. 1362(13)). The MMPA originally prohibited the incidental take of marine mammals in U.S. commercial fisheries unless authorized by a general permit. In U.S. commercial fisheries, optimum sustainable population (OSP) had been the standard used to issue a general permit authorizing such incidental take. General permits could not be issued for the take of marine mammals from a population that was determined to be below its OSP level. Internationally, nations could not export fish to the United States if caught in a manner that would not be allowed by a general permit (45 FR 72194, October 31, 1980).

In January 1988, NMFS announced its intention to prepare an Environmental Impact Statement (EIS) on the proposed reissuance of domestic general permits authorizing commercial fishers to take marine mammals incidental to commercial fisheries (53 FR 2069, January 26, 1988). In preparing the draft EIS, NMFS determined that it had insufficient information to determine OSP levels for the majority of marine mammal stocks taken in U.S. commercial fisheries. Subsequently, a legal challenge to an MMPA general permit resulted in a court order that NMFS could not issue a general permit to incidentally take any population that is below its OSP level or for which NMFS could not calculate OSP. See *Kokechik Fishermen's Ass'n.* v. *Secretary of Commerce,* 839 F.2d 795 (D.C. 1988). Without OSP determinations, NMFS could not make the findings required to waive the MMPA moratorium on incidental take and therefore could not promulgate regulations to issue a general permit for the incidental take of marine mammals in commercial fishing operations. Without the authority to issue a general permit, regulations governing importations from foreign fisheries were no longer coherent since they were linked to the U.S. general permit requirements.

In November 1988, Congress provided a five-year interim exemption to the commercial fisheries incidental take provision to allow fishing to continue yet minimize the harm it caused marine mammals. This exemption allowed NMFS time to develop a comprehensive regime governing commercial fisheries interactions with marine mammals and alternative standards to OSP (16 U.S.C. 1383a). The MMPA Interim Exemption Program (Interim Exemption) required fishers to participate in a data-gathering program by carrying mandatory observers, compiling log books, and reporting marine mammal interactions in return for a temporary exemption from the moratorium on incidental take (16 U.S.C. 1383a). Under the Interim Exemption, Congress also required the Secretary of Commerce to place commercial fishing operations into one of three categories based on the frequency of incidental mortality and serious injury of marine mammals and to publish an annual list of fisheries by category (16 U.S.C. 1383a(b)).

In 1994, the MMPA was amended to add sections 117 and 118 (16 U.S.C. 1386 and 1387, respectively), which established the current U.S. standards governing the incidental take of marine mammals in commercial fisheries. These amendments established a new metric: Potential Biological Removal (PBR). PBR is defined as ''the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population'' (16 U.S.C. 1362(20)).

With this change in the MMPA, incidental take authorizations and regulations to reduce incidental take in commercial fisheries became linked to PBR, which could be readily calculated for marine mammal stocks. The 1994 amendments reaffirmed the original goal of the MMPA to reduce the incidental mortality or serious injury of marine mammals in the course of commercial fishing operations to insignificant levels approaching zero. To more clearly delineate this goal, NMFS later issued regulations (50 CFR 229.2) to define this ''insignificance threshold'' as 10% of a stock's PBR level. Therefore, with these amendments, MMPA section 118(f)(2) sets two goals. The short-term goal is to reduce and maintain incidental mortality and serious injury below the PBR of a stock. The long-term goal is to reduce incidental mortality and serious injury ''to insignificant levels approaching a zero mortality and serious injury rate'' (*i.e.,* 10% of a stock's PBR level).

The 1994 amendments to the MMPA maintained the requirement for categorizing commercial fisheries into three groups based on frequency of interactions with marine mammals (16 U.S.C. 1387(c)(1)). Category I includes fisheries that have frequent incidental mortality and serious injury of marine mammals. Category II includes fisheries that have occasional incidental mortality and serious injury of marine mammals. Category III includes fisheries that have a remote likelihood of, or no known, incidental mortality and serious injury of marine mammals. Numerical criteria for placing fisheries into these categories were eventually developed using the PBR standard (50 CFR 229.2).

Today, sections 117 and 118 of the MMPA comprise the U.S. standards for regulating incidental mortality and serious injury in domestic commercial fisheries, including (1) evaluating marine mammal stock status; (2) evaluating the levels of incidental mortality and serious injury in commercial fisheries by placing observers on vessels, reporting requirements, and other means; (3) developing take reduction plans and regulations to reduce incidental mortality and serious injury of marine mammals below each stock's PBR level and, ultimately, to insignificant levels approaching zero mortality and serious injury rate, following consultation with stakeholder-based take reduction teams; and (4) implementing emergency regulations when necessary. However, regulations implementing the MMPA's import provisions at section 101(a)(2) were never modified to codify these new U.S. standards. Instead the regulatory focus was narrowed to govern imports of yellowfin tuna and fish products caught with driftnets.

Petition

On March 5, 2008, the U.S. Department of Commerce and other relevant Departments were petitioned under the MMPA to ban the imports of swordfish and swordfish products from nations that have failed to provide reasonable proof of the effects on ocean mammals of the commercial fishing technology in use to catch swordfish. The petition was submitted by two nongovernmental organizations, the Center for Biological Diversity and Turtle Island Restoration Network. The petition is available at the following Web site: *http://www.nmfs.noaa.gov/ia/docs/swordfish_petition_l-4.pdf.* Copies

of this petition may also be obtained by contacting NMFS [see **ADDRESSES**].

On December 15, 2008, NMFS published a notice of receipt of the petition in the **Federal Register** and a request for public comments through January 29, 2009 (73 FR 75988). NMFS subsequently reopened the comment period for an additional 45 days from February 4 to March 23, 2009 (74 FR 6010, February 4, 2009).

On April 30, 2010, NMFS published an advance notice of proposed rulemaking (ANPR) describing options to develop procedures to implement the import provisions of MMPA section 101(a)(2) (75 FR 22731). On July 1, 2010, NMFS extended the comment period for an additional 60 days (75 FR 38070).

Although the petition requested specific action regarding imports of swordfish and swordfish products, the import provisions of the MMPA apply more broadly to imports from other foreign fisheries that use ''commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of U.S. standards.'' Additionally, on October 5, 2011, and on March 13, 2012, NOAA received correspondence from 21 animal rights and animal welfare organizations and Save Our Seals Fund, respectively, urging it to take action to ban the importation of Canadian and Scottish aquaculture farmed salmon into the United States due to the intentional killing of seals which is prohibited under the MMPA sections 101(a)(2), 102(c)(3) for international fisheries, and 118(a)(5) for domestic fisheries. NOAA decided that the proposed rule would be broader in scope than the 2008 petition and is not limited in application to swordfish fisheries.

Overall Framework To Implement Sections 101(a)(2) and 102(c)(3) of the MMPA

NMFS is proposing to amend 50 CFR 216.24 to add a new section to establish procedures and conditions for evaluating a harvesting nation's regulatory program for reducing marine mammal incidental mortality and serious injury in its export fisheries, to determine whether it is comparable in effectiveness to the U.S. regulatory program. However, it is not proposing to amend any other section within 50 CFR 216.24, including the regulations on importing fish products taken in high seas driftnet fisheries or in eastern tropical Pacific yellowfin tuna purse seine fisheries. Dolphin (family Delphinidae) incidental mortality and serious injury in eastern tropical Pacific yellowfin tuna purse seine fisheries are covered by section 101(a)(2)(B) and Title III of the MMPA (16 U.S.C. 1371(a)(2)(B) and 16 U.S.C. 1411–1417), implemented in 50 CFR 216.24(a)–(g), and are not addressed in this proposed rule. Likewise, section 101(a)(2)(F) (16 U.S.C. 1371(a)(2)(F)) of the MMPA and its implementing regulations cover marine mammal incidental mortality and serious injury from high seas driftnet fisheries and are not addressed in this proposed rule.

To implement section 101(a)(2) and 102(c)(3) of the MMPA, NMFS is proposing a procedural approach similar to the regulations implementing the affirmative finding process for importing yellowfin tuna caught with purse seine vessels in the eastern tropical Pacific Ocean (51 FR 28963, August 13, 1986). Section 101(a)(2) of the MMPA only pertains to incidental serious injury and mortality to marine mammals from commercial fishing operations that export the fish product to the United States and does not apply to a foreign nation's non-exporting fisheries or other sources of non-fishery human-caused incidental mortality and serious injury of marine mammals.

Consistent with this approach, NMFS is proposing to define ''Fish and Fish Products'' for the purposes of this proposed rule as any marine finfish, mollusk, crustacean, or other form of marine life other than marine mammals, reptiles, and birds, whether fresh, frozen, canned, pouched, or otherwise prepared in a manner that allows species identification, but does not include fish oil, slurry, sauces, sticks, balls, cakes, and pudding and other similar highly processed fish products. NMFS is proposing to exclude fish oil, slurry, sauces, sticks, balls, cakes, pudding and other similar highly processed fish products from the requirements of the proposed rule as these represent processed product which cannot be tracked back to one species of fish or a specific commercial fishing operation. Instead NMFS will track Harmonized Tariff Schedule (HTS) codes (*http://www.usitc.gov/publications/docs/tata/hts/bychapter/1401c16_0.pdf*) which correspond to whole fish or processed fish which can be identified to a species. Examples included under this definition: Crabmeat in airtight containers, lobster products, bonito, yellowtail, pollock, mackerel, tunas, among others.

NMFS is also proposing to define ''harvesting nation'' as the country under whose flag or jurisdiction one or more fishing vessels or other entity engaged in commercial fishing operations are documented, or which has by formal declaration or agreement asserted jurisdiction over one or more authorized or certified charter vessels, and from such vessel(s) or entity(ies) fish are caught or harvested that are a part of any cargo or shipment of fish to be imported into the United States, regardless of any intervening transshipments, exports or re-exports. By this definition NMFS clarifies that the government or ''harvesting nation'' is the sovereign nation responsible for regulating its exempt and export fisheries, providing all necessary documentation proposed to be required by this rule and consulting with the Assistant Administrator on the subject fisheries. A harvesting nation's exempt and export fisheries include commercial fishing operations from a nation's flag vessels conducted on the high seas and in another coastal state's exclusive economic zone (EEZ), and all vessels, persons, and operations within a nation's EEZ and territorial sea.

Overview of the Proposed Process

This section provides an overview of the proposed process for implementing MMPA sections 101(a)(2)(A) and 102(c)(3). Each step is discussed in more detail in subsequent sections of this rule. NMFS will identify harvesting nations with commercial fishing operations that export fish and fish products to the United States and classify those fisheries based on their frequency of marine mammal interactions as either ''exempt'' or ''export'' fisheries (See section entitled ''List of Foreign Fisheries'' for definitions of exempt and export fisheries).

NMFS will publish in the **Federal Register** a list of harvesting nations, their fisheries, and their classifications as a List of Foreign Fisheries. Based upon the List of Foreign Fisheries, the Assistant Administrator will consult with harvesting nations, informing them of the regulatory requirements for exempt and export fisheries to import fish and fish products into the United States.

NMFS will allow a one-time only, initial five-year exemption period, similar to the Interim Exemption for domestic fisheries, commencing from the effective date of the final rule implementing these regulations. During the exemption period, the prohibitions of this rule will not apply with respect to imports from the harvesting nation. This exemption period is necessary to allow harvesting nations sufficient time to develop regulatory programs to comply with the requirements to obtain a comparability finding, which are described below. By the end of the exemption period and every four years thereafter, a harvesting nation must

have applied for and received a comparability finding for its fisheries in order for fish and fish products from those fisheries to be imported into the United States. Fish and fish products from fisheries that fail to receive a comparability finding may not be imported into the United States. After the conclusion of the one-time exemption period, any harvesting nation or fishery that has not previously exported to the United States would be granted a provisional comparability finding not to exceed 12 months. Prior to the expiration of that provisional comparability finding a harvesting nation must provide information to classify the fishery and apply for and receive a comparability finding for its fishery to continue to export to the United States after the expiration of the provisional comparability finding.

To receive a comparability finding for a fishery operating within the harvesting nation's exclusive economic zone (EEZ) and territorial sea, the harvesting nation must demonstrate it has prohibited the intentional mortality or serious injury of marine mammals in the course of commercial fishing operations in an exempt and export fishery unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger; or that it has procedures to reliably certify that exports of fish and fish products to the United States are not the product of an intentional killing or serious injury of a marine mammal unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger. The harvesting nation must also demonstrate that it has adopted and implemented, with respect to an export fishery, a regulatory program governing the incidental mortality and serious injury of marine mammals in the course of fishing operations in its export fishery that is comparable in effectiveness to the U.S. regulatory program. The U.S. regulatory program governing the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations is specified at 16 U.S.C. 1386 and 1387, and also includes other regulatory requirements under the MMPA that regulate interactions of commercial fishing with marine mammals. The regulations implementing these provisions constitute the U.S. regulatory program. The conditions that constitute a harvesting nation's regulatory program for the Assistant Administrator to find it comparable in effectiveness to the U.S. regulatory program are discussed below in more detail, including the conditions for harvesting nations with fisheries operating on the high seas and in another coastal state.

NMFS is not proposing to require that a harvesting nation match every aspect of the U.S. regulatory program to obtain a comparability finding for an export fishery. Instead, the conditions allow for flexibility in granting a comparability finding to programs that effectively achieve comparable results to the U.S. regulatory program even where they use different mechanisms to do so.

In the event that an exempt or export fishery fails to receive a comparability finding from the Assistant Administrator, importation of fish and fish products from that fishery into the United States will be prohibited under sections 101(a)(2) or 102(c)(3) of the MMPA until the harvesting nation reapplies and receives a comparability finding for that fishery.

Throughout this process, NMFS will engage in consultations with harvesting nations. Contingent on annual appropriations, NMFS may work with harvesting nations to assist with the design of marine mammal assessments and incidental mortality and serious injury mitigation programs.

To review the ongoing progress in the development and implementation of the harvesting nation's regulatory program for its export fisheries, NMFS will require progress reports every four years. The proposed rule also contains provisions regarding intermediary nations. For an intermediary nation to export fish and fish products to the United States, the proposed rule calls for any intermediary nation to demonstrate that it does not import, or does not offer for import into the United States, fish or fish products subject to an import prohibition; or it has procedures to reliably certify that exports of fish and fish products from the intermediary to the United States do not contain fish or fish products caught or harvested in a fishery subject to an import prohibition. In the event that fish and fish products from a fishery are prohibited, NMFS has included provisions for an individual shipment certification of admissibility that will allow the importation of similar fish and fish products from a harvesting nation's fisheries that received comparability findings.

List of Foreign Fisheries—Initial Identification and Classification

NMFS proposes to classify foreign commercial fishing operations exporting fish and fish products to the United States as either an ''exempt fishery'' or ''export fishery'' based on the reliable information provided by the harvesting nation.

NMFS defines ''exempt fishery'' as a foreign commercial fishing operation determined by the Assistant Administrator to be the source of exports of commercial fish and fish products to the United States and to have a remote likelihood of, or no known, incidental mortality and serious injury of marine mammals in the course of commercial fishing operations. A commercial fishing operation that has a remote likelihood of causing incidental mortality and serious injury of marine mammals is one that collectively with other foreign fisheries exporting fish and fish products to the United States causes the annual removal of:

(1) Ten percent or less of any marine mammal stock's bycatch limit, or

(2) More than 10 percent of any marine mammal stock's bycatch limit, yet that fishery by itself removes 1 percent or less of that stock's bycatch limit annually, or

(3) Where reliable information has not been provided by the harvesting nation on the frequency of incidental mortality and serious injury of marine mammals caused by the commercial fishing operation, the Assistant Administrator may determine whether the likelihood of incidental mortality and serious injury is ''remote'' by evaluating information concerning factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, the species and distribution of marine mammals in the area, or other factors at the discretion of the Assistant Administrator. A foreign fishery will not be classified as an exempt fishery unless the Assistant Administrator has reliable information from the harvesting nation, or other information to support such a finding.

Exempt fisheries are considered to be equivalent to Category III fisheries because the impact of these fisheries on marine mammals is remote. Commercial fishing operations that NMFS determines meet the definition of an exempt fishery would still be required to obtain a comparability finding by having the harvesting nation demonstrate that it has either prohibited the intentional mortality or serious injury of marine mammals in the course of commercial fishing operations in these exempt fisheries, unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger; or that it has procedures to reliably certify

that exports of fish and fish products to the United States are not the product of an intentional killing or serious injury of a marine mammal unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger. Exempt fisheries would not have to meet the comparability finding requirement to have a regulatory program for incidental mortality and serious injury comparable in effectiveness to the U.S. regulatory program.

NMFS defines ''export fishery'' as a foreign commercial fishing operation determined by the Assistant Administrator to be the source of exports of commercial fish and fish products to the United States and to have more than a remote likelihood of incidental mortality and serious injury of marine mammals (as defined in the definition of an ''exempt fishery'') in the course of its commercial fishing operations. Where reliable information has not been provided by the harvesting nation on the frequency of incidental mortality and serious injury of marine mammals caused by the commercial fishing operation, the Assistant Administrator may determine whether the likelihood of incidental mortality and serious injury is more than ''remote'' by evaluating information concerning factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or other factors at the discretion of the Assistant Administrator that may inform whether the likelihood of incidental mortality and serious injury of marine mammals caused by the commercial fishing operation is more than ''remote.'' Commercial fishing operations not specifically identified in the current List of Foreign Fisheries as either exempt or export fisheries are deemed to be export fisheries until the next List of Foreign Fisheries is published unless the Assistant Administrator has reliable information from the harvesting nation to properly classify the foreign commercial fishing operation. Additionally, the Assistant Administrator, may request additional information from the harvesting nation and may consider other relevant information as set forth in paragraph (h)(3) of this section about such commercial fishing operations and the frequency of incidental mortality and serious injury of marine mammals, to properly classify the foreign commercial fishing operation.

Export fisheries would be considered to be the functional equivalent to Category I or II fisheries under the U.S. regulatory program (see definitions at 50 CFR 229.2). Fisheries that NMFS determines have more than a remote likelihood of incidental mortality and serious injury of marine mammals, or for which there is a lack of reliable information that they have no or a remote likelihood of incidental mortality and serious injury to marine mammals, will be classified as export fisheries. Because the United States focuses its incidental mortality and serious injury assessment efforts on Category I and II fisheries (which are domestic fisheries where the likelihood of incidental mortality and serious injury is more than remote) NMFS proposes that the regulatory requirements of this proposed rule apply to export fisheries.

Within the first year of the effective date of the final rule implementing sections 101(a)(2) and 102(c)(3) of the MMPA, NMFS would produce a proposed and final List of Foreign Fisheries. To develop this list, NMFS would analyze imports of fish and fish products and identify harvesting nations with fisheries exporting such fish and fish products to the United States that are likely harvested with gear (*e.g.,* gillnets, longlines, trawls, traps/pots, purse seines) or methods that have or may have incidental mortality or serious injury of marine mammals in the course of their commercial fishing operations. NMFS would notify each harvesting nation that has such fisheries and request that within 90 days of notification the harvesting nation submit reliable information about the commercial fishing operations identified, including the number of participants, number of vessels, gear type, target species, area of operation, fishing season, and any information regarding the frequency of marine mammal incidental mortality and serious injury, including programs to assess marine mammal populations and laws, decrees, regulations, or measures to reduce incidental mortality and serious injury of marine mammals in those fisheries or prohibit the intentional killing or injury of marine mammals. NMFS would evaluate each harvesting nation's submission and request additional information from the harvesting nations, as necessary.

If estimates of the total incidental mortality and serious injury are available and a bycatch limit has been calculated, NMFS will use the quantitative and tiered analysis to classify foreign commercial fishing operations as export or exempt fisheries under the category definition within 50 CFR 229.2 and the procedures used to categorize U.S. fisheries as Category I, II, or III, reflected at *http://www.nmfs.noaa.gov/pr/interactions/lof/*.

Initially, NMFS expects information on the frequency of interactions in most foreign fisheries to be lacking or incomplete. In the absence of quantifiable information or reliable information from the harvesting nation, NMFS would classify fisheries by analogy with similar U.S. fisheries and gear types interacting with similar marine mammal stocks using readily available information or available observer or logbook information per the procedures outlined in 50 CFR 229.2. Where no analogous fishery or fishery information exists, NMFS would classify the commercial fishing operation as an export fishery until such time as the harvesting nation provides the reliable information to properly classify the fishery or in the course of preparing the List of Foreign Fisheries such information is readily available to the Assistant Administrator.

NMFS is proposing this approach since it follows the U.S. domestic program's implementation. In situations where no information exists for a domestic fishery, MMPA regulations direct NMFS to place the fishery into Category II, because the MMPA provides the authority to place observers on vessels participating in Category II fisheries to collect information, evaluate risk to the marine mammal stock, and to properly categorize the fishery (50 CFR 229.2 and 229.7(d)). The MMPA requires that a harvesting nation provide the reasonable proof necessary for the United States to determine the ''effects on ocean mammals of the commercial fishing technology.'' Because harvesting nations are not required for exempt fisheries to implement a regulatory program governing the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations that is comparable in effectiveness to the U.S. regulatory program or, by extension, to report or estimate incidental mortality and serious injury for the fishery, fisheries lacking reliable information of their level of incidental mortality and serious injury must be classified as an export fishery until such time as the nation can provide the reliable information required by the MMPA to classify the fishery or in the course of preparing the List of Foreign Fisheries such information is readily available to the Assistant Administrator. If NMFS does

not follow this procedure, it cannot reasonably determine the ''effects on ocean mammals of the commercial fishing technology'' from a particular fishery. By including such data-poor commercial fishing operations as export fisheries, harvesting nations have an incentive to gather and provide to NMFS the reliable information necessary for NMFS to consider classifying the fishery as exempt. In comments on this proposed rule, NMFS encourages nations to include reliable information about their commercial fishing operations exporting fish and fish products to the United States, their frequency of marine mammal incidental mortality and serious injury, and any regulatory programs to reduce such mortality and serious injury. It is important that nations work closely with NMFS as soon as possible to provide the information necessary to classify their commercial fishing operations.

The year prior to the expiration of the exemption period and every four years thereafter, NMFS proposes to re-evaluate foreign commercial fishing operations and publish a notice of the draft, for public comment, and the final revised List of Foreign Fisheries in the **Federal Register**. In revising the list, NMFS may reclassify a fishery if new substantive information indicates the need to re-examine and possibly reclassify a fishery. Fisheries wishing to commence exports of fish and fish products to the United States after publication of the Foreign List of Fisheries will be classified as export fisheries until the next List of Foreign Fisheries is published and will be provided a provisional comparability finding for a period not to exceed twelve months. If a harvesting nation can provide the reliable information necessary to classify the commercial fishing operation at the time of the request for a provisional comparability finding or prior to the expiration of the provisional comparability finding, NMFS will classify the fishery in accordance with the definitions. The provisions for new entrants are discussed in more detail below.

To classify fisheries, gather information to assist in making a comparability finding, or determine if a harvesting nation's fishery is still in compliance with the terms of a previously-issued comparability finding, NMFS may solicit information as part of the High Seas Drift Net Fishing Moratorium Protection Act (HSDFMPA) information solicitation and use information obtained from U.S. government agencies; harvesting nations; other foreign, regional, and local governments; regional fishery management organizations; nongovernmental organizations; industry organizations; academic institutions; and citizens and citizen groups to identify commercial fishing operations with intentional or incidental mortality and serious injury of marine mammals. Such information may include fishing vessel records; reports of on-board fishery observers; information from off-loading facilities, port-side government officials, enforcement agents, transshipment vessel workers and fish importers; government vessel registries; RFMO or intergovernmental agreement documents, reports, and statistical document programs; appropriate catch certification programs; and published literature and reports on commercial fishing operations with intentional or incidental mortality and serious injury of marine mammals.

NMFS would publish the final List of Foreign Fisheries in the **Federal Register**. The List of Foreign Fisheries would be separate and different from the domestic List of Fisheries published annually in the **Federal Register**, pursuant to Section 118 of the MMPA (16 U.S.C. 1387(c)(1)).

The List of Foreign Fisheries would be organized by harvesting nation and other defining factors including geographic location of harvest, gear-type, target species or a combination thereof. For example, tuna fisheries in the western central Pacific could be designated as the western central Pacific yellowfin tuna purse seine fishery. The List of Foreign Fisheries would also include a list of the marine mammals that interact with each commercial fishing operation and indicate the level of incidental mortality and serious injury of marine mammals in each commercial fishing operation. If available, the list would also provide a description of the harvesting nation's programs to assess marine mammal stocks and estimate and reduce marine mammal incidental mortality and serious injury in its export fisheries; and actions it has taken to prohibit, in the course of commercial fishing operations that are the source of exports to the United States, the intentional mortality or serious injury of marine mammals.

Consultations With Harvesting Nations

The proposed rule includes several consultations that are specific to the comparability finding and those are outlined below. Three broad consultation areas are (1) notification of the List of Foreign Fisheries; (2) notification of a denial of a comparability finding; and (3) discretionary consultations for transmittal or exchange of information. Within ninety days of the date of publication of the final List of Foreign Fisheries in the **Federal Register**, NMFS, in consultation with the Department of State, would consult with the harvesting nations that export fish or fish products to the United States and provide them with the final List of Foreign Fisheries, relevant U.S. regulations, and applicable take reduction plan measures that relate to its exempt and export fisheries.

NMFS would consult with harvesting nations throughout the exemption period and implementation of the program outlined in this rule. Given the number of nations, fisheries, and the range of exports, NMFS does not envision that all nations will need the same level of consultations. The exact nature and extent of these consultations are discretionary for NMFS and is a mechanism through which the United States could potentially assist a harvesting nation's needs for information and technical expertise. NMFS, in consultation with the Department of State, would, when necessary or upon request by a harvesting nation, initiate bilateral discussions with the harvesting nation to, among other things:

- Communicate the provisions of the MMPA;
- Provide notifications of deadlines for reports or comparability finding applications;
- Discuss the development, adoption, implementation, or enforcement of the harvesting nation's regulatory program;
- Offer an opportunity to provide or supplement information on the implementation and enforcement of the harvesting nation's regulatory program in conjunction with an application, preliminary comparability finding, or reconsideration of a comparability finding; and
- Provide an opportunity for the harvesting nation to clarify, support, or refute information from other sources in conjunction with the List of Foreign Fisheries, the progress report or an application for a comparability finding.

NMFS, in consultation with the Department of State and the Office of the United States Trade Representative, would notify harvesting nations with fisheries that are likely to fail to receive a comparability finding for a fishery and provide the harvesting nation with an opportunity to refute preliminary comparability findings, and communicate any corrective actions taken to comply with the conditions of a comparability finding. If a harvesting nation cannot refute preliminary

comparability findings, or communicate any corrective actions taken to comply with the comparability finding conditions, by the expiration of either the exemption period or an existing comparability determination, the fishery will not receive a comparability finding and will have to reapply. The Assistant Administrator would, in consultation with the Department of State and the Office of the United States Trade Representative, consult with harvesting nations that failed to receive a comparability finding for a fishery, provide the reasons for the denial of such comparability finding, and encourage the harvesting nation to take corrective action and reapply for a comparability finding.

Comparability Finding for Harvesting Nations' Fisheries

Section 101(a)(2)(A) requires that the Assistant Administrator ''insist on reasonable proof'' from harvesting nations as to the effect of its commercial fishing technology on marine mammals. As a condition to import fish and fish products into the United States, NMFS proposes to require that a harvesting nation apply for and receive a comparability finding for its fisheries. The first application for a comparability finding must be submitted by March 1st of the last year of the exemption period, and on March 1st every four years thereafter. To receive a comparability finding, a harvesting nation must submit an application, along with documentary evidence demonstrating that the harvesting nation's export or exempt fishery meets the requirements of a comparability finding including, where applicable, reasonable proof as to the effects on marine mammals of the commercial fishing technology in use in the fishery for fish or fish products exported from such nation to the United States. For the purposes of this proposed rule, documentary evidence means the submission to the Assistant Administrator by a responsible government official from a harvesting nation of information of sufficient detail, including an attestation that the information is accurate, to allow the Assistant Administrator to evaluate the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States for making a comparability finding. When making a comparability finding NMFS will rely largely on the documentary evidence provided by the harvesting nation; however, NOAA will also consider information from other readily available sources. Where information from the harvesting nation is insufficient, NOAA will draw reasonable conclusions based on information from other sources, including analogous fisheries. For example, where a harvesting nation does not provide sufficient relevant information for a fishery and information from other sources of direct evidence regarding the fishery is not readily available to NOAA, the Assistant Administrator shall draw reasonable conclusions based on other information, such as indirect evidence of bycatch in the fishery or information from analogous fisheries (*e.g.* fisheries that use similar gear type or operate under similar conditions as the fishery at issue). In addition, all agency decisions under this rule must comply with the Administrative Procedure Act (5 U.S.C. 500 *et seq.),* including the relevant requirements prohibiting arbitrary and capricious decisionmaking.

The comparability finding has two parts. The first part requires the harvesting nation to demonstrate that it has either prohibited the intentional mortality or serious injury of marine mammals in the course of commercial fishing operations in an exempt and export fishery unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger; or that it has procedures to reliably certify that exports of fish and fish products to the United States are not the product of an intentional killing or serious injury of a marine mammal unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger. No later than November 30th of the year when the exemption period or comparability finding is to expire, NMFS would grant or renew the comparability finding for exempt fisheries should they meet this condition, export fisheries must meet this and other conditions, discussed below.

The prohibition of intentional killing or seriously injuring a marine mammal is one of the U.S. standards within the MMPA (16 U.S.C. 1387(a)(5) and 16 U.S.C. 1372(c)(3)). The United States prohibits the intentional killing or injury of marine mammals in the course of all commercial fishing operations unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger. Therefore, NMFS proposes that to receive a comparability finding, a harvesting nation must demonstrate for all exempt and export fisheries, whether such operations are within its EEZ, its territorial sea, the EEZ of another coastal state (excluding its territorial sea) or on the high seas, that it either prohibits the intentional killing or serious injury of marine mammals in the course of commercial fishing operations unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger; or that it has procedures to reliably certify that exports of fish and fish products to the United States are not the product of an intentional killing or serious injury of a marine mammal unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger. This prohibition includes aquaculture operations that interact with or occur in marine mammal habitat and the intentional killing of marine mammals for bait in commercial fishing operations. The application of the intentional lethal removal provisions of Section 120 of the MMPA (16 U.S.C. 1389) do not fall under this proposed rule as they are not undertaken in the course of commercial fishing.

Harvesting nations may implement this provision by either instituting a law, regulation, or licensure or permit condition applicable to its export and exempt fisheries that prohibits the intentional killing or serious injury of marine mammals in the course of commercial fishing operations. In the absence of this approach, a harvesting nation must submit documentary evidence that it has procedures, such as certification programs and tracking and verification schemes, to reliably certify that its exports of fish and fish products to the United States are not the product of the intentional killing or serious injury of marine mammals.

To receive a comparability finding for export fisheries, a harvesting nation must not only demonstrate that it meets the conditions related to intentional killing and serious injury of marine mammals in the course of commercial fisheries, it must also meet a second condition. The Assistant Administrator will grant or renew a comparability finding for an export fishery under the jurisdiction of a harvesting nation provided the harvesting nation has and, in the case of a renewal, maintains a regulatory program that is comparable in effectiveness to the U.S. regulatory program in reducing marine mammal incidental mortality and serious injury in commercial fishing operations, including for transboundary stocks, subject to the additional considerations for a comparability finding set out in the

section on ''Considerations for Comparability Finding Determinations''.

Different conditions exist for the following areas of a harvesting nation's export fisheries: Export fisheries operating within the EEZ or territorial waters of the harvesting nation, export fisheries operating within the jurisdiction of another coastal state and export fisheries operating on the high seas. Each is discussed below. The proposed rule's consideration of these three different areas is comparable to the U.S. regulatory program governing U.S. domestic fisheries operating in these areas.

In using the terms ''comparable in effectiveness'' NMFS means that the program includes the same conditions listed below or the program effectively achieves comparable results to the U.S. regulatory program. This approach gives harvesting nations flexibility to implement the same type of regulatory program or a program that is completely different but achieves the same results.

Since NMFS has developed regulatory measures for its domestic commercial fisheries with incidental mortality and serious injury of transboundary stocks and shares management authority for such stocks with other harvesting nations, NMFS emphasizes the consideration of transboundary stocks in the comparability finding conditions in the proposed rule. In the proposed rule, NMFS defines a transboundary stock as a marine mammal stock occurring in the EEZ or territorial sea of the United States and one or more other coastal States, or in the EEZ or territorial sea of the United States and on the high seas. Because NMFS shares conservation and management for these stocks with other nations, a harvesting nation must demonstrate that it has implemented a regulatory program for its export fisheries (whether operating in its EEZ, territorial sea, or on the high seas) that is comparable in effectiveness to the U.S. regulatory program for transboundary stocks, especially for transboundary stocks governed by specific requirements of the U.S. regulatory program, including take reduction plans.

NMFS recognizes that harvesting nations face resource limitations. A harvesting nation can submit an application for a comparability finding for all or a subset of its export fisheries. In the proposed rule, the harvesting nation has the flexibility to prioritize the export fisheries to which it will devote resources towards developing its regulatory program. Export fisheries not included in the application and not governed by the harvesting nation's regulatory program will not receive a comparability finding and will be ineligible to export fish and fish products to the United States.

NOAA seeks comment on alternative approaches for meeting the requirements of section 101(a)(2)of the MMPA. For example, the rule could operate on the basis of non-comparability findings. Under this alternative, the Assistant Administrator would issue non-comparability findings where it determines (considering documentary evidence and information from other sources that a harvesting nation's regulatory program is not comparable in effectiveness to the U.S. regulatory program and that the commercial fishing technology used in the fishery results in marine mammal bycatch in excess of U.S. standards. Under this alternative, continued entry of seafood into the U.S. would be predicated on the absence of a ''non-comparability finding,'' though the criteria could be similar to what is described in below, as applicable.

A modification of this alternative would be for the Assistant Administrator to issue comparability findings unless it determines (considering documentary evidence and information from other sources) that a harvesting nation's regulatory program is not comparable in effectiveness to the U.S. regulatory program and that the commercial fishing technology used in the fishery results in marine mammal bycatch in excess of U.S. standards. The regulatory text would read as follows:

''Conditions for a Comparability Finding. In response to an application, the Assistant Administrator shall issue a harvesting nation a comparability finding for the fishery unless the Assistant Administrator finds that the harvesting nation has not met the applicable conditions set out in . . .)''

Comments should discuss the relative costs and benefits of these or any other alternative approaches, including aspects related to paperwork burden.

Conditions for a Comparability Finding for an Export Fishery Operating Within a Harvesting Nation's EEZ or Territorial Sea

A comparability finding would be granted or renewed for an export fishery where the Assistant Administrator finds that the harvesting nation implements a regulatory program comparable in effectiveness to the U.S. regulatory program with respect to the export fishery that includes, or effectively achieves comparable results as, the following conditions:

1. Marine mammal stock assessments that estimate population abundance for marine mammal stocks in waters under its jurisdiction that are incidentally killed or seriously injured in the export fishery;

2. An export fishery register containing a list of all vessels participating in an export fishery under the jurisdiction of the harvesting nation, including the number of vessels participating, information on gear type, target species, fishing season, and fishing area for each export fishery;

3. Regulatory requirements (*e.g.,* including copies of relevant laws, decrees, and implementing regulations or measures) that include:

(a) A requirement for the owner or operator of vessels participating in the fishery to report all intentional and incidental mortality and injury of marine mammals in the course of commercial fishing operations; and

(b) A requirement to implement measures in export fisheries designed to reduce the total incidental mortality and serious injury of a marine mammal stock below the bycatch limit. Such measures may include: Bycatch reduction devices; incidental mortality and serious injury limits; careful release and safe-handling of marine mammals and gear removal; gear marking; bycatch avoidance gear (*e.g.,* pingers); gear modifications or restrictions; or time-area closures.

4. Implementation of monitoring procedures in export fisheries designed to estimate incidental mortality and serious injury of marine mammals in each export fishery under its jurisdiction, as well as estimates of cumulative incidental mortality and serious injury for marine mammal stocks in waters under its jurisdiction that are incidentally killed or seriously injured in the export fishery and other export fisheries with the same marine mammal stock, including an indication of the statistical reliability of those estimates;

5. Calculation of bycatch limits for marine mammal stocks in waters under its jurisdiction that are incidentally killed or seriously injured in an export fishery;

6. Comparison of the incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery in relation to the bycatch limit for each stock; and comparison of the cumulative incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery and any other export fisheries of the harvesting nation showing that these export fisheries:

(a) Does not exceed the bycatch limit for that stock or stocks; or

(b) Exceeds the bycatch limit for that stock or stocks, but the portion of

incidental marine mammal mortality or serious injury for which the exporting fishery is responsible is at a level that, if the other export fisheries interacting with the same marine mammal stock or stocks were at the same level, would not result in cumulative incidental mortality and serious injury in excess of the bycatch limit for that stock or stocks.

NMFS is proposing that a harvesting nation calculate bycatch limits using either the PBR equation (50 CFR 229.2), or a comparable equation that incorporates scientific uncertainty about the population estimate and trend and results in sustainable levels of incidental mortality and serious injury while still allowing the marine mammal stock to grow or recover. The scientific literature demonstrates other nations have adopted variations on PBR that are comparable and achieve this goal.

For marine mammal stocks that have bycatch limits and the export fisheries that interact with those stocks, a harvesting nation that is seeking a comparability finding for an export fishery must demonstrate that the cumulative incidental mortality and serious injury of each marine mammal stock or stocks resulting from fishing technology used by the export fishery and any other export fisheries of the harvesting nation that interact with the same marine mammal stock or stocks does not exceed the bycatch limit for that stock or stocks. In instances where the cumulative incidental mortality and serious injury exceeds the bycatch limit for that stock or stocks, the harvesting nation must demonstrate that the portion of incidental marine mammal mortality or serious injury for which the exporting fishery is responsible is at a level that, if the other export fisheries of that harvesting nation interacting with the same marine mammal stock or stocks were at the same level, would not result in cumulative incidental mortality and serious injury in excess of the bycatch limit for that stock or stocks.

For example, in the latter scenario, three export fisheries (A, B, and C) cumulatively exceed the bycatch limit of 30 animals for a particular marine mammal stock. If export fishery C's incidental mortality and serious injury is 5 animals, it would meet this condition to qualify for a comparability finding, if all three export fisheries each had the same level of incidental mortality and serious injury (*i.e.,* 5 animals for a cumulative total of 15), bycatch would be below the bycatch limit of 30.

In this situation, NMFS expects a harvesting nation will take measures to reduce the incidental mortality and serious injury by all of its export fisheries, but that it would prioritize and implement more stringent measures on export fisheries with the highest bycatch levels.

To implement its regulatory program, generally, regardless of location, the harvesting nation may enter into arrangements with academic institutions, non-governmental bodies, or any other entity to conduct assessments, estimate incidental mortality and serious injury, test and implement mitigation measures, or carry out any other components of the regulatory program, so long as the harvesting nation maintains responsibility for the oversight, verification and reporting on the implementation of its regulatory program to the United States.

A nation could receive a comparability finding for its export fishery without conducting a marine mammal stock assessment, estimating bycatch, or calculating a bycatch limit provided it can demonstrate that its program achieves comparable results to the U.S. regulatory program. NMFS will consider whether a regulatory program effectively achieves the outcomes of the U.S. regulatory program for similar marine mammal stocks and fisheries (considering gear type and target species), providing flexibility to allow a nation to develop comparably effective alternative measures to reduce incidental mortality and serious injury. Therefore, the Assistant Administrator may make a comparability finding based on alternative measures or approaches provided the harvesting nation's regulatory program effectively achieves comparable results to the U.S. regulatory program.

Conditions for a Comparability Finding for an Export Fishery Operating Within the Jurisdiction of Another Coastal State

International law provides that coastal States have sovereign rights to manage fisheries in waters under their jurisdiction. More than ninety percent of the global fish catch is estimated to be taken within waters under the jurisdiction of coastal States. The large majority of fishing activity taking place in waters under the jurisdiction of most coastal States is undertaken by vessels registered in the coastal States themselves. In such situations, the coastal State is also the flag State and the harvesting nation. This scenario covers fishing vessels registered to a harvesting nation that operate with permission of another coastal State or fish under terms of access granted to them by the coastal State.

The Assistant Administrator will grant or renew a comparability finding for an export fishery operating within the jurisdiction of another coastal state where the Assistant Administrator finds that the harvesting nation maintains a regulatory program that includes, or effectively achieves comparable results as, the following conditions:

1. Implementation in the export fishery:

(a) With respect to any transboundary stock interacting with the export fishery, any measures to reduce the incidental mortality and serious injury of that stock that the United States requires its domestic fisheries to take with respect that transboundary stock; and

(b) With respect to any other marine mammal stocks interacting with the export fishery while operating within the jurisdiction of the coastal state or on the high seas, any measures to reduce incidental mortality and serious injury that the United States requires its domestic fisheries to take with respect to that marine mammal stock.

2. For an export fishery not subject to management by a regional fishery management organization the harvesting nation:

(a) An assessment of marine mammal abundance of stocks interacting with the export fishery, the calculation of a bycatch limit for each such stock, an estimation of incidental mortality and serious injury for each stock and reduction in or maintenance of the incidental mortality and serious injury of each stock below the bycatch limit. This data included in the application may be provided by the coastal state; and

(b) Comparison of the incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery in relation to the bycatch limit for each stock; and comparison of the cumulative incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery and any other export fisheries of the harvesting nation showing that these export fisheries do not exceed the bycatch limit for that stock or stocks; or exceed the bycatch limit for that stock or stocks, but the portion of incidental marine mammal mortality or serious injury for which the export fishery is responsible is at a level that, if the other export fisheries interacting with the same marine mammal stock or stocks were at the same level, would not result in cumulative incidental mortality and serious injury in excess of the bycatch limit for that stock or stocks.

3. For an export fishery subject to management by a regional fishery management organization, the harvesting nation demonstrates it

applies a regulatory program comparable in effectiveness to the United States regulatory program, which includes implementing marine mammal data collection and conservation and management measures applicable to that fishery required under an applicable intergovernmental agreement or regional fisheries management organization to which the United States is a party.

Conditions for a Comparability Finding for an Export Fishery Operating on the High Seas

For export fisheries operating on the high seas, the Assistant Administrator would grant or renew a comparability finding where the Assistant Administrator finds that the harvesting nation maintains a regulatory program with respect to the harvesting nation's export fisheries operating on the high seas that includes, or effectively achieves comparable results as, the following conditions:

1. Implementation in the fishery of marine mammal data collection and conservation and management measures applicable to that fishery required under any applicable intergovernmental agreement or regional fisheries management organization to which the United States is a party; and

2. Implementation in the export fishery of:

(a) With respect to any transboundary stock interacting with the export fishery, any measures to reduce the incidental mortality and serious injury of that stock that the United States requires its domestic fisheries to take with respect that transboundary stock; and

(b) With respect to any other marine mammal stocks interacting with the export fishery while operating on the high seas, any measures to reduce incidental mortality and serious injury that the United States requires its domestic fisheries to take with respect to that marine mammal stock when they are operating on the high seas.

An export fishery must satisfy the appropriate condition to receive a comparability finding. For example, for high seas export fisheries or export fisheries operating within another coastal state's EEZ and governed by an RFMO, the proposed rule includes as a condition for a comparability finding that the harvesting nation has adopted and implemented data collection and conservation and management measures required under an applicable intergovernmental agreement or RFMO to which the United States is a party. By taking this approach NMFS recognizes, where the United States is a party to a multilateral agreement, the measures adopted under that agreement should be used among other factors to assess those export fisheries.

These provisions also provide an alternative route to receiving a comparability finding, including in circumstances when the export fishery is governed by an intergovernmental agreement or RFMO to which the United States is not a party. In this situation, NMFS will evaluate any conservation and management measures adopted by the intergovernmental agreement or RFMO and any other measures adopted by a harvesting nation that constitute its regulatory program governing its high seas export fisheries interacting with marine mammals. NMFS will then determine whether this regulatory program is comparable in effectiveness to the U.S. regulatory program for similar fisheries interacting with similar stocks.

This provision also addresses situations where the United States has adopted measures through a take reduction plan governing U.S. vessels participating in high seas fisheries to reduce incidental mortality and serious injury of a transboundary stock. While the United States would attempt to advance such measures for adoption by the intergovernmental agreement or RFMO, there may be situations where the measures are not adopted by the RFMO. In that case, for high seas fisheries that interact with transboundary stocks, a harvesting nation would be expected to implement a regulatory program for such stocks that is comparable in effectiveness to the U.S. regulatory program for its vessels operating on the high seas or the U.S. EEZ or territorial sea, including any relevant RFMO measures that the U.S. is applying on its fisheries. If the U.S. regulatory program includes measures prescribed for the high seas and the U.S. EEZ or territorial sea to reduce the incidental mortality or serious injury of transboundary stocks, and such stocks frequent both the high seas and the harvesting nation's EEZ or territorial sea, the harvesting nation must have a regulatory program applicable to both areas that is comparable in effectiveness to the U.S. regulatory program.

Considerations for Comparability Finding Determinations

When determining whether to grant or renew any comparability finding for a fishery, the Assistant Administrator would review and evaluate information submitted by the harvesting nation in making its application for each fishery, and consider readily available information from other sources, on the extent of the harvesting nation's implementation of its regulatory program in the export fishery and progress toward reducing the total incidental mortality and serious injury of marine mammals in the export fishery to levels below the bycatch limit. This information could include data readily available to the U.S. Government as well as information made available by other nations, international organizations (such as RFMOs), institutions, bilateral or other arrangements, or non-governmental organizations.

When determining whether a harvesting nation's regulatory program is comparable in effectiveness to the U.S. regulatory program, NMFS will consider:

- U.S. implementation of its regulatory program for similar marine mammal stocks and similar fisheries (considering gear, target species, or other factors), including transboundary stocks governed by regulations implementing a take reduction plan, and any other relevant information received during consultations;
- The extent to which the harvesting nation has implemented measures in the export fishery to reduce the total incidental mortality and serious injury of a marine mammal stock below the bycatch limit;
- The effectiveness of such measures, based on evidence that such measures implemented in an export fishery have reduced or are progressing and likely to reduce the cumulative incidental mortality and serious injury of a marine mammal stock below the bycatch limit, especially for the marine mammal stocks interacting with an export fishery with the greatest contribution to the incidental mortality and serious injury;
- Relevant facts and circumstances, which may include, the history and nature of interactions with marine mammals in this export fishery, whether the level of incidental mortality and serious injury exceeds the bycatch limit for a marine mammal stock, the population size and trend (particularly for declining stocks), and the estimated population level impacts of the incidental mortality and serious injury of marine mammals in a harvesting nation's export fisheries and the conservation status of the marine mammal stocks where available;
- The record of consultations with the harvesting nation, the results of these consultations and actions taken by the harvesting nation and any applicable intergovernmental agreement or RFMO to reduce the incidental mortality and serious injury of marine mammals in its export fisheries; and
- Information gathered during onsite inspection by any government official of

an export fishery's operations and any relevant information received during consultations.

For export fisheries operating on the high seas covered by an intergovernmental agreement or RFMO to which the United States is a party, NMFS will consider among other things:

- The harvesting nation's record of implementation of or compliance with measures adopted by that RFMO or intergovernmental agreement for data collection, incidental mortality and serious injury mitigation, or the conservation and management of marine mammals;
- Whether the harvesting nation is a party or cooperating non-party to the organization; and
- The record of the United States in implementing or complying with such measures and whether it has imposed additional measures on its fleet not required by the RFMO or intergovernmental agreement.

With regard to export fisheries operating on the high seas, under an intergovernmental agreement or RFMO to which the United States is not a party NMFS will consider, among other things:

- The harvesting nation's record of implementation of, or compliance with, measures adopted by that RFMO or intergovernmental agreement for data collection, incidental mortality and serious injury mitigation, or for the conservation and management of marine mammals, and whether such measures are comparable in effectiveness to the U.S. regulatory program for similar fisheries;
- Whether the harvesting nation is a party or cooperating non-party to the organization; and
- The effectiveness of any additional measures implemented by the harvesting nation to reduce or mitigate the incidental mortality and serious injury of marine mammals in these export fisheries, and whether such measures are comparable in effectiveness to the U.S. regulatory program for similar fisheries.

For transboundary stocks incidentally killed or seriously injured in a high seas export fishery, NMFS will also consider the extent to which the harvesting nation has adopted and implemented a regulatory program, including measures to reduce the incidental mortality or serious injury of transboundary stocks in export fisheries operating on the high seas and within its EEZ or territorial sea, that is comparable in effectiveness to the U.S. regulatory program governing similar U.S. fisheries.

NMFS would make comparability findings pursuant to the MMPA, and also considering U.S. regulations implementing our obligations under RFMOs, intergovernmental agreements, trade agreements. NMFS will make determinations and any resulting imposition of import restrictions consistent with the international obligations of the United States, including under the WTO Agreement pertaining to non-discrimination.

In this regard, where NMFS lacks data and PBR calculations for analogous U.S. fisheries, NMFS would not require foreign nations to have such data or calculations as a condition for a comparability finding. In addition, where analogous U.S. fisheries have not reduced bycatch below an established bycatch limit, NMFS will evaluate the measures harvesting nations have adopted and determine whether those measures are at least as comparable in effectiveness to the U.S. regulatory program in reducing marine mammal bycatch.

Finally NMFS is interested in receiving comments on the extent to which these additional considerations should also apply to exempt fisheries.

Issuance or Denial of a Comparability Finding

No later than November 30th of the year when the exemption period or comparability finding is to expire, the Assistant Administrator shall publish in the **Federal Register**, by harvesting nation, a notice of the harvesting nations and fisheries for which it has issued and denied a comparability finding and the specific fish and fish products that as a result are subject to import prohibitions.

Prior to publication in the **Federal Register**, the Assistant Administrator, in consultation with the Secretary of State and, in the event of a denial of a comparability finding, with the Office of the U.S. Trade Representative, shall notify each harvesting nation in writing of the fisheries of the harvesting nation for which the Assistant Administrator is:

- Issuing a comparability finding;
- Denying a comparability finding with an explanation for the reasons for the denial of such comparability finding; and
- Specify the fish and fish products that will be subject to import prohibitions on account of a denial of a comparability finding and the effective date of such import prohibitions.

Notification is the action whereby the decision is made. For a fishery that applied for and is unlikely to receive a comparability finding, NMFS will implement a preliminary comparability finding consultation. Specifically, for a fishery that applied for and is unlikely to receive a comparability finding NMFS, in consultation with the Secretary of State and the United States Trade Representative, would notify the harvesting nation prior to the notification and publication of the decision whether to issue or deny a comparability finding in the **Federal Register** that it is preliminarily denying the harvesting nation a comparability finding, or terminating an existing comparability finding, and provide the harvesting nation with an opportunity to submit reliable information to refute the preliminary denial or termination of the comparability findings, and communicate any corrective actions taken since submission of its application to comply with the comparability finding conditions. If a harvesting nation does not take corrective action by the time the Assistant Administrator has made all comparability findings and will issue such findings in writing to the harvesting nation and publish them in the **Federal Register**, the fishery will not receive a comparability finding and will have to reapply for a comparability finding. NMFS would take the information received and the results of such consultations into consideration in finalizing its comparability findings or when making subsequent comparability findings for that harvesting nation's fishery. A preliminary denial or termination of a comparability finding shall not result in import prohibitions.

Duration and Renewal of a Comparability Finding

For those fisheries that receive a comparability finding, such finding will remain valid for 4 years or for such other period as the Assistant Administrator may specify to keep it on the same renewal cycle, particularly if the comparability finding was issued as part of a reapplication following a denied or terminated comparability finding or was an application for a new export fishery proposed after a round of comparability findings. NMFS prefers to keep all nations on the same cycle. Thus if a harvesting nation is denied a comparability finding for an export fishery and reapplies mid-cycle and receives a comparability finding for that fishery, the duration may be less to bring it into a cycle with all other comparability findings. Likewise this language also allows NMFS to issue a comparability finding for less than four years to a fishery that was on the cusp of denial but would benefit from additional time to demonstrate that its regulatory program is comparable in effectiveness.

To seek renewal of a comparability finding, every 4 years, the harvesting nation must submit to the Assistant Administrator an application by March 1 of the year when the comparability finding is due to expire, requesting a comparability finding for the fishery and providing the same documentary evidence required for the initial comparability finding, including by providing documentary evidence of any alternative measures they implemented to reduce the incidental mortality and serious injury of marine mammals in their export fishery are comparable in effectiveness and achieve comparable results to the U.S. regulatory program. The Assistant Administrator may require the submission of additional supporting documentation or verification of statements made to support a comparability finding. If a harvesting nation's fishery does not receive a comparability finding during this renewal process, the procedures detailed below to implement import restrictions would be followed.

Procedures for a Comparability Finding for New Foreign Commercial Fishing Operations Wishing To Export to the United States

For foreign commercial fishing operations not on the List of Foreign Fisheries that are new exports to the United States, the harvesting nation must notify the Assistant Administrator that the commercial fishing operation wishes to export fish and fish products to the United States. Upon notification the Assistant Administrator shall issue a provisional comparability finding allowing such imports for a period not to exceed 12 months. At least 120 days prior to the expiration of the provisional comparability finding the harvesting nation must submit to the Assistant Administrator the reliable information specified in the section to categorize foreign fisheries and the application and the documentary evidence required to receive a comparability finding, including reasonable proof as to the effects on marine mammals of the commercial fishing technology in use in the fishery for fish or fish products exported to the United States.

Prior to expiration of the provisional comparability finding, the Assistant Administrator shall review the application and information provided and classify the commercial fishing operation as either an exempt or export fishery and determine whether to issue the harvesting nation a comparability finding for the fishery.

If the harvesting nation submits the reliable information specified to classify the fishery at least 180 days prior to expiration of the provisional comparability finding, the Assistant Administrator will review that information and classify the fishery as either an exempt or export fishery.

Discretionary Review of Comparability Findings

In addition, the Assistant Administrator may reconsider a comparability finding and may terminate a comparability finding if he or she determines that the requirements of these regulations are no longer being met. Given that comparability findings are made every four years, this provision allows the Assistant Administrator to consider the progress report submitted by a harvesting nation, information collected by the NMFS, or information provided by entities including RFMOs, nongovernmental organizations, and the public, to determine whether the exempt or export fishery is continuing to meet the requirements of these regulations. After such review or reconsideration, and after consultation with the harvesting nation (preliminary comparability finding), a comparability finding can be terminated if the Assistant Administrator determines that the basis for the comparability finding no longer applies. The Assistant Administrator shall notify in writing the harvesting nation and publish in the **Federal Register** a notice of the termination and the specific fish and fish products that as a result are subject to import prohibitions.

Duration of Import Restrictions and Removal of Import Restrictions

With respect to a harvesting nation for which the Assistant Administrator has denied or terminated a comparability finding for a fishery, the Assistant Administrator in cooperation with the Secretaries of the Treasury and Homeland Security would identify and prohibit importation of fish and fish products from that fishery into the United States until the harvesting nation's fishery applies or reapplies for, and receives, a comparability finding. The Assistant Administrator, in cooperation with the Secretaries of the Treasury and Homeland Security, will publish a notice of such import restrictions in the **Federal Register** announcing the comparability finding determinations (referenced above). The import restrictions would become effective thirty days after the date of publication in the **Federal Register** allowing sufficient time for implementation of such restrictions and disposition of any product currently in warehouses or in transit.

NMFS, in consultation with the Department of State and the Office of the United States Trade Representative, would consult with harvesting nations that failed to receive a comparability finding for a fishery, provide the reasons for the denial of such comparability finding, and encourage the harvesting nation to take corrective action and reapply for a comparability finding.

Any harvesting nation's fishery that fails to attain a comparability finding would remain subject to import prohibitions until it has satisfactorily met the conditions for and received a comparability finding. A harvesting nation may, at any time, re-apply for or request the reconsideration of a denied comparability finding for a fishery, and submit documentary evidence to the Assistant Administrator in support of such application or request. Upon issuance of a comparability finding and notification to the harvesting nation, the Assistant Administrator, in cooperation with the Secretaries of the Treasury and Homeland Security, would publish notification of the removal of the import prohibitions for that fishery, effective on the date of publication in the **Federal Register**.

Certification of Admissibility

If fish or fish products are subject to import prohibitions from a harvesting nation's fishery, the Assistant Administrator, to avoid circumvention of or to facilitate enforcement of import prohibitions, may publish in the **Federal Register** the requirement that the same or similar fish or fish products from the harvesting nation's exempt or export fisheries that are not subject to any import prohibitions (*i.e.,* those that have received a comparability finding) be accompanied by certification of admissibility.

The Assistant Administrator shall notify the harvesting nation of the fisheries and the fish and fish products to be accompanied by a certification of admissibility and provide the necessary documents and instruction. The Assistant Administrator in cooperation with the Secretaries of Treasury and Homeland Security, shall as part of the **Federal Register** notice referenced above publish by harvesting nation the fish and fish products to be accompanied by a certification of admissibility. Any requirement for a certification of admissibility shall be effective 30 days after the publication of such notice in the **Federal Register**.

For each shipment, the certification of admissibility must be completed and signed by a duly authorized official or agent of the harvesting nation and validated by a responsible official(s)

designated by the Assistant Administrator. The certification must also be signed by the importer of record and submitted in a format (electronic mail, facsimile [fax], the Internet, etc.) specified by the Assistant Administrator. NMFS proposes to modify the certification of admissibility developed under the HSDFMPA and the Shark Conservation Act of 2010 to add a designation on the certification of admissibility stating that the fish or fish products are from a fishery or nation that are *not* subject to an import restriction of the United States under the MMPA.

Should import prohibitions be imposed due to denial or revocation of a comparability finding, NMFS will identify to Customs and Border Protection the specific HTS codes for fish and fish products subject to embargo from the relevant harvesting nation. If the fish and fish products subject to an import prohibition also originate from a different fishery of the same harvesting nation, and that different fishery is exempt or has been issued a comparability finding, these products may be subject to requirement for a certification of admissibility whereby such products would be admissible to the U.S. if accompanied by a certification of admissibility that they were not harvested in the fishery subject to the embargo. The certification of admissibility must be properly completed and signed by a duly authorized official or agent of the harvesting nation. At the time of implementing an import prohibition, NMFS will communicate the scope of the prohibition to the harvesting nation and, should it be the case that the identified fish and fish products may also originate from a fishery of the harvesting nation other than the fishery subject to embargo, NMFS would work with the harvesting nation to define an acceptable protocol for certification of the identified fish and fish products from the harvesting nation's non-embargoed fisheries and obtain a list of duly authorized officials designated by the harvesting nation as well as details of the methods to be implemented by the harvesting nation to ensure that certifications are not issued for products of prohibited fisheries. The certification would be required for all inbound shipments of the identified products (designated by HTS codes) from the harvesting nation. While the certification must be properly completed and signed as a condition of entry, NMFS will also validate the certifications to ensure that prohibited products are not admitted. NMFS will designate validating authorities (*e.g.,* NMFS or other agency employees, contractors, accredited third party certifiers) and a protocol for validating the information provided by, or requested from, harvesting nations in support of certifications accompanying admitted shipments. Pre- and/or post-entry validations would be conducted using a risk-based approach and may involve random samples or specific screening and targeting criteria. Admitted products, later determined to be inadmissible by the validation process, could be subject to re-delivery orders and/or administrative sanctions against the importer.

The certification of admissibility would be a requirement for lawful import for the fish and fish products identified by harmonized tariff codes communicated by NMFS to Customs and Border Protection (CBP). The certification would be collected as part of electronic entry filing through the Automated Commercial Environment/International Trade Data System (ACE/ITDS). It is envisioned that a limited number of data elements would be collected through the partner government agency message set as part of the entry/entry summary submission in ACE/ITDS. In addition, an image file of the certification document would be submitted at entry summary through the document imaging system maintained by CBP as part of ACE/ITDS.

The NMFS approach to integrating its existing trade monitoring programs into ACE/ITDS is to be addressed in a separate rulemaking that is currently under development (RIN 0648–AX63). When the ACE/ITDS rulemaking and subsequent rulemakings to implement the recommendations of the Presidential Task Force on Combating Illegal, Unreported and Unregulated Fishing and Seafood Fraud (Task Force) (79 FR 75536; December 18, 2014) are issued, NMFS may be able to identify fish prohibited from entry under MMPA authority based on the documentation specifying fishery of capture/harvest to be submitted by the importer to ACE/ITDS as part of the Task Force traceability program. To eliminate duplicative requirements for MMPA import restrictions, NMFS will utilize import documentation procedures that have been developed as part of the ACE/ITDS and Task Force rulemakings so long as the information is sufficient to identify the fish or fish product was not caught or harvested in a fishery subject to an import prohibition under the MMPA.

Intermediary Nations

To prevent any fish or fish products subject to import prohibitions authorized by this rulemaking from being imported into the United States from any intermediary nation, including a processing nation, NMFS proposes provisions for intermediary nations. A fishery without a comparability finding may still export its fish and fish products to an intermediary nation. That intermediary nation from which fish and fish products would be imported into the United States must in turn certify that it exports do not include fish and fish products from a harvesting nation's fisheries that are subject to U.S. import prohibitions applied under this rule. To implement this provision, NMFS would not require an intermediary nation to enact laws or regulations to meet this condition. NMFS recognizes that an intermediary nation needs flexibility to determine how it will certify to the United States that any fish or fish product that it exports is not subject to import prohibitions applied under this rule. The proposed rule creates flexibility with respect to how a nation can show that it does not export prohibited fish and fish products to the United States, including by providing any certification, traceability, or tracking scheme that may be readily available or that it chooses to create. The nation must demonstrate that it has procedures to reliably certify that exports of fish and fish products from the intermediary to the United States do not contain fish or fish products caught or harvested in a fishery subject to an import prohibition. Those procedures can be implemented globally or on a shipment-by-shipment basis. They could include prohibiting the import of the prohibited fish and fish products, prohibiting the export of such product to the United States, or maintaining a tracking and verification scheme and including certification of such scheme on a shipment-by-shipment basis.

For purposes of this proposed rule, and in applying the definition of an ''intermediary nation,'' an import into the intermediary nation occurs when the fish or fish product is released from a harvesting nation's custom jurisdiction and enters the custom jurisdiction of the intermediary nation or when the fish and fish products are entered into a foreign trade zone of the intermediary nation for processing or transshipment. No fish or fish products caught or harvested in a fishery subject to an import prohibition may be imported into the United States from any intermediary nation.

Within 30 days of publication of the **Federal Register** specifying fish and fish products subject to import prohibitions, the Assistant Administrator shall, based on readily-available information, identify nations that may import, and re-export to the United States, fish and fish products from a fishery subject to an import prohibition and notify such nations in writing that they are subject to action with respect to the fish and fish products for which the Assistant Administer identified them.

Within 60 days from the date of notification, a nation must certify to the Assistant Administrator that it:

(1) Does not import, or does not offer for import into the United States, fish or fish products subject to an import prohibition; or

(2) Has procedures to reliably certify that exports of fish and fish products from the intermediary to the United States do not contain fish or fish products caught or harvested in a fishery subject to an import prohibition.

The intermediary nation must provide documentary evidence to support its certification including information demonstrating that:

(1) It has not imported in the preceding 6 months the fish and fish products for which it was notified; or

(2) It maintains a tracking, verification, or other scheme to reliably certify on either a global, individual shipment or other appropriate basis that fish and fish products from the intermediary nation offered for import to the United States do not contain of fish or fish products caught or harvested in a fishery subject to an import prohibition and for which it was notified.

No later than 120 days after a notification, the Assistant Administrator will review the certification and documentary evidence provided by the intermediary nation and determine based on that information or other readily available information whether the intermediary nation imports fish and fish products subject import prohibitions and, if so, whether the intermediary nation has procedures to reliably certify that exports of fish and fish products from the intermediary to the United States do not contain fish or fish products subject to import prohibitions, and notify the intermediary nation of its determination.

If the Assistant Administrator determines that the intermediary nation does not have procedures to reliably certify that exports of fish and fish products from the intermediary to the United States do not contain fish or fish products caught or harvested in a fishery subject to an import prohibition, the Assistant Administrator, in cooperation with the Secretaries of the Treasury and Homeland Security, will file with the Office of the **Federal Register** a notice announcing that fish and fish products exported from the intermediary nation to the United States that are of the same species as, or similar to, fish or fish products subject to an import prohibition and for which it was notified may not be imported into the United States.

The Assistant Administrator will review determinations under this paragraph upon the request of an intermediary nation. Such requests must be accompanied by specific and detailed supporting information or documentation indicating that a review or reconsideration is warranted. Based upon such information and other relevant information, the Assistant Administrator may determine that the intermediary nation should no longer be subject to an import prohibition. Based on that determination the Assistant Administrator, in cooperation with the Secretaries of the Treasury and Homeland Security, may lift an import prohibition under this paragraph and publish notification of such action in the **Federal Register**.

In response to the recommendations of the Presidential Task Force on Combatting Illegal, Unreported and Unregulated Fishing and Seafood Fraud (79 FR 75536; December 18, 2014), relevant U.S. government agencies are considering the scope of a seafood traceability scheme to prevent unlawfully acquired or fraudulently represented fish products from infiltrating the legitimate supply chain. It is envisioned that such a scheme would collect information on the origin of seafood products and the fishery in which such seafood is caught or harvested when such products are offered for entry into U.S. commerce. The National Ocean Council Committee on IUU Fishing and Seafood Fraud (NOC Committee) is seeking public input on the minimum types of information necessary for an effective seafood traceability program to combat IUU fishing and seafood fraud, as well as the operational standards related to collecting, verifying and securing that data. The **Federal Register** notice (80 FR 37601; July 1, 2015), seeks comments on the basic information that may be collected as part of the electronic entry filing through ACE/ITDS including:

- Who harvested or produced the fish, including name of harvesting vessel; flag state of harvesting vessel; name of farm or aquaculture facility; name of processor; and type of fishing gear.
- What fish was harvested and processed, including species of fish; product description; name of product; form of the product; and quantity and/or weight of the product.
- Where and when was the fish harvested and landed, including area of wild-capture or aquaculture harvest; harvest date(s); name and location of aquaculture facility; point of first landing; date of first landing.

Such information would be required for products exported directly from the harvesting nation, and also when exported from intermediary nations. NMFS is participating in the implementation of the Presidential Task Force's recommendations and will work to ensure that the Task Force's recommendations and this rule are implemented in a manner so as to avoid duplicative requirements. NMFS will also work with harvesting and intermediary nations to specify the data elements that must be collected and reported, and the interoperability standards for data management systems to ensure that the required data are available to entry filers at the point of import into U.S. commerce. Such a traceability scheme would also facilitate the certification options for intermediary nations, in addition to certificates of admissibility for harvesting nations, as envisioned by this proposed rule.

Progress Report

The Assistant Administrator would require each harvesting nation to submit a progress report. The first report would be submitted two years prior to the end of the exemption period and then every four years thereafter on or before July 31. In this report, the harvesting nation would present an update on actions taken over the previous two years to develop, adopt, and implement its regulatory program, as well as information on the performance of its export fisheries in reducing incidental mortality and serious injury of marine mammals. The report allows NMFS to monitor the harvesting nation's efforts in its export fisheries and to work closely with a harvesting nation to ensure they meet and continue to meet the conditions for a comparability finding. NMFS is seeking comment on the utility of the progress report and an alternative that, after the first progress report, would only require subsequent progress reports for those fisheries denied a comparability finding or for which a comparability finding has been terminated and wish to reapply.

This progress report should describe in detail the methods used to obtain the information contained in the progress report and should include a certification by the harvesting nation of its accuracy and authenticity.

International Cooperation and Assistance

Consistent with existing authority under the MMPA (16 U.S.C 1378), and subject to the availability of funds, NMFS may provide assistance to harvesting nations whose export fisheries NMFS has identified for assistance based on information in the List of Foreign Fisheries, comparability finding applications, progress reports, and to harvesting nations whose financial capacity to establish a comparable regulatory program is limited. To prioritize its capacity building efforts, NMFS may consider the needs of harvesting nations and the potential impacts of those nations' fisheries, based on: (1) Frequent incidental mortality and serious injury of marine mammals, (2) incidental mortality and serious injury in excess of a bycatch limit, if known; and (3) incidental mortality and serious injury of a threatened or endangered species listed under the Endangered Species Act (ESA). NMFS may also consider the extent to which a harvesting nation has programs or the capacity to assess marine mammal stocks and estimate or mitigate marine mammal incidental mortality and serious injury. Assistance activities may include cooperative research on marine mammal assessments (*e.g.,* designing vessel surveys and fishery observer programs) and development of techniques or technology to reduce incidental mortality and serious injury (*e.g.,* fishing gear modifications), as well as efforts to improve governance structures, or enforcement capacity (*e.g.,* training). NMFS would also facilitate, as appropriate, the voluntary transfer of appropriate technology on mutually agreed terms to assist a harvesting nation in qualifying its export fishery for a comparability finding and in designing and implementing appropriate fish harvesting methods that minimize the incidental mortality and serious injury of marine mammals.

Participating in the U.S. cooperation and assistance program is voluntary and would not determine whether a harvesting nation is issued a comparability finding. Likewise, NMFS' funds are limited and likely will be insufficient to meet all requests for assistance. NMFS' inability to provide requested assistance does not relieve a harvesting nation from the requirement to meet the conditions set forth in this proposed rule in order to obtain a comparability finding for an export fishery.

Coordination With Other Consultation Processes

NMFS would utilize, as appropriate, existing programs and processes to conduct outreach to potentially affected nations, including the consultation process of the HSDFMPA (50 CFR 300.200 *et seq.*), for addressing the bycatch of protected living marine resources incidental to commercial fisheries. While the applicability of sections 101(a)(2) and 102(c)(3) of the MMPA is broader than the HSDFMPA, NMFS would use HSDFMPA consultative process to augment the efforts outlined elsewhere in this rule to seek information and conduct outreach to harvesting nations potentially affected by this proposed rule. NMFS would also discuss and address these issues through bilateral fisheries consultations, and other relevant bilateral dialogues with harvesting nations and through appropriate fora associated with intergovernmental agreements and RFMOs.

Advance Notice of Proposed Rulemaking

NMFS published an ANPR on April 30, 2010 (75 FR 22731) describing options to develop procedures for implementing MMPA provisions for imports of fish and fish products and defining U.S. standards. The ANPR identified nine potential options to implement section 101(a)(2) of the MMPA in response to the petition for rulemaking. NMFS sought public comment on the following options:

Option 1: Marine mammal incidental mortality and serious injury (bycatch) in export fisheries is maintained at a level below PBR for impacted marine mammal stocks.

Option 2: Marine mammal incidental mortality and serious injury in export fisheries have been reduced to insignificant levels approaching a zero mortality and serious injury rate to the extent feasible, taking into account different conditions.

Option 3: Marine mammal incidental mortality and serious injury in export fisheries are maintained at levels below PBR or at levels comparable to those actually achieved in comparable U.S. fisheries, whichever is higher.

Option 4: Marine mammal incidental mortality and serious injury in export fisheries either cause the depletion of a marine mammal stock below its optimum sustainable population or impede the ability of a depleted stock to recover to its optimum sustainable population.

Option 5: Incidental mortality and serious injury in export fisheries have, or are likely to have, an immediate and significant adverse impact on a marine mammal stock (the trigger for issuing emergency regulations in U.S. commercial fisheries pursuant to section 118 of the MMPA).

Option 6: Incidental mortality and serious injury in export fisheries are likely to jeopardize the continued existence of any endangered or threatened marine mammal species or stock (the prohibitive standard of the ESA.

Option 7: Incidental mortality and serious injury by export fisheries are likely to jeopardize the continued existence of any marine mammal species or stock regardless of whether it is ESA-listed as threatened or endangered.

Option 8: Marine mammal incidental mortality and serious injury in a foreign nation's export fisheries are managed effectively by a relevant international fisheries or conservation organization or by the fishing nation itself.

Option 9: Foreign nations that supply fish and fish product imports to the United States have implemented regulations to address marine mammal incidental mortality and serious injury in the nations' export fisheries that are comparable to regulations implemented by the United States, taking into account different conditions.

NMFS received 42 comments from governmental entities, including the Marine Mammal Commission, individuals, and organizations. Comments received were compiled and are available on the Internet at *http://www.regulations.gov* under Docket ID NOAA–NMFS–2010–0098. Comments addressed both the proposed options and other topics.

Comments on the Proposed Options in the ANPR

Options 1 and 2

Comment 1: Many of the comments supported options 1 or 2 or a combination of the two. One commenter stated that some U.S. fisheries have not met the requirements of options 1 and 2; and, thus, NMFS could not impose those standards on other countries.

Response: NMFS has determined that because of a lack of data and PBR calculations for some marine mammal stocks in U.S waters, NMFS would adopt an approach that assesses whether a fishery has incidental marine mammal mortality and serious injury in excess of U.S. standards based on an evaluation of

whether foreign nations have adopted a regulatory program that is comparable in effectiveness to the U.S. regulatory program with respect to reducing incidental marine mammal bycatch mortality and serious injury, in particular by adopting a regulatory program with the same elements as the U.S. regulatory program or by adopting alternative measures that achieve comparable results. Therefore, where NMFS lacks data and PBR calculations for analogous U.S. fisheries, NMFS would not require foreign nations to have such data or calculations as a condition for a comparability finding. Rather, NMFS will be looking to see what measures harvesting nations have adopted and whether those measures are at least as comparable in effectiveness to the U.S. regulatory program in reducing marine mammal bycatch. The U.S. regulatory program begins with assessments and observations of marine mammals and their interactions with commercial fisheries and then calculates PBR and implements measures to reduce incidental mortality and serious injury of marine mammals in commercial fishing operations. NMFS finds that the proposed rule is sufficiently flexible to permit harvesting nations to develop and implement a range of approaches/measures and receive a comparability finding provided the nation has a regulatory program that is comparable in effectiveness to U.S. standards. If a nation does not estimate stock abundance, mortality, and calculate a bycatch limit but can nonetheless demonstrate that its regulatory programs effectively achieves comparable results to the U.S. regulatory program, NMFS would grant a comparability finding.

Although a nation may adopt a bycatch standard not currently in use by the United States, NMFS is not proposing to require nations to adopt and implement bycatch standards that we ourselves have not adopted and implemented. While the United States has not reduced incidental mortality and serious injury to insignificant levels (*i.e.,* 10% of PBR) for all marine mammal stocks in all of its commercial fisheries, many of the fisheries with incidental mortality and serious injury at levels above PBR are subject to a take reduction team and take reduction plan. This proposed rule follows U.S. implementation of domestic requirements by focusing on export fisheries, the equivalent of those fisheries that have frequent or occasional interactions with marine mammals (Category I and Category II fisheries).

Options 6 and 7

Comment 2: Most of the comments opposed options 6 or 7 because those are ESA standards, not MMPA standards and therefore should not be applied to the MMPA. Some respondents believe the ESA ''jeopardy standard'' is not as protective as OSP and PBR standards in the MMPA.

Response: NMFS believes it is more appropriate to develop a proposed rule based on the requirements for U.S. domestic fisheries contained in Sections 117 and 118 of the MMPA, rather than relying on standards in another statute. In addition, the ''jeopardy standard'' of the ESA only applies to threatened or endangered species, subspecies, or distinct population segments (DPS). It does not apply to all species of marine mammals regardless of their status, nor does it apply at the stock level unless that stock is also designated as a DPS. The jeopardy standard also only applies to Federal activities. As a result, NMFS determined that attempting to apply ESA standards to a MMPA provision limits action to a subset of marine mammals and would create unnecessary confusion.

Other Comments

Support for the Rulemaking

The majority of comments from organizations and individuals supported implementing the MMPA import provisions through a prohibition on imports of fish and fish products, as well as NMFS broadening the scope of its response to the petition to encompass all fish imports.

Comment 3: One commenter noted that rulemaking was unnecessary to prohibit imports of fish and fish products and that a ban on swordfish products should be put in place immediately.

Response: NMFS developed this proposed rule to implement Section 101(a)(2) of the MMPA that would apply to all fisheries, not just swordfish imports, except high seas driftnet fisheries and eastern tropical Pacific yellowfin tuna purse seine fisheries, since other MMPA provisions govern these fisheries. NMFS believes this proposed rule would advance the U.S. conservation objective to reduce marine mammal incidental mortality and serious injury in commercial fisheries by applying a flexible regulatory approach that would be comparable in effectiveness to the U.S. regulatory program and allowing adequate time for harvesting nations to develop the necessary information and implement such programs. NMFS believes it is necessary to promulgate regulations in order to implement this section of the MMPA.

Suggested Alternative Approaches To Addressing International Marine Mammal Incidental Mortality and Serious Injury

Comment 4: Several comments, particularly those from foreign governments, suggested that working cooperatively with trading partners would be more effective than banning imports. Some of those comments suggested that the United States work to address international marine mammal incidental mortality and serious injury through international organizations, such as RFMOs.

Response: The United States will work through its participation in RFMOs to address incidental mortality and serious injury in commercial fisheries and will also promote this objective in other multilateral fora. The United States will look to all types of fora as a means to work with harvesting nations to reduce marine mammal mortality and serious injury in these global fisheries. Nevertheless, bilateral and multilateral fora alone are not sufficient to achieve the MMPA goals as they do not encompass all of the foreign fisheries subject to this proposed rule. Section 101(a)(2) directs the Secretary of the Treasury to ban the importation of commercial fish or fish products which have been caught with commercial fishing technology that results in the incidental kill or incidental serious injury of ocean mammals in excess of U.S. standards. This rulemaking would establish the U.S. program to implement that provision.

Trade and Economic Issues

Comment 5: Several comments stated that any action the United States takes should be consistent with international law, particularly the WTO and not be a disguised method to unilaterally restrict the export of fisheries products to the United States.

Response: As noted above, NMFS intends to apply this entire regulation, including the enforcement of any import prohibitions on certain fish or fish products, consistent with U.S. international obligations, including the WTO Agreement. Included in NMFS' approach is its intention to regulate in a fair, transparent, and non-discriminatory manner, and to regulate based on the best available science. NMFS would implement the provisions of this rule taking into account a harvesting nation's existing regulatory program or progress in developing one and reducing bycatch, and the U.S. implementation of its regulatory

program for similar fisheries interacting with similar stocks.

U.S. Standards

Comment 6: Several comments noted that the U.S. standards need to be clear but flexible.

Response: NMFS believes the U.S. standards proposed through this rulemaking are clear and flexible. These are based on the U.S. program that requires assessment of marine mammal stocks and incidental mortality and serious injury as a first step, followed by measures to reduce marine mammal incidental mortality and serious injury in commercial fisheries to sustainable levels. NMFS intends to work with affected nations to develop regulatory programs to fit different conditions and situations.

Comment 7: Several comments noted that NMFS must allow for different methods to achieve the common objective and focus on attaining outcomes of effective management and protection rather than specific management inputs.

Response: NMFS believes the proposed rule contains sufficient flexibility to allow for different methods to achieve the objective of reducing marine mammal incidental mortality and serious injury. The proposed rule is modeled after the U.S. program to govern incidental take in commercial fisheries but does not require that affected nations adopt identical methods or regulations as the United States to meet the requirements of the proposed rule. NMFS will evaluate the results of each affected nation's regulatory program to determine if it is comparable in effectiveness to the U.S. program.

Reasonable Proof

Comment 8: Several commenters noted that what constitutes ''reasonable proof'' needs to be clearly defined.

Response: NMFS is not proposing a definition of reasonable proof, but instead requires nations provide documentary evidence of sufficient detail and an attestation that the evidence is accurate to allow NMFS to evaluate the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such harvesting nation to the United States for the purposes of rendering a comparability finding.

Comment 9: Several comments noted that reasonable proof should be received as a precondition to allowing fish and fish products to be imported into the United States.

Response: NMFS is requiring an application for a comparability finding to contain documentary evidence. NMFS believes nations must be given adequate time to develop comparable regulatory programs before any fish or fish products are prohibited from importation into the United States. The United State developed its current domestic program over the course of five years to provide sufficient time to collect information necessary to develop and implement its domestic bycatch reduction program. For that reason, NMFS is proposing an exemption period of five years to allow harvesting nations time to develop and implement their regulatory programs for their export fisheries.

Comment 10: Several comments stated that reasonable proof should be provided on a continual basis.

Response: The proposed program requires the harvesting nations to provide progress reports detailing the development and maintenance of a comparable regulatory program. NMFS is proposing that documentary evidence be the standard for any information submitted, including for the progress report, comparability finding, or reconsideration of a comparability finding.

Consultation Process

Comment 11: Several comments noted the need for a consultation process and sufficient time allowed to meet requirements once measures are implemented, to assess effectiveness before any import determinations are made. Other comments stated that the consultation process should have specific deadlines.

Response: The consultation process in this proposed rule would allow affected fisheries and nations five years to meet the requirements of the program. NMFS also intends to conduct outreach to potentially affected nations, including using the consultation process contained in HSDFMPA. NMFS' proposed consultation process has clear deadlines for comparability findings and the renewal of those findings.

Classification

This proposed rule is published under the authority of the Marine Mammal Protection Act, 16 U.S.C. 1371.

Under NOAA Administrative Order (NAO 216–6), the promulgation of regulations that are procedural and administrative in nature are categorically excluded from the requirement to prepare an EA. Nevertheless, NMFS prepared an EA for this action to facilitate public involvement in the development of the proposed national standard and procedures and to evaluate the impacts on the environment. This EA provides context for reviewing the proposed action by describing the impacts on marine mammals associated with fishing, the methods the United States has used to reduce those impacts, and a comparison of how approaches under the MMPA and the HSDFMPA provisions of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 would affect harvesting nations.

The alternatives described in section 2.1 of the EA provide five alternatives for ways to define ''U.S. standards'' for reducing mortality of marine mammals in fishing operations (Sections 2.1.1 through 2.1.5). In addition to defining standards, the alternatives set out implementation and compliance steps as part of an overall regulatory program for harvesting nations wishing to import fish and fish products into the United States. To meet the purpose and need, NMFS will select one alternative.

The alternatives to implement the import provisions of the MMPA are as follows: Under Alternative 1, Quantitative Standard, NMFS would require harvesting nations wishing to export fish and fish products to the United States to, as required by NMFS for U.S. domestic fisheries, reduce incidental mortality and serious injury of marine mammals to levels below PBR and subsequently to the same ''insignificant'' threshold, or 10 percent of potential biological removal in order to export fish and fish products to the United States.

Alternative 2 would require harvesting nations wishing to export fish and fish products to the United States to demonstrate comparability with U.S. standards as set out for domestic fisheries under sections 117 and 118 of the MMPA. Comparability is defined as ''comparable in effectiveness to that of the United States [regulatory program],'' not necessarily identical or as detailed. A finding of comparability would be made based on the documentary evidence provided by the harvesting nation to allow the Assistant Administrator to determine whether the harvesting nation has developed and implemented a regulatory program comparable in effectiveness to the U.S. program prescribed for U.S. commercial fisheries in sections 117 and 118 of the MMPA.'' This is NMFS' preferred alternative. Like the prior alternative, the preferred alternative also requires calculation of PBR or a bycatch limit and reducing incidental mortality and serious injury of marine mammals to levels below the bycatch limit.

Alternative 3 would define U.S. standards as those specific regulatory

measures required of U.S. commercial fishing operations as the result of a take reduction plan's implementing regulations. Such regulatory measures could be applied to fisheries conducted on the high seas where a take reduction plan is in place (and thus the requirements would already apply to vessels under the jurisdiction of the United States), and to foreign fisheries, regardless of their area of operation, that are comparable to U.S. fisheries.

Alternative 4 uses a procedure of identification, documentation and certification devised under the HSDFMPA and promulgated as a final rule in January 2011 (76 FR 2011, January 12, 2011).

Alternative 5, the no action alternative, proposes an approach for taking no action to implement section 101(a)(2) of the MMPA.

Overall, the preferred alternative in the EA sets the U.S. import standards for harvesting nations as the same standard used for U.S. commercial fishing operations to reduce incidental mortality and serious injury of marine mammals with flexibility for comparability in effectiveness. It takes an approach that evaluates whether fish/fish products exported to the United States are subject to a regulatory program of the harvesting nation that is comparable in effectiveness to the U.S. regulatory program in terms of reducing incidental mortality and serious injury and considers fish and fish products not subject to such a regulatory program as caught with technology that results in marine mammal incidental mortality and serious injury in excess of U.S. standards. This approach provides harvesting nations with flexibility to implement the same measures as under the U.S. program or other measures that achieve comparable results.

This proposed rulemaking has been determined to be significant for the purposes of Executive Order (EO) 12866 because it raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Pursuant to EO 12866, NMFS conducted a Regulatory Impact Review (RIR). When conducting the RIR and the EA's socioeconomic analysis of the preferred alternative, NMFS considered the number of harvesting nations and the types of fish products exported to the United States. NMFS is proposing to define ''*Fish and Fish Products*'' for the purposes of this proposed rule as any marine finfish, mollusk, crustacean, or other form of marine life other than marine mammals, reptiles, and birds, whether fresh, frozen, canned, pouched, or otherwise prepared in a manner that allows species identification, but does not include fish oil, slurry, sauces, sticks, balls, cakes, pudding and other similar highly processed fish products. NMFS is proposing to exclude fish oil, slurry, sauces, sticks, balls, cakes, pudding and other similar highly processed fish products from the requirements of the proposed rule and thus the analysis in the RIR. In 2012, 122 nations exported fish and fish products into the United States (see EA Section 3.4.3 Table 3). Fifty-five percent (66 nations) of those nations export five or fewer fish products, and 74% of the nations export 10 or fewer fish products. Only nine nations export 25 or more fish products; they are: Canada, Chile, China, Japan, Mexico, Taiwan, Thailand, South Korea, and Vietnam. With the exception of Japan, all of these nations are included within the U.S. list of top ten seafood trading partners by volume and weight (see EA Section 3.4.3 Table 4).

The United States imports more than 67 marine species, with tuna, shrimp, salmon (both farmed and wild salmon)) molluscs, mackerel, and sardines representing the six largest imports. Tuna fisheries are conducted primarily on the high seas, whereas shrimp and salmon fisheries are a combination of live capture and aquaculture operations. For example, for high seas export fisheries to get a comparability finding, harvesting nations may demonstrate including among other things that they are implementing the requirements of an RFMO or intergovernmental agreement to which the U.S. is a party; likewise for aquaculture facilities classified as exempt fisheries and sited in marine mammal habitat or interacting with marine mammals, the harvesting nation must demonstrate it is prohibiting the intentional killing of marine mammals in the course of aquaculture operations or has procedures to reliably certify that exports of fish and fish products to the United States are not the product of an intentional killing or serious injury of a marine mammal. Therefore, NMFS anticipates that out of 122 harvesting nations, the greatest economic burden will be on the 21 nations that export more than 10 fish products, assuming that their regulatory program will include more export fisheries.

This proposed rule offers harvesting nations time to develop their regulatory program. Additionally, the consultative process and potential for financial and technological assistance, will aid harvesting nations in meeting the requirements of these regulations. An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUPPLEMENTARY INFORMATION** section of the preamble. A summary of the Analysis follows. A copy of the complete IRFA is available from NMFS (see **ADDRESSES**). NMFS is specifically seeking comments on whether it may be appropriate at the final rule stage to certify to the Small Business Administration that the rule will not have a significant economic impact on a substantial number of small entities.

Under the proposed rule, NMFS would classify foreign fisheries based on the extent that the fishing gear and methods used interact with marine mammals. After notification from NMFS, harvesting nations desiring to export fish and fish products to the United States must apply for and receive a comparability finding for its exempt and export fisheries as identified in the List of Foreign Fisheries. Such a finding would indicate that marine mammal protection measures have been implemented in the fisheries that are comparable in effectiveness to the U.S. regulatory program. In the event of trade restrictive measures being imposed for specific fish products, certain other fish products eligible for entry from the affected nation may be required to have a certification of admissibility in order to be admitted into the United States.

Number and Description of Small Entities Regulated by the Proposed Action

This proposed rule does not apply directly to any U.S. small business as the rulemaking applies with regard to imports of fish and fish products. The universe of potentially indirectly affected industries includes the following: U.S. seafood processors, importers, retailers, and wholesalers. The exact volume and value of product, and the number of jobs supported primarily by imports within the processing, wholesale and retail sectors cannot be ascertained based on available information. In general, however, the dominant position of imported seafood in the U.S. supply chain is indicative of the number U.S. businesses that rely on seafood harvested by foreign entities.

Recordkeeping and Reporting Requirements

This proposed action contains new collection-of-information, involving limited reporting and record keeping, or

other compliance requirements. To facilitate enforcement of the import prohibitions for prohibited fish products, fisheries that do receive a comparability finding, that offer similar fish and fish products to those that have been prohibited from entry, may be required to submit certification of admissibility along with fish or fish products offered for entry into the United States that are not subject to the specific import restrictions.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

NMFS analyzed several alternatives under the EA for reducing mortality of marine mammals in fishing operations. Of those alternatives, the proposed rule (which is based on the EA preferred alternative) is the one that offers the most flexibility while being compliant with the provisions of the MMPA and U.S. obligations under the World Trade Organization, and thus was the one that could be considered in the analysis to minimize adverse impacts on small entities. The flexibility offered under the proposed rule allows harvesting nations to adopt a variety of alternatives to assess and reduce marine mammal incidental mortality and serious injury, provided the alternatives are comparable in effectiveness to the U.S. regulatory program. The flexibility should reduce burdens on small entities that import fish and fish products. One alternative to the proposed rule is the no action alternative, where NMFS would not promulgate regulations to implement the international provisions of the MMPA. This alternative to the proposed rule may demonstrate the least burden or economic impact to small entities. However, since the international provisions of the MMPA are statutory requirements, NOAA Fisheries does not have discretion to implement the no action alternative.

The proposed rule also demonstrates the U.S. commitment to achieving the conservation and sustainable management of marine mammals consistent with the statutory requirement of section 101(a)(2) of the MMPA. Additionally, the increased data collection that may result from the proposed regulations could assist in global stock assessments of marine mammals and improve our scientific understanding of these species. Finally, the proposed regulations should help ensure that the United States is not importing fisheries products harvested by nations that engage in the unsustainable bycatch of marine mammals in waters within and beyond any national jurisdiction.

No U.S. industrial sector is likely to be directly affected by the rulemaking. However, indirect effects may result in temporary and long-term responses that may be both positive and negative for various sectors of the U.S. seafood supply chain. Although over 90 percent of the edible seafood consumed annually in the United States is imported, the United States imports from over 120 nations. Given the number of nations exporting fish and fish products to the U.S. market and the volume of products supplied, domestic importers, retailers, wholesalers, and processors should be able to locate substitute or alternative sources of fish and fish products for those fisheries that fail to receive a comparability finding. However, it is possible that a substitute product will be more expensive or otherwise less preferable to a prohibited foreign fish or fish product. NMFS seeks comment on the costs, if any, incurred by U.S. entities that must find alternative sources for prohibited foreign fish and fish products.

Although U.S. entities are not directly impacted by this rule, they may experience some indirect effects from this rule. The indirect effects of import prohibitions may cause short term disruptions in the flow of seafood imports potentially impacting U.S. businesses. NMFS does not anticipate that national benefits and costs would change significantly in the long-term as a result of the implementation of the proposed alternatives. Therefore, NMFS anticipates that the impacts on U.S. businesses engaged in trading, processing, or retailing seafood will likely be minimal.

Duplicate, Overlapping, or Conflicting Federal Rules

This proposed action does not duplicate, overlap or conflict with any other Federal rules.

Public Participation

It is the policy of the Department of Commerce, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the Instructions section. All comments must be received by midnight on the day of the close of the comment period.

We are particularly interested in comments concerning the following questions:

1. Are there fisheries that are likely to be subject to prohibitions under this rule and, if so, what are the potential economic impacts on small businesses and consumers?

2. Is the five year exemption period an appropriate amount of time to allow harvesting nations to comply with the requirements of this rule?

3. Is four years an appropriate amount of time for the duration of a comparability finding?

4. Is the rule and corresponding notice of an information collection clear in regards to the type of documentation that would be required for harvesting nations to demonstrate the requirement that they have prohibited the intentional and incidental mortality or serious injury of marine mammals?

5. Is there a definition of ''reasonable proof'' that is used by another Federal government agency that would be appropriate to incorporate into this rule?

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. The information collection in this proposed rule would revise a collection-of-information requirement previously approved under OMB Control Number 0648–0651 (Certification of Admissibility). The revision would add a new category to the certification requirements for exports of fishery products to the United States from a nation's export fishery that have received a comparability finding under the procedures for evaluating export fisheries set forth in this proposed rule but are exporting fish and fish products similar to export fisheries that have failed to obtain a comparability finding. The Assistant Administrator may require that fish and fish products from such nation's other export fisheries could be admitted into the United States if the exporting nation certifies that the products were not harvested in the fishery for which a comparability finding was not issued.

The public reporting burden for the proposed requirement has been estimated, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information per response. NMFS estimates that the time to complete the Certification of Admissibility Form would be 10 minutes. In the event that import restrictions are imposed under these new procedures, additional responses by foreign exporters and U.S.

importers may increase the burden by 50% from the initial estimates under the existing approved collection. Based on an examination of trade statistics and the number of traders, the total number of respondents (*e.g.* seafood exporters/government officials) is estimated to be 90, increased from 60; the total number of responses is estimated to be 900, increased from 600; and the total annual burden is estimated at 150 hours, increased from 100 hours.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

The burden associated with the application for a comparability finding and the progress reports are not presently analyzed under the Paperwork Reduction Act. Nonetheless, we recognize that these collections of information pose regulatory burdens for harvesting nations and possibly affected fisheries and seek comment on the potential cost of these provisions, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information.

Send comments on these or any other aspects of the collection of information to the Director, Office of International Affairs (see **ADDRESSES**), and to OMB by email to *OIRA_Submission@omb.eop.gov* or by fax to (202) 395–5806.

If this revision to the collection-of-information requirement under Control Number 0648–0651 is approved by OMB, the table of approved NOAA information collections that appears at 15 CFR part 902 would be amended accordingly.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 216

Administrative practice and procedure, Exports, Marine Mammals, Reporting and recordkeeping requirements.

Dated: July 31, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 216 are proposed to be amended as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), remove the entry for 216.24 and add in its place an entry for 216.24(h)(9)(iii) in numerical order under the heading 50 CFR to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR.	
* * * * *	
216.24(h)(9)(iii)	–0387 and –0651
* * * * *	

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PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 3. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 4. In § 216.3:

■ a. Add definitions for ''Bycatch limit,'' ''Comparability finding,'' ''Exempt fishery,'' ''Exemption period,'' ''Export fishery,'' and ''Fish and fish product'' in alphabetical order;

■ b. Revise the definition for ''Import''; and

■ c. Add definitions for ''Intermediary nation,'' ''List of foreign fisheries,'' ''Transboundary stock,'' and ''U.S. regulatory program'' in alphabetical order.

The additions and revisions read as follows:

§ 216.3 Definitions.

* * * * *

Bycatch limit means the calculation of a potential biological removal level for a particular marine mammal stock, as defined in § 229.2, or comparable scientific metric established by the harvesting nation or applicable regional fishery management organization or intergovernmental agreement.

* * * * *

Comparability finding means a finding by the Assistant Administrator that the harvesting nation for an export fishery has met the applicable conditions specified in § 216.24(h)(6)(iii) subject to the additional considerations for comparability determinations set out in § 216.24(h)(7).

* * * * *

Exempt fishery means a foreign commercial fishing operation determined by the Assistant Administrator to be the source of exports of commercial fish and fish products to the United States and to have a remote likelihood of, or no known, incidental mortality and serious injury of marine mammals in the course of commercial fishing operations. A commercial fishing operation that has a remote likelihood of causing incidental mortality and serious injury of marine mammals is one that collectively with other foreign fisheries exporting fish and fish products to the United States causes the annual removal of:

(1) Ten percent or less of any marine mammal stock's bycatch limit; or

(2) More than 10 percent of any marine mammal stock's bycatch limit, yet that fishery by itself removes 1 percent or less of that stock's bycatch limit annually; or

(3) Where reliable information has not been provided by the harvesting nation on the frequency of incidental mortality and serious injury of marine mammals caused by the commercial fishing operation, the Assistant Administrator may determine whether the likelihood of incidental mortality and serious injury is ''remote'' by evaluating information concerning factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, the species and distribution of marine mammals in the area, or other factors at the discretion of the Assistant Administrator. A foreign fishery will not be classified as an exempt fishery unless the Assistant

Administrator has reliable information from the harvesting nation, or other information to support such a finding.

Exemption period means the one-time, five-year period that commences with the effective date of the final rule implementing this section during which commercial fishing operations that are the source of exports of commercial fish and fish products to the United States will be exempt from the prohibitions of § 216.24(h)(1).

Export fishery means a foreign commercial fishing operation determined by the Assistant Administrator to be the source of exports of commercial fish and fish products to the United States and to have more than a remote likelihood of incidental mortality and serious injury of marine mammals (as defined in the definition of an ''exempt fishery'') in the course of its commercial fishing operations. Where reliable information has not been provided by the harvesting nation on the frequency of incidental mortality and serious injury of marine mammals caused by the commercial fishing operation, the Assistant Administrator may determine whether the likelihood of incidental mortality and serious injury is more than ''remote'' by evaluating information concerning factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or other factors at the discretion of the Assistant Administrator that may inform whether the likelihood of incidental mortality and serious injury of marine mammals caused by the commercial fishing operation is more than ''remote.'' Commercial fishing operations not specifically identified in the current List of Foreign Fisheries as either exempt or export fisheries are deemed to be export fisheries until the next List of Foreign Fisheries is published unless the Assistant Administrator has reliable information from the harvesting nation to properly classify the foreign commercial fishing operation. Additionally, the Assistant Administrator, may request additional information from the harvesting nation and may consider other relevant information as set forth in § 216.24(h)(3) of this section about such commercial fishing operations and the frequency of incidental mortality and serious injury of marine mammals, to properly classify the foreign commercial fishing operation.

* * * * *

Fish and fish product means any marine finfish, mollusk, crustacean, or other form of marine life other than marine mammals, reptiles, and birds, whether fresh, frozen, canned, pouched, or otherwise prepared in a manner that allows species identification, but does not include fish oil, slurry, sauces, sticks, balls, cakes, pudding and other similar highly processed fish products.

* * * * *

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the Customs laws of the United States; except that, for the purpose of any ban issued under 16 U.S.C. 1371(a)(2)(B) on the importation of fish or fish products, the definition of ''import'' in § 216.24(f)(1)(ii)shall apply.

* * * * *

Intermediary nation means a nation that imports fish or fish products from a fishery that is subject to an import restriction pursuant to § 216.24(h)(9) and re-exports such fish or fish products to the United States.

* * * * *

List of Foreign Fisheries means the most recent list of foreign commercial fishing operations exporting fish or fish products to the United States, that is published in the **Federal Register** by the Assistant Administrator and that classifies commercial fishing operations according to the frequency and likelihood of incidental mortality and serious injury of marine mammals during commercial fishing operations as either an exempt fishery or export fishery. This list will be organized by harvesting nation.

* * * * *

Transboundary stock means a marine mammal stock occurring in the:

(1) Exclusive economic zones or territorial sea of the United States and one or more other coastal States; or

(2) Exclusive economic zone or territorial sea of the United States and on the high seas.

* * * * *

U.S. regulatory program means the regulatory program governing the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations as specified in the Marine Mammal Protection Act and its implementing regulations.

* * * * *

■ 4. In § 216.24, the section heading is revised and paragraph (h) is added to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations including tuna purse seine vessels in the eastern tropical Pacific Ocean.

* * * * *

(h) *Taking and related acts of marine mammals incidental to foreign commercial fishing operations not governed by the provisions related to tuna purse seine vessels in the eastern tropical Pacific Ocean.* (1) *Prohibitions.* (i) As provided in section 101(a)(2) of the MMPA, the importation of commercial fish or fish products which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of U.S. standards is prohibited. For purposes of this section, a fish or fish product caught with commercial fishing technology which results in the incidental mortality or incidental serious injury of marine mammals in excess of U.S. standards is any fish or fish product harvested in an exempt or export fishery for which a valid comparability finding is not in effect.

(ii) Accordingly, it is unlawful for any person to import, or attempt to import, into the United States for commercial purposes any fish or fish product if such fish or fish product:

(A) Was caught or harvested in a fishery that does not have a valid comparability finding in effect at the time of import; or

(B) Is not accompanied by a Certification of Admissibility where such Certification is required pursuant to paragraph (h)(9)(iv) of this section or by such other documentation as the Assistant Administrator may identify and announce in the **Federal Register** that indicates the fish or fish product was not caught or harvested in a fishery subject to an import prohibition under paragraphs (h)(1) and (h)(9)(i) of this section.

(iii) It is unlawful for any person, including exporters, transshippers, importers, processors, or wholesalers/distributors to possess, sell, purchase, offer for sale, re-export, transport, or ship in the United States, any fish or fish product imported in violation of this section.

(2) *Exemptions.* (i) Exempt fisheries are exempt from requirements of paragraph (h)(6)(iii)(B) through (E) of this section.

(A) For the purposes of paragraph (h) of this section, *harvesting nation* means the country under whose flag or jurisdiction one or more fishing vessels or other entity engaged in commercial fishing operations are documented, or which has by formal declaration or agreement asserted jurisdiction over one

or more authorized or certified charter vessels, and from such vessel(s) or entity(ies) fish are caught or harvested that are a part of any cargo or shipment of fish or fish products to be imported into the United States, regardless of any intervening transshipments, exports or re-exports.

(B) [Reserved]

(ii) The prohibitions of paragraph (h)(1) of this section shall not apply during the exemption period.

(iii) Section 216.24(h) shall not apply with respect to incidental take of delphinids in purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean or large-scale driftnet fishing. Section 216.24(f) shall govern restrictions on importation and sale of fish and fish products caught or harvested, and the taking of delphinids, in the course of commercial purse seine fishing operations for yellowfin tuna in the eastern tropical Pacific Ocean and fish and the importation of fish products harvested by using a large-scale driftnet.

(3) *Procedures to identify foreign commercial fishing operations with incidental mortality and serious injury of marine mammals.* In developing the List of Foreign Fisheries in paragraph (h)(4) of this section, the Assistant Administrator:

(i) Shall periodically analyze imports of fish and fish products and identify commercial fishing operations that are the source of exports of such fish and fish products to the United States that have or may have incidental mortality or serious injury of marine mammals in the course of their commercial fishing operations.

(A) For the purposes of paragraph (h) of this section, a *commercial fishing operation* means vessels or entities that catch, take, or harvest fish (as defined in Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) from the marine environment (or other areas where marine mammals occur) that results in the sale or barter of all or part of the fish caught, taken or harvested. The term includes aquaculture activities that interact with or occur in marine mammal habitat.

(B) [Reserved]

(ii) Shall notify, in consultation with the Secretary of State, each harvesting nation that has commercial fishing operations identified pursuant to paragraph (h)(3)(i) of this section and request that within 90 days of notification the harvesting nation submit reliable information about the commercial fishing operations identified, including as relevant the number of participants, number of vessels, gear type, target species, area of operation, fishing season, any information regarding the frequency of marine mammal incidental mortality and serious injury and any programs (including any relevant laws, decrees, regulations or measures) to assess marine mammal populations and to reduce incidental mortality and serious injury of marine mammals in those fisheries or prohibit the intentional killing or injury of marine mammals;

(iii) Shall review each harvesting nation's submission, evaluate any information it contains (including descriptions of its regulatory programs) and, if necessary, request additional information; and

(iv) May consider other readily available and relevant information about such commercial fishing operations and the frequency of incidental mortality and serious injury of marine mammals, including: Fishing vessel records; reports of on-board fishery observers; information from off-loading facilities, port-side officials, enforcement agents, transshipment vessel workers and fish importers; government vessel registries; regional fisheries management organizations documents and statistical document programs; and appropriate certification programs. Other sources may include published literature and reports on fishing vessels with incidental mortality and serious injury of marine mammals from government agencies; foreign, state, and local governments; regional fishery management organizations; nongovernmental organizations; industry organizations; academic institutions; and citizens and citizen groups.

(4) *List of Foreign Fisheries.* (i) Within one year of the effective date of the final rule implementing this section and the year prior to the expiration of the exemption period and every four years thereafter, the Assistant Administrator, based on the information obtained in paragraph (h)(3) of this section, will publish in the **Federal Register**:

(A) A proposed List of Foreign Fisheries by harvesting nation for notice and comment; and

(B) A final List of Foreign Fisheries, effective upon publication in the **Federal Register**.

(ii) To the extent that information is available, the List of Foreign Fisheries shall:

(A) Classify each commercial fishing operation that is the source of exports of fish and fish products to the United States based on the definitions for export fishery and exempt fishery set forth in § 216.3 of this part and identified in the List of Foreign Fisheries by harvesting nation and other defining factors including geographic location of harvest, gear-type, target species or a combination thereof;

(B) Include fishing gear type, target species, and number of vessels or other entities engaged in each commercial fishing operation;

(C) List the marine mammals that interact with each commercial fishing operation and indicate the level of incidental mortality and serious injury of marine mammals in each commercial fishing operation;

(D) Provide a description of the harvesting nation's programs to assess marine mammal stocks and estimate and reduce marine mammal incidental mortality and serious injury in its export fisheries; and

(E) List the harvesting nations that prohibit, in the course of commercial fishing operations that are the source of exports to the United States, the intentional mortality or serious injury of marine mammals unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger.

(5) *Consultations with Harvesting Nations with Commercial Fishing Operations on the List of Foreign Fisheries.* (i) Within 90 days of publication of the final List of Foreign Fisheries in the **Federal Register,** the Assistant Administrator, in consultation with the Secretary of State, shall consult with harvesting nations with commercial fishing operations identified as export or exempt fisheries as defined in § 216.3 for purposes of notifying the harvesting nation of the requirements of the Marine Mammal Protection Act and this subpart.

(ii) The Assistant Administrator, in consultation with the Secretary of State, may consult with harvesting nations for the purposes of providing notifications of deadlines under this section, ascertaining or reviewing the progress of the harvesting nation's development, adoption, implementation, or enforcement of its regulatory program governing the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations for an export fishery, supplementing or clarifying information needed in conjunction with the List of Foreign Fisheries in paragraphs (h)(3) and (4) of this section, the progress report in paragraph (h)(10) of this section or an application for or reconsideration of a comparability finding in paragraph (h)(6) and (h)(8) of this section.

(iii) The Assistant Administrator shall, in consultation with the Secretary of State and the United States Trade Representative, consult with any

harvesting nations that failed to receive a comparability finding for one or more of commercial fishing operations or for which a comparability finding is terminated and encourage the harvesting nation to take corrective action and reapply for a comparability finding in accordance with paragraph (h)(9)(iii) of this section.

(6) *Procedure and conditions for a comparability finding.* (i) *Procedures to apply for a comparability finding.* On March 1st of the year when the exemption period or comparability finding is to expire, a harvesting nation, shall submit to the Assistant Administrator an application for each of its export and exempt fisheries, along with documentary evidence demonstrating that the harvesting nation has met the conditions specified in paragraph (h)(6)(iii) of this section for each of such fishery, including reasonable proof as to the effects on marine mammals of the commercial fishing technology in use in the fishery for fish or fish products exported from such nation to the United States. The Assistant Administrator may require the submission of additional supporting documentation or other verification of statements made in an application for a comparability finding.

(ii) *Procedures to issue a comparability finding.* No later than November 30th of the year when the exemption period or comparability finding is to expire, the Assistant Administrator, in response to an application from a harvesting nation for an export or exempt fishery, shall determine whether to issue to the harvesting nation, in accordance with the procedures set forth in paragraph (h)(8) of this section, a comparability finding for the fishery. In making this determination, the Assistant Administrator shall consider documentary evidence provided by the harvesting nation and relevant information readily available from other sources. If a harvesting nation provides insufficient documentary evidence in support of its application, the Assistant Administrator shall draw reasonable conclusions regarding the fishery based on readily available and relevant information from other sources, including where appropriate information concerning analogous fisheries that use the same or similar gear-type under similar conditions as the fishery, in determining whether to issue the harvesting nation a comparability finding for the fishery.

(iii) *Conditions for a comparability finding.* The following are conditions for the Assistant Administrator to issue a comparability finding for the fishery, subject to the additional considerations set out in paragraph (h)(7) of this section:

(A) For an exempt or export fishery, the harvesting nation:

(*1*) Prohibits the intentional mortality or serious injury of marine mammals in the course of commercial fishing operations in the fishery unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger; or

(*2*) Demonstrates that it has procedures to reliably certify that exports of fish and fish products to the United States are not the product of an intentional killing or serious injury of a marine mammal unless the intentional mortality or serious injury of a marine mammal is imminently necessary in self-defense or to save the life of a person in immediate danger; and

(B) For an export fishery, the harvesting nation maintains a regulatory program with respect to the fishery that is comparable in effectiveness to the U.S. regulatory program with respect to incidental mortality and serious injury of marine mammals in the course of commercial fishing operations, in particular by maintaining a regulatory program that includes, or effectively achieves comparable results as, the conditions in paragraphs (h)(6)(iii)(C), (D) or (E) of this section as applicable (including for transboundary stocks).

(C) *Conditions for an export fishery operating under the jurisdiction of a harvesting nation within its EEZ (or the equivalent) or territorial sea.* In making the finding in paragraph (h)(6)(ii) of this section, with respect to an export fishery operating under the jurisdiction of a harvesting nation within its EEZ (or the equivalent) or territorial sea, the Assistant Administrator shall determine whether the harvesting nation maintains a regulatory program that provides for, or effectively achieves comparable results as, the following:

(*1*) Marine mammal assessments that estimate population abundance for marine mammal stocks in waters under the harvesting nation's jurisdiction that are incidentally killed or seriously injured in the export fishery.

(*2*) An export fishery register containing a list of all fishing vessels participating in the export fishery, including information on the number of vessels participating, the time or season and area of operation, gear type and target species.

(*3*) Regulatory requirements that include:

(*i*) A requirement for the owner or operator of a vessel participating in the export fishery to report all intentional and incidental mortality and injury of marine mammals in the course of commercial fishing operations; and

(*ii*) A requirement to implement measures in the export fishery designed to reduce the total incidental mortality and serious injury of a marine mammal stock below the bycatch limit.

(*4*) Implementation of monitoring procedures in the export fishery designed to estimate incidental mortality or serious injury in the export fishery, and to estimate the cumulative incidental mortality and serious injury of marine mammal stocks in waters under its jurisdiction resulting from the export fishery and other export fisheries interacting with the same marine mammal stocks, including an indication of the statistical reliability of those estimates.

(*5*) Calculation of bycatch limits for marine mammal stocks in waters under its jurisdiction that are incidentally killed or seriously injured in the export fishery.

(*6*) Comparison of the incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery in relation to the bycatch limit for each stock; and comparison of the cumulative incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery and any other export fisheries of the harvesting nation showing that these export fisheries:

(*i*) Do not exceed the bycatch limit for that stock or stocks; or

(*ii*) Exceed the bycatch limit for that stock or stocks, but the portion of incidental marine mammal mortality or serious injury for which the export fishery is responsible is at a level that, if the other export fisheries interacting with the same marine mammal stock or stocks were at the same level, would not result in cumulative incidental mortality and serious injury in excess of the bycatch limit for that stock or stocks.

(D) *Conditions for a harvesting nation's export fishery operating within the jurisdiction of another coastal state.* In making the finding in paragraph (h)(6)(ii) of this section, with respect to a harvesting nation's export fishery operating within the jurisdiction of another coastal state, the Assistant Administrator shall determine whether the harvesting nation maintains a regulatory program that provides for, or effectively achieves comparable results as, the following:

(*1*) Implementation in the export fishery of:

(*i*) with respect to any transboundary stock interacting with the export fishery, any measures to reduce the incidental

mortality and serious injury of that stock that the United States requires its domestic fisheries to take with respect that transboundary stock; and

(*ii*) with respect to any other marine mammal stocks interacting with the export fishery while operating within the jurisdiction of the coastal state or on the high seas, any measures to reduce incidental mortality and serious injury that the United States requires its domestic fisheries to take with respect to that marine mammal stock; and

(*2*) For an export fishery not subject to management by a regional fishery management organization:

(*i*) An assessment of marine mammal abundance of stocks interacting with the export fishery, the calculation of a bycatch limit for each such stock, an estimation of incidental mortality and serious injury for each stock and reduction in or maintenance of the incidental mortality and serious injury of each stock below the bycatch limit. This data included in the application may be provided by the coastal state or other source; and

(*ii*) Comparison of the incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery in relation to the bycatch limit for each stock; and comparison of the cumulative incidental mortality and serious injury of each marine mammal stock or stocks that interact with the export fishery and any other export fisheries of the harvesting nation showing that these export fisheries do not exceed the bycatch limit for that stock or stocks; or exceed the bycatch limit for that stock or stocks, but the portion of incidental marine mammal mortality or serious injury for which the export fishery is responsible is at a level that, if the other export fisheries interacting with the same marine mammal stock or stocks were at the same level, would not result in cumulative incidental mortality and serious injury in excess of the bycatch limit for that stock or stocks; or

(*3*) For an export fishery that is subject to management by a regional fishery management organization, implementation of marine mammal data collection and conservation and management measures applicable to that fishery required under an applicable intergovernmental agreement or regional fisheries management organization to which the United States is a party.

(E) *Conditions for a harvesting nation's export fishery operating on the high seas.* In making the finding in paragraph (h)(6)(ii) of this section, with respect to a harvesting nation's export fishery operating on the high seas, the Assistant Administrator shall determine whether the harvesting nation maintains a regulatory program that provides for, or effectively achieves comparable results as, the U.S. regulatory program with respect to the following:

(*1*) Implementation in the fishery of marine mammal data collection and conservation and management measures applicable to that fishery required under any applicable intergovernmental agreement or regional fisheries management organization to which the United States is a party; and

(*2*) Implementation in the export fishery of:

(*i*) With respect to any transboundary stock interacting with the export fishery, any measures to reduce the incidental mortality and serious injury of that stock that the United States requires its domestic fisheries to take with respect that transboundary stock; and

(*ii*) With respect to any other marine mammal stocks interacting with the export fishery while operating on the high seas, any measures to reduce incidental mortality and serious injury that the United States requires its domestic fisheries to take with respect to that marine mammal stock when they are operating on the high seas.

(7) *Additional considerations for comparability finding determinations.* When determining whether to issue any comparability finding for a harvesting nation's export fishery the Assistant Administrator shall also consider:

(i) U.S. implementation of its regulatory program for similar marine mammal stocks and similar fisheries (*e.g.,* considering gear or target species), including transboundary stocks governed by regulations implementing a take reduction plan (§ 229.2 of this chapter), and any other relevant information received during consultations;

(ii) The extent to which the harvesting nation has successfully implemented measures in the export fishery to reduce the incidental mortality and serious injury of marine mammals caused by the harvesting nation's export fisheries to levels below the bycatch limit;

(iii) Whether the measures adopted by the harvesting nation for its export fishery have reduced or will likely reduce the cumulative incidental mortality and serious injury of each marine mammal stock below the bycatch limit, and the progress of the regulatory program toward achieving its objectives;

(iv) Other relevant facts and circumstances, which may include the history and nature of interactions with marine mammals in this export fishery, whether the level of incidental mortality and serious injury resulting from the fishery or fisheries exceeds the bycatch limit for a marine mammal stock, the population size and trend of the marine mammal stock, and the population level impacts of the incidental mortality or serious injury of marine mammals in a harvesting nation's export fisheries and the conservation status of those marine mammal stocks where available;

(v) The record of consultations under paragraph (h)(5) of this section with the harvesting nation, results of these consultations, and actions taken by the harvesting nation and under any applicable intergovernmental agreement or regional fishery management organization to reduce the incidental mortality and serious injury of marine mammals in its export fisheries;

(vi) Information gathered during onsite inspection by U.S. government officials of a fishery's operations;

(vii) For export fisheries operating on the high seas under an applicable intergovernmental agreement or regional fishery management organization to which the United States is a party, the harvesting nation's record of implementation of or compliance with measures adopted by that regional fishery management organization or intergovernmental agreement for data collection, incidental mortality and serious injury mitigation or the conservation and management of marine mammals; whether the harvesting nation is a party or cooperating non-party to such intergovernmental agreement or regional fishery management organization; the record of United States implementation of such measures; and whether the United States has imposed additional measures on its fleet not required by an intergovernmental agreement or regional fishery management organization; or

(viii) For export fisheries operating on the high seas under an applicable intergovernmental agreement or regional fisheries management organization to which the United States is not a party, the harvesting nation's implementation of and compliance with measures, adopted by that regional fisheries management organization or intergovernmental agreement, and any additional measures implemented by the harvesting nation for data collection, incidental mortality and serious injury mitigation or the conservation and management of marine mammals and the extent to which such measures are comparable in effectiveness to the U.S. regulatory program for similar fisheries.

(8) *Comparability finding determinations.* (i) *Publication.* No later than November 30th of the year when the exemption period or comparability finding is to expire, the Assistant

Administrator shall publish in the **Federal Register**, by harvesting nation, a notice of the harvesting nations and fisheries for which it has issued and denied a comparability finding and the specific fish and fish products that as a result are subject to import prohibitions under paragraphs (h)(1) and (9) of this section.

(ii) *Notification.* Prior to publication in the **Federal Register**, the Assistant Administrator, in consultation with the Secretary of State and, in the event of a denial of a comparability finding, with the Office of the U.S. Trade Representative, shall notify each harvesting nation in writing of the fisheries of the harvesting nation for which the Assistant Administrator is:

(A) Issuing a comparability finding;

(B) Denying a comparability finding with an explanation for the reasons for the denial of such comparability finding; and

(C) Specify the fish and fish products that will be subject to import prohibitions under paragraphs (h)(1) and (9) of this section on account of a denial of a comparability finding and the effective date of such import prohibitions.

(iii) *Preliminary comparability finding consultations.* (A) Prior to denying a comparability finding under paragraph (h)(8)(ii) of this section or terminating a comparability finding under paragraph (h)(8)(vii) of this section, the Assistant Administrator shall:

(*1*) Notify the harvesting nation that it is preliminarily denying or terminating its comparability finding and explain the reasons for that preliminary denial or termination;

(*2*) Provide the harvesting nation a reasonable opportunity to submit reliable information to refute the preliminary denial or termination of the comparability finding and communicate any corrective actions it is taking to meet the applicable conditions for a comparability finding set out in paragraph (h)(6)(iii) of this section subject to the additional considerations set out in paragraph (h)(7) of this section.

(B) The Assistant Administrator shall take into account any information it receives from the harvesting nation and issue a final comparability finding determination, notifying the harvesting nation pursuant to paragraph (h)(8)(ii) of this section of its determination and, if a denial or termination, an explanation of the reasons for the denial or termination of the comparability finding.

(C) A preliminary denial or termination of a comparability finding shall not result in import prohibitions pursuant to paragraphs (h)(1) and (9) of this section.

(iv) *Duration of a comparability finding.* Unless terminated in accordance with paragraph (h)(8)(vii) of this section or issued for a specific period pursuant to a re-application under paragraph (h)(9)(iii) of this section, a comparability finding shall remain valid for 4 years from publication or for such other period as the Assistant Administrator may specify.

(v) *Renewal of comparability finding.* To seek renewal of a comparability finding, every 4 years or prior to the expiration of a comparability finding, the harvesting nation must submit to the Assistant Administrator the application and the documentary evidence required pursuant to paragraph (h)(6)(i) of this section, including, where applicable, reasonable proof as to the effects on marine mammals of the commercial fishing technology in use in the fishery for fish or fish products exported to the United States, by March 1 of the year when its current comparability finding is due to expire.

(vi) *Procedures for a comparability finding for new foreign commercial fishing operations wishing to export to the United States.* (A) For foreign commercial fishing operations not on the List of Foreign Fisheries that are the source of new exports to the United States, the harvesting nation must notify the Assistant Administrator that the commercial fishing operation wishes to export fish and fish products to the United States.

(B) Upon notification the Assistant Administrator shall issue a provisional comparability finding allowing such imports for a period not to exceed 12 months.

(C) At least 120 days prior to the expiration of the provisional comparability finding the harvesting nation must submit to the Assistant Administrator the reliable information specified in paragraph (h)(3)(ii) of this section and the application and the applicable documentary evidence required pursuant to paragraph (h)(6)(i) of this section.

(D) Prior to expiration of the provisional comparability finding, the Assistant Administrator shall review the application and information provided and classify the commercial fishing operation as either an exempt or export fishery in accordance with paragraphs (h)(3)(iii) through (iv) and (h)(4)(ii) of this section and determine whether to issue the harvesting nation a comparability finding for the fishery in accordance with paragraph (h)(6)(ii) through (iii) of this section.

(E) If the harvesting nation submits the reliable information specified in paragraph (h)(3)(ii) of this section at least 180 days prior to expiration of the provisional comparability finding, the Assistant Administrator will review that information and classify the fishery as either an exempt or export fishery.

(vii) *Discretionary review of comparability findings.* (A) The Assistant Administrator may reconsider a comparability finding that it has issued at any time based upon information obtained by the Assistant Administrator including any progress report received from a harvesting nation; or upon request with the submission of information from the harvesting nation, any nation, regional fishery management organizations, nongovernmental organizations, industry organizations, academic institutions, citizens or citizen groups that the harvesting nation's exempt or export fishery no longer meets the applicable conditions in paragraph (h)(6)(iii) of this section. Upon receiving a request, the Assistant Administrator has the discretion to determine whether to proceed with a review or reconsideration.

(B) After such review or reconsideration and consultation with the harvesting nation, the Assistant Administrator shall, if the Assistant Administrator determines that the basis for the comparability finding no longer applies, terminate a comparability finding.

(C) The Assistant Administrator shall notify in writing the harvesting nation and publish in the **Federal Register** a notice of the termination and the specific fish and fish products that as a result are subject to import prohibitions under paragraphs (h)(1) and (9) of this section.

(9) *Imposition of import prohibitions.* (i) With respect to a harvesting nation for which the Assistant Administrator has denied or terminated a comparability finding for a fishery, the Assistant Administrator, in cooperation with the Secretaries of the Treasury and Homeland Security, shall identify and prohibit the importation of fish and fish products into the United States from the harvesting nation caught or harvested in that fishery. Any such import prohibition shall become effective 30 days after the of publication of the **Federal Register** notice referenced in paragraph (h)(8)(i) of this section and shall only apply to fish and fish products caught or harvested in that fishery.

(ii) *Duration of import restrictions and removal of import restrictions.* (A) Any import prohibition imposed

pursuant to paragraphs (h)(1) and (9) of this section with respect to a fishery shall remain in effect until the Assistant Administrator issues a comparability finding for the fishery.

(B) A harvesting nation denied a comparability finding for a fishery may re-apply for a comparability finding at any time submitting an application to the Assistant Administrator, along with documentary evidence demonstrating that the harvesting nation has met the conditions specified in paragraph (h)(6)(iii) of this section, including, as applicable, reasonable proof as to the effects on marine mammals of the commercial fishing technology in use in the fishery for the fish or fish products exported from such nation to the United States.

(C) The Assistant Administrator shall make a determination whether to issue the harvesting nation that has re-applied for a comparability finding for the fishery within 90 days from the submission of complete information to the Assistant Administrator. The Assistant Administrator shall issue a comparability finding for the fishery for a specified period where the Assistant Administrator finds that the harvesting nation meets the applicable conditions in paragraph (h)(6)(iii) of this section, subject to the additional consideration for a comparability finding in paragraph (h)(7) of this section.

(D) Upon issuance of a comparability finding to the harvesting nation with respect to the fishery and notification in writing to the harvesting nation, the Assistant Administrator, in cooperation with the Secretaries of Treasury and Homeland Security, shall publish in the **Federal Register** a notice of the comparability finding and the removal of the corresponding import prohibition effective on the date of publication in the **Federal Register**.

(iii) *Certification of admissibility.* (A) If fish or fish products are subject to an import prohibition under paragraphs (h)(1) and (9) of this section, the Assistant Administrator, to avoid circumvention of the import prohibition, may require that the same or similar fish and fish products caught or harvested in another fishery of the harvesting nation and not subject to the prohibition be accompanied by a certification of admissibility. The certification of admissibility may be in addition to any other applicable import documentation requirements.

(B) The Assistant Administrator shall notify the harvesting nation of the fisheries and the fish and fish products to be accompanied by a certification of admissibility and provide the necessary documents and instruction.

(C) The Assistant Administrator in cooperation with the Secretaries of Treasury and Homeland Security, shall as part of the **Federal Register** notice referenced in paragraph (h)(8)(i) of this section publish by harvesting nation the fish and fish products to be accompanied by a certification of admissibility. Any requirement for a certification of admissibility shall be effective 30 days after the publication of such notice in the **Federal Register**.

(D) For each shipment, the certification of admissibility must be properly completed and signed by a duly authorized official or agent of the harvesting nation and subject to validation by a responsible official(s) designated by the Assistant Administrator. The certification must also be signed by the importer of record and submitted in a format (electronic facsimile [fax], the Internet, etc.) specified by the Assistant Administrator.

(iv) *Intermediary nation.* (A) For purposes of this paragraph, and in applying the definition of an ''intermediary nation,'' an import into the intermediary nation occurs when the fish or fish product is released from a harvesting nation's customs jurisdiction and enters the customs jurisdiction of the intermediary nation or when the fish and fish products are entered into a foreign trade zone of the intermediary nation for processing or transshipment. For other purposes, ''import'' is defined in § 216.3.

(B) No fish or fish products caught or harvested in a fishery subject to an import prohibition under paragraphs (h)(1) and (9) of this section, may be imported into the United States from any intermediary nation.

(C) Within 30 days of publication of the **Federal Register** described in paragraph (h)(8)(i) of this section specifying fish and fish products subject to import prohibitions under paragraphs (h)(1) and (h)(9) of this section, the Assistant Administrator shall, based on readily available information, identify nations that may import, and re-export to the United States, fish and fish products from a fishery subject to an import prohibition under paragraphs (h)(1) and (h)(9)(i) of this section and notify such nations in writing that they are subject to action under paragraph (h)(9)(iv)(D) of this section with respect to the fish and fish products for which the Assistant Administer identified them.

(D) Within 60 days from the date of notification, a nation notified pursuant to paragraph (h)(9)(iv)(C) of this section must certify to the Assistant Administrator that it:

(*1*) Does not import, or does not offer for import into the United States, fish or fish products subject to an import prohibition under paragraphs (h)(1) and (h)(9)(i) of this section; or

(*2*) Has procedures to reliably certify that exports of fish and fish products from the intermediary to the United States do not contain fish or fish products caught or harvested in a fishery subject to an import prohibition under paragraphs (h)(1) and (h)(9)(i) of this section.

(E) The intermediary nation must provide documentary evidence to support its certification including information demonstrating that:

(*1*) It has not imported in the preceding 6 months the fish and fish products for which it was notified under paragraph (h)(9)(iv)(C) of this section; or

(*2*) It maintains a tracking, verification, or other scheme to reliably certify on either a global, individual shipment or other appropriate basis that fish and fish products from the intermediary nation offered for import to the United States do not contain of fish or fish products caught or harvested in a fishery subject to an import prohibition under paragraphs (h)(1) and (h)(9)(i) of this section and for which it was notified under paragraph (h)(9)(iv)(C) of this section.

(F) No later than 120 days after a notification pursuant to paragraph (h)(9)(iv)(C) of this section, the Assistant Administrator will review the documentary evidence provided by the intermediary nation under paragraphs (h)(9)(iv)(D) and (E) of this section and determine based on that information or other readily available information whether the intermediary nation imports, or offers to import into the United States, fish and fish products subject import prohibitions and, if so, whether the intermediary nation has procedures to reliably certify that exports of fish and fish products from the intermediary to the United States do not contain fish or fish products subject to import prohibitions under paragraphs (h)(1) and (9) of this section, and notify the intermediary nation of its determination.

(G) If the Assistant Administrator determines that the intermediary nation does not have procedures to reliably certify that exports of fish and fish products from the intermediary to the United States do not contain fish or fish products caught or harvested in a fishery subject to an import prohibition under paragraphs (h)(1) and (h)(9)(i) of this section, the Assistant Administrator, in cooperation with the Secretaries of the Treasury and Homeland Security, will file with the

Office of the Federal Register a notice announcing that fish and fish products exported from the intermediary nation to the United States that are of the same species as, or similar to, fish or fish products subject to an import prohibition under paragraphs (h)(1) and (h)(9)(i) of this section and for which it was notified under paragraph (h)(9)(iv)(C) of this section may not be imported into the United States.

(H) The Assistant Administrator will review determinations under this paragraph upon the request of an intermediary nation. Such requests must be accompanied by specific and detailed supporting information or documentation indicating that a review or reconsideration is warranted. Based upon such information and other relevant information, the Assistant Administrator may determine that the intermediary nation should no longer be subject to an import prohibition under paragraph (h)(9)(iv)(G) of this section. Based on that determination the Assistant Administrator, in cooperation with the Secretaries of the Treasury and Homeland Security, may lift an import prohibition under this paragraph and publish notification of such action in the **Federal Register**.

(10) *Progress report for harvesting nations with export fisheries* (i) A harvesting nation shall submit, with respect to an exempt or export fishery, a progress report to the Assistant Administrator documenting actions taken to:

(A) Develop, adopt and implement its regulatory program; and

(B) Meet the conditions in paragraph (h)(6)(iii) of this section, including with respect to reducing or maintaining incidental mortality and serious injury of marine mammals below the bycatch limit for its fisheries.

(ii) The progress report should include the methods the harvesting nation is using to obtain information in support of a comparability finding and a certification by the harvesting nation of the accuracy and authenticity of the information contained in the progress report.

(iii) The first progress report would be due two years prior to the end of exemption period and every four years thereafter on or before July 31.

(iv) The Assistant Administrator may review the progress report to monitor progress made by a harvesting nation in developing its regulatory program or to reconsider a comparability finding in accordance with paragraph (h)(8)(vi) of this section.

(11) *International cooperation and assistance.* Consistent with the authority granted under Marine Mammal Protection Act at 16 U.S.C. 1378 and the availability of funds, the Assistant Administrator may:

(i) Provide appropriate assistance to harvesting nations identified by the Assistant Administrator under paragraph (h)(5) of this section with respect to the financial or technical means to develop and implement the requirements of this section;

(ii) Undertake, where appropriate, cooperative research on marine mammal assessments for abundance, methods to estimate incidental mortality and serious injury and technologies and techniques to reduce marine mammal incidental mortality and serious injury in export fisheries;

(iii) Encourage and facilitate, as appropriate, the voluntary transfer of appropriate technology on mutually agreed terms to assist harvesting nations in qualifying for a comparability finding under paragraph (h)(6) of this section; and

(iv) Initiate, through the Secretary of State, negotiations for the development of bilateral or multinational agreements with harvesting nations to conserve marine mammals and reduce the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.

(12) The Assistant Administrator shall ensure, in consultation with the Office of the United States Trade Representative, that any action taken under this section, including any action to deny a comparability finding or to prohibit imports, is consistent with the international obligations of the United States, including under the World Trade Organization Agreement.

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Part IV

Department of Health and Human Services

Administration for Children and Families

45 CFR Part 95

45 CFR Parts 1355 and 1356

Comprehensive Child Welfare Information System; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 95

45 CFR Parts 1355 and 1356

RIN 0970–AC59

Comprehensive Child Welfare Information System

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Administration for Children and Families proposes to revise the Statewide and Tribal Automated Child Welfare Information System regulations. This proposed rule will remove the requirement for a single comprehensive system and allow title IV–E agencies to implement systems that support current child welfare practice. It also proposes to establish requirements around design, data quality, and data exchange standards in addition to aligning these regulations with current and emerging technology developments to support the administration of title IV–E and IV–B programs under the Social Security Act.

DATES: Written comments on this NPRM must be received on or before October 13, 2015 to be considered.

ADDRESSES: You may submit comments electronically via the Internet at *http://www.regulations.gov.* We urge you to submit comments electronically to ensure they are received in a timely manner. An electronic version of the NPRM is available for download on *http://www.regulations.gov.* Interested persons may submit written comments regarding this NPRM via regular postal mail to Terry Watt, Director, Division of State Systems, Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families, 1250 Maryland Avenue SW., 8th Floor, Washington, DC 20024. If you choose to use an express, overnight, or other special delivery method, please ensure that the carrier will deliver to the above address Monday through Friday during the hours of 9 a.m. to 5 p.m., excluding holidays.

Comments should be specific, address issues raised by the proposed rule, propose alternatives where appropriate, explain reasons for any objections or recommended changes, and reference the specific section of the proposed rule that is being addressed. All comments received before the close of the comment period are available for viewing by the public. Although commenters should include contact information in any correspondence, the comments themselves should not include personally identifiable information or confidential business or financial information as we post all submitted comments without change to *http://www.regulations.gov.* Comments will also be available for public inspection Monday through Friday 7 a.m. to 3:30 p.m. at the above address by contacting Terry Watt at (202) 690–8177.

We will not acknowledge receipt of the comments we receive. However, we will review and consider all comments that are germane and are received during the comment period. We will respond to these comments in the preamble of the final rule.

Comments that concern information collection requirements must be sent to the Office of Management and Budget (OMB) at the address listed in the Paperwork Reduction Act (PRA) section of this preamble. A copy of these comments also may be sent to the Department representative listed above.

FOR FURTHER INFORMATION CONTACT: Terry Watt, Director, Division of State Systems, Children's Bureau, Administration on Children, Youth, and Families, (202) 690–8177 or by email at *Terry.Watt@acf.hhs.gov.* Do not email comments on the NPRM to this address.

Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION: The preamble to the NPRM is organized as follows:

I. Executive Summary per Executive Order 13563

Purpose of the NPRM

The Need for Regulatory Action and How the Action Will Meet That Need

The Statewide Child Welfare Information System (SACWIS) regulations published in 1993 provided states with enhanced funding to build a single comprehensive system supporting all child welfare case management activities for public and private child welfare workers in the state. This was in response to 1993 amendments to the Social Security Act (the Act) which provided title IV–E funding for statewide automated child welfare information systems. In the intervening years, child welfare practice changed considerably. It became challenging for title IV–E agencies (as defined at 1355.20) to support practices that may vary within a jurisdiction with a single comprehensive information system. Additionally, information technology (IT) has advanced. The advancements in IT provide title IV–E agencies with tools to rapidly share data among systems supporting multiple health and human service programs with increased efficiency. To address these practice challenges and IT changes, and allow agencies to improve their systems, our proposal removes the requirement for a single comprehensive system and supports the use of improved technology to better support current child welfare practice. With this flexibility, title IV–E agencies can build less expensive modular systems that more closely mirror their practice models while supporting quality data. Furthermore, IT tools now can be effectively scaled to support smaller jurisdictions such as federally-recognized Indian tribes, tribal organizations, and tribal consortia (tribes) at a reasonable cost.

Consistent with changes in child welfare practice and advancements in IT, section 6 of the President's Executive Order 13563 of January 18, 2011, called for retrospective analyses of existing rules ''that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' As such, we placed the SACWIS regulations on the list of Administration for Children and Families (ACF) regulations to retrospectively review and determined that revising the SACWIS regulations would be in keeping with Executive Order 13563.

Statutory Authority for the NPRM

The statute at 42 U.S.C. 674(a)(3)(C) and (D) provides the authority for title IV–E funding for the planning, design, development, installation, and operation of a data collection and information retrieval system and the requirements a title IV–E agency must meet to receive federal financial participation (FFP). The statute at 42 U.S.C. 674(c) further specifies the expenditures eligible for FFP.

Summary of the Major Provisions of the NPRM

This rule proposes requirements for Comprehensive Child Welfare Information Systems (CCWIS). The primary changes to the current regulations are: (1) Providing title IV–E agencies with flexibility to determine the size, scope, and functionality of their information system; (2) allowing the CCWIS to obtain data required by this proposed rule from external information systems so that a copy of that data is then stored and managed in the CCWIS; (3) emphasizing data quality and requiring a new data quality plan; (4) requiring additional bi-directional data exchanges, and use of electronic data exchange standards that strengthen program integrity; and (5) promoting more efficient and less expensive development of reliable systems, that follow industry design standards, including development of independent, reusable modules. Because these changes permit title IV–E agencies to build systems fundamentally different from current Statewide and Tribal Automated Child Welfare Information Systems (S/TACWIS), we propose a new name for systems meeting the proposed requirements: Comprehensive Child Welfare Information Systems (CCWIS).

Complete, timely, and accurate data supports the goals of child safety, wellbeing, and permanency. Data informs actions and guides decisions at all levels of the agency. Workers use data to manage cases, monitor services, and assess client progress while supervisors and administrators use it to monitor and direct work, manage resources, evaluate program effectiveness, control costs, and estimate funding needs.

To support the collection, management, and dissemination of high quality data, the proposed rule requires CCWIS to maintain (store and manage) certain required data for federal reporting and produce all required title IV–E agency reports. To meet this expectation, external information systems that collect required data must electronically share data with CCWIS so that a copy of the required data is then maintained in CCWIS. In addition, title IV–E agencies must also develop and maintain a comprehensive data quality plan to ensure that the title IV–E agency and ''child welfare contributing agencies'' (as defined in proposed § 1355.51) coordinate to support complete, timely, accurate, and consistent data. As part of the data quality plan, we propose to require that the title IV–E agency actively monitor and manage data quality. This proposal also requires a CCWIS to include new bi-directional data exchanges. We propose to require bi-directional data exchanges with any systems used by child welfare contributing agencies for child welfare case management activities. We also propose, where practicable, bi-directional data exchanges with other systems such as court systems, education systems, and Medicaid claims systems. We propose to require the use of electronic data exchange standards that strengthen program integrity.

The proposed rule would provide title IV–E agencies with flexibility to build systems that align more closely to their business needs and practices by allowing each agency to determine the size, scope, and functionality of their information system. Finally, we prioritize more efficient and less expensive development of systems that follow industry design standards, including development of independent, reusable modules. These provisions allow title IV–E agencies to customize CCWIS to efficiently, economically, and effectively provide the high quality data needed to support child welfare goals.

Costs and Benefits

Changes in this proposed rule directly benefit state and tribal title IV–E agencies. Specifically, we propose to allow title IV–E agencies to tailor CCWIS to their administrative, programmatic, and technical environments to meet their own business needs. The proposed system interoperability and bi-directional data exchange requirements allow a CCWIS to use and benefit from data collected or produced by other systems. By proposing similar design requirements as promulgated by the Centers for Medicare & Medicaid Services (CMS), the proposal encourages sharing system modules both within and across health and human service programs, which provides savings opportunities for all participating partners. These requirements may also benefit title IV–E agencies by yielding cost savings in the long term.

The proposed regulations minimize burden on title IV–E agencies, including tribal title IV–E agencies, by providing flexibility when designing systems. In particular, title IV–E agencies have the flexibility to leverage the investment made in existing S/TACWIS and non-S/TACWIS systems and to determine the size, scope, and functionality included in their CCWIS system. Therefore, this proposal allows title IV–E agencies to implement systems in a manner that does not impose a large burden or costs on the state or tribal agency. Implementing a CCWIS is voluntary, therefore any costs resulting from implementing new or modified systems are the result of choices title IV–E agencies make when implementing requirements in this proposed rule. We have determined that costs to title IV–E agencies as a result of this rule will not be significant and the benefits and potential cost savings justify costs associated with this proposed rule.

II. Background on the Statewide and Tribal Automated Child Welfare Information System

ACF published the existing regulations at 45 CFR 1355.50 through 1355.57 in December 1993 in response to statutory amendments to title IV–E to provide 75 percent title IV–E funding for federal fiscal years 1994 through 1996. This funding was made available for costs related to planning, design, development, and installation of statewide automated child welfare information systems. The legislation also provided an enhanced cost allocation to states so that title IV–E would absorb SACWIS costs to support foster and adopted children, regardless of their eligibility for title IV–E funding. Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 extended the 75 percent enhanced funding through fiscal year 1997. Congress did not extend enhanced funding after 1997. As such, the current funding level is 50 percent for systems described in 474(a)(3)(C) of the Act, that:

- Meet the requirements for an Adoption and Foster Care Analysis and Reporting System (AFCARS);
- Interface with the state child abuse and neglect automated systems to the extent practicable;
- Interface with and retrieve information from a state's automated title IV–A system, to the extent practicable; and
- Provide more efficient, economical and effective administration of title IV–B and IV–E programs.

Prior to the passage of Public Law 104–193, which authorized SACWIS,

ACF established a ten-state workgroup in early 1993 to identify features that a comprehensive child welfare information system should provide to support child welfare practice and program administration. ACF considered the workgroup's recommendations as it drafted and promulgated the 1993 SACWIS regulations.

The 1993 regulations were amended in 2012 to include tribes. These current regulations provide title IV–E agencies with the option to implement a S/TACWIS. If a title IV–E agency elects to implement a S/TACWIS, the system must be a comprehensive automated case management tool that meets the needs of all staff (including case workers and their supervisors, whether employed by the state, tribe, county or contracted private providers) involved in foster care and adoptions assistance case management. The S/TACWIS must be the sole automated child welfare case management tool used by staff. Staff must enter all case management information into S/TACWIS so that it holds the title IV–E agency's ''official case record''—a complete, current, accurate, and unified case management history on all children and families serviced by the agency. Currently the system must support the reporting of AFCARS, the National Youth in Transition Database (NYTD), and the National Child Abuse and Neglect Data System (NCANDS) data sets. The system must have bi-directional electronic data exchanges with systems supporting the title IV–A, title IV–D, and title XIX programs. S/TACWIS must also exchange data with the system supporting child abuse and neglect reporting and investigations, although agencies may meet this requirement by integrating these functions into the system. S/TACWIS must also collect and manage the information needed to facilitate the delivery of child welfare support services, including family support and family preservation.

On October 7, 2008, the President signed the *Fostering Connections to Success and Increasing Adoptions Act of 2008* (Pub. L. 110–351) (Fostering Connections) into law. Among many other provisions, Fostering Connections amended title IV–E of the Act to create an option for title IV–E agencies to provide kinship guardianship assistance payments, to extend eligibility for title IV–E payments up to age 21, to de-link adoption assistance from Aid to Families with Dependent Children (AFDC) financial eligibility rules over an eight-year period, and to provide certain tribes with the option to operate a title IV–E program directly. In response to Fostering Connections, ACF amended the SACWIS regulations in January 2012 to include tribes operating an approved title IV–E program. Through these amendments, the Tribal Automated Child Welfare Information System (TACWIS) became the designation for tribal systems meeting the requirements of §§ 1355.50 through 1355.57.

III. Statutory Authority

This proposed regulation is being issued under the general authority of section 1102 of the Social Security Act (42 U.S.C. 1302) which requires the Secretary of Health and Human Services to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act. The statute at 42 U.S.C. 674(a)(3)(C) and (D) provides the authority for title IV–E funding for the planning, design, development, installation, operation, and maintenance of a data collection and information retrieval system and the requirements a title IV–E agency must meet to receive federal financial participation (FFP). The statute at 42 U.S.C. 674(c) further specifies the expenditures eligible for FFP.

IV. Consultation and Regulation Development

Starting in 2009, the Children's Bureau (CB) initiated a detailed analysis of the S/TACWIS regulations to assess if there was a need to change them to better utilize newer technology and support the changing child welfare program. Our analysis also considered whether modifications were necessary to address changing business practice models, including the expanded use of private case managers, and approaches to provide flexibility to title IV–E agencies in implementing child welfare systems.

To inform our efforts in developing this NPRM we solicited ideas from the public through a **Federal Register** notice on July 23, 2010 (75 FR 43188) (hereto referred to as the 2010 FR Notice).

CB publicized the 2010 FR Notice through electronic mailing lists used routinely by this agency, and other communications channels with the child welfare and IT communities. We conducted a series of conference calls with interested stakeholder groups to discuss the 2010 FR Notice, answer questions, and encourage the submission of comments. We conducted conference calls with state child welfare information system managers and program representatives, tribal child welfare representatives, private child welfare agencies, advocacy groups, and IT vendors. In response to the 2010 FR Notice and our outreach efforts, we received 48 comments from state child welfare agencies, private providers and provider associations, advocacy groups, IT vendors, tribes and tribal associations, a local public agency, a state's welfare directors' association, a state-level office of court administration, and a university research center.

The comments we received offered thoughtful insights into the experience of states, tribes, and providers using various SACWIS applications. The following themes emerged from the comments:

- A S/TACWIS should serve as a central repository for child welfare data, with the content available to all users.
- Instead of describing S/TACWIS in functional terms, several commenters suggested that the federal regulations define expectations for required data elements.
- Commenters strongly supported an emphasis on data quality, consistency, and integrity.
- Commenters recommended a focus on data that addresses mandatory federal requirements, and those data elements used for federal reporting and reviews, as well as data needed for state and tribal operations and program management.
- Commenters suggested that data conforming to S/TACWIS standards and representing common data elements could be uploaded to a data repository from any source, whether a case management system used by a contracted services provider, or from an ancillary state or tribal system, thus eliminating the need to re-enter data into external systems.
- Recognizing that S/TACWIS technology approaches are nearly two decades old, multiple commenters suggested that new regulations allow the adoption of new and emerging technologies, and be written in such a way as to allow for the future adoption of new technologies for data entry, storage, access, and sharing.
- Commenters noted that requiring all users to use a single system did not encourage flexibility and innovation. Contracted private providers with different business processes cannot use proprietary systems designed to support those processes to manage child welfare case management, as the regulations require them to use S/TACWIS.
- Commenters expressed concern that a revised regulation would force them to build a new case management system. A number of states expressed a desire that any new regulations allow them to continue to use their existing system.

The full text of the public comments in response to the 2010 FR Notice is available for review at: *http://www.regulations.gov*.

In the April 5, 2011 **Federal Register**, CB published a related notice entitled: ''Federal Monitoring of Child and Family Service Programs: Request for Public Comment and Consultation Meetings'' (76 FR 18677) (hereto referred to as the 2011 FR Notice). The 2011 FR Notice included the following question relevant to our review of S/TACWIS regulations: ''What role should the child welfare case management information system or systems that states/tribes/local agencies use for case management or quality assurance purposes play in a federal monitoring process?''

In response, some commenters noted that child welfare management information systems should play an important role in federal monitoring as they provide valuable quantitative data. However, other commenters cited data quality and integrity issues that could result in inaccurate data for baseline outcomes and measuring improvements. Commenters also observed that there could be a delay between changing child welfare practices and the system enhancements needed to support the changes. The full text of the public comments in response to the 2011 FR Notice is available for review at: *http://www.regulations.gov*.

These proposed regulations address the comments regarding the critical role of flexibility in a child welfare information system that must provide quality data to support the federal effort to monitor child and family service programs.

V. Overview of Major Proposed Revisions

The primary changes in this proposed rule are: (1) Providing title IV–E agencies with flexibility to determine the size, scope, and functionality of their information system; (2) allowing the CCWIS to obtain required data from external information systems so that a copy of that data is then stored and managed in the CCWIS; (3) emphasizing data quality and requiring a new data quality plan; (4) requiring new bi-directional data exchanges and use of electronic data exchange standards that strengthen program integrity; and (5) promoting more efficient and less expensive development of reliable systems that follow industry design standards including development of independent, reusable modules.

First, we propose to provide title IV–E agencies with flexibility to build systems that align more closely to their business needs and practices by allowing each title IV–E agency to determine the size, scope, and functionality of their information system. This flexibility allows title IV–E agencies to design systems tailored to their administrative, programmatic, and technical environments. A title IV–E agency may transition a current system to CCWIS, become a non-CCWIS, or build a new CCWIS. The new CCWIS may: Contain all the functions required to collect and maintain CCWIS data (similar to a current S/TACWIS), be little more than a data repository that collects and exchanges data captured in other systems, or fall somewhere in between these two extremes. This approach also accommodates different size states and tribes, as well as state agencies that are either state or county administered.

Second, data may be obtained from external information systems so that a copy of that data is then stored and managed in CCWIS. Although this proposed rule requires CCWIS to maintain (store and manage) the required data, it allows the CCWIS to obtain required data that is captured in external information systems. This is an important change from S/TACWIS—because current rules require S/TACWIS to collect and maintain the data, *i.e.,* the data must be entered directly into S/TACWIS. The proposed NPRM also requires that CCWIS be the source of data for federally required and other agency reports. This includes on-going federal reports such as AFCARS, NYTD, Title IV–E Programs Quarterly Financial Report (Form CB–496) and other ongoing reports needed by the federal, state or tribal agency. However, this requirement gives the IV–E agency flexibility to produce the federal report using data collected in CCWIS or data collected in other system(s) and then shared with CCWIS.

Third, this proposal emphasizes data quality and requires a new data quality plan. We propose emphasizing data quality by requiring title IV–E agencies to develop and maintain a comprehensive data quality plan to monitor the title IV–E agency, and if applicable child welfare contributing agencies, system(s) and processes to support complete, timely, accurate, and consistent data. The IV–E agency must also actively monitor, manage, and enhance data quality. Improving data quality is vital for all child welfare program activities. Reliable data, no matter who collects it or where it is collected, supports the goals of child safety, wellbeing, and permanency. Therefore, reliable data is a critical component of case work, supervision, program management, evaluation, research, and policy development. This proposed regulation also includes new requirements to ensure that a CCWIS supports data quality by requiring agency reviews of automated and manual data collection processes, and by requiring the title IV–E agency to provide continuous data quality improvement, based on its review findings. Some of the data quality requirements include: Automatically monitoring the CCWIS data for missing data, generating reports and alerts when entered data does not meet expected timeframes, automatically providing data to and automatically requesting needed data from child welfare contributing systems, and regular review by the title IV–E agency to ensure that CCWIS data accurately documents all cases, clients, services, and activities.

Fourth, this proposal requires a CCWIS to include new bi-directional data exchanges and use of electronic data exchange standards that strengthen program integrity. The proposed rule continues to require, where practicable, bi-directional data exchanges with title IV–A, title IV–D, title XIX, and child abuse/neglect systems, as in S/TACWIS rules. We propose to continue to require bi-directional data exchanges with systems processing payments and claims and with systems generating information needed for title IV–E eligibility determinations, if the CCWIS does not perform these functions. We also propose to require, to the extent practicable, title IV–E agencies add new bi-directional data exchanges with other systems such as court systems, education systems, and Medicaid claims systems. Adding these new bi-directional data exchanges will contribute to efforts to improve outcomes for children and assist title IV–E agencies in collecting more comprehensive data on each child served by the title IV–E agency. In addition, we propose that any child welfare contributing agencies using a system other than CCWIS and approved by the title IV–E agency for child welfare case management (for example, a proprietary system built or licensed by a private agency to manage its child welfare cases) must have a bi-directional data exchange with CCWIS. This allows child welfare contributing agencies to enter data in their own systems and then exchange that data with the CCWIS instead of requiring the child welfare contributing agency to enter data directly into the CCWIS. This bi-directional data exchange ensures that data collected by one child welfare

contributing agency is available to the title IV–E agency and all other contributing agencies through the CCWIS. This proposal also requires title IV–E agencies to use an electronic data exchange standard to improve efficiency, reduce duplicate data collection, and promote common understanding of data elements. Such a standard promotes a common understanding of data across systems so all users have a shared, clear, and precise understanding of what the data means.

Finally, the proposal prioritizes more efficient and less expensive development of reliable systems that follow industry design standards, including development of independent, reusable modules. This proposal provides an incentive for title IV–E agencies to build independent plug-and-play modules that may be shared and reused by other states, tribes, and agencies. This proposal requires CCWIS automated functions to be built as independent modules that may be reused in other systems or be replaced by newer modules with more capabilities. The title IV–E agency must follow industry standards when designing and building the automated modules. Our proposal is similar to the design requirements established by the CMS for Federal Funding for Medicaid Eligibility Determination and Enrollment Activities. Proposing design requirements similar to CMS will increase the potential for re-use of automated functions across related health and human service programs.

In developing this proposed rule, we were mindful of the Administration's emphasis on flexibility as a guiding principle when considering ways to better accomplish statutory goals. Therefore, our proposal includes a waiver process for title IV–E agencies to submit, for ACF's review and approval, their proposed new approaches to designing IT systems. We included this process to accommodate new design approaches that are not anticipated by our design proposal. ACF may waive the design requirements for CCWIS automated functions if the title IV–E agency presents a business case for a more efficient, economical, and effective design approach.

This proposal also provides flexibility with a transition period of 24 months during which the title IV–E agency with a S/TACWIS or non-S/TACWIS project (as defined in these proposed regulations) may decide whether to: Transition the S/TACWIS or non-S/TACWIS to a CCWIS, become a non-CCWIS or build a new CCWIS. The state or tribe does not need to finish the transition within the 24 months to be a CCWIS. A new CCWIS may be built at any time.

Title IV–E agencies report that systems built under the S/TACWIS regulations improve program administration by automating work processes, providing workers with data to manage cases, and generating reports for supervisors and administrators. The goal of our proposal is to assist title IV–E agencies in developing systems that further contribute to improving outcomes for children and families with more flexible, modernized systems that support the efficient, economical, and effective administration of the plans approved under titles IV–B and IV–E of the Act. Compliance with provisions in the final rule would be determined through ACF review and approval of a state's or tribe's Advance Planning Documents (APD) or a Notice of Intent, where applicable, and through the use of federal monitoring.

The proposed revisions in this NPRM describe an approach fundamentally different from the current regulations. Considering the scope of the proposed changes, we determined that these revisions could not be effectively incorporated through section-by-section amendments. Therefore, our proposal would completely replace the current regulations. Where applicable, the Section-by-Section Discussion of the NPRM notes where we propose to retain requirements from the current regulations.

VI. Section-by-Section Discussion of the NPRM

Our proposals support a change in the focus from the S/TACWIS function-based requirements to the CCWIS quality-data based requirements. This change is expected to provide additional flexibility to states and tribes to implement systems that meet their needs. This is now possible due to the changes in technology and service delivery models since 1993. We propose to carry forward the same principles as used in S/TACWIS but propose to include a new data focus:

- A CCWIS is expected to improve program management and administration by collecting and sharing data addressing all program services and case management requirements by meeting the requirements we propose in revised § 1355.52;
- The design is expected to appropriately apply modern computer technology; and
- The costs are expected to be reasonable, appropriate, and beneficial when compared to alternative solutions.

§ 1355.50—Purpose of This Part

We propose to revise § 1355.50 to describe that the purpose of the proposed regulations in §§ 1355.50 through 1355.59 is to set forth the requirements for receiving federal financial participation (FFP) as authorized under section 474(a)(3)(C) and (D) and 474(c) of the Act for the planning, design, development, installation, operation, and maintenance of a comprehensive child welfare information system (CCWIS).

Implementing a CCWIS is optional. While the Act provides a favorable cost allocation for a CCWIS, the Act does not require that a title IV–E agency have a CCWIS. Title IV–E agencies with a data collection system that does not meet CCWIS requirements may qualify for funding as described at § 1356.60(d).

Consistent with the definition of title IV–E agency in § 1355.20, if a title IV–E agency chooses to implement a CCWIS, we propose that the requirements in §§ 1355.50 through 1355.59 apply to the title IV–E agency (either state or tribe) unless otherwise specified.

§ 1355.51—Definitions Applicable to Comprehensive Child Welfare Information Systems (CCWIS)

We propose to add a new § 1355.51 to provide definitions that apply to §§ 1355.50 through 1355.59. This section is new, as the current regulations provide no definitions specific to S/TACWIS. These definitions clarify the meaning of key terms and concepts applicable to these sections. See § 1355.20 for definitions of other terms used in these regulations.

In new paragraph (a) of § 1355.51, we propose definitions for terms in §§ 1355.50 through 1355.59.

Approved Activity

We propose to add a definition of ''approved activity'' to new § 1355.51 and to define it as a project task that supports planning, designing, developing, installing, operating, or maintaining a CCWIS. The term applies to all CCWIS projects whether or not they are required to submit an Implementation APD.

This phrase is used in § 1355.57—Cost allocation for CCWIS projects.

Automated Function

We propose to add a definition of ''automated function'' to new § 1355.51 and to define it to mean a computerized process or collection of related processes to achieve a purpose or goal. This general definition may include a simple process, such as searching a list,

or a collection of related processes, such as a case management module.

This phrase is used in § 1355.52—CCWIS project requirements, § 1355.53—CCWIS design requirements, § 1355.54—CCWIS options, and § 1355.57—Cost allocation for CCWIS projects.

Child Welfare Contributing Agency

We propose to add a definition of ''child welfare contributing agency'' to new § 1355.51 and to define this phrase as a public or private entity that, by contract or agreement with the title IV–E agency, provides child abuse and neglect investigations, placement, or child welfare case management (or any combination of these) to children and families.

This phrase is used in § 1355.52—CCWIS project requirements.

Data Exchange

We propose to add a definition of ''data exchange'' and to define it to mean the automated, electronic submission or receipt of information, or both, between two automated data processing systems.

This phrase is used in § 1355.52—CCWIS project requirements and § 1355.54—CCWIS options. We discuss the details of the data exchanges in the preamble for § 1355.52(e).

Data Exchange Standard

We propose to add a definition of ''data exchange standard'' and to define it to mean the common data definitions, data formats, data values, and other guidelines that the state's or tribe's automated data processing systems follow when exchanging data. A data exchange standard provides all parties with information that is consistently understood and defined. We propose that the definition apply to the automated data exchange process rather than to specify how either party stores the data.

This phrase is used in § 1355.52—CCWIS project requirements.

New CCWIS Project

We propose to add a definition of ''new CCWIS project'' and to define it as a project to build an automated data processing system meeting all requirements of §§ 1355.52 and 1355.53(a). All automated functions contained in such a system must be designed to meet the requirements of § 1355.53(a) unless exempted by § 1355.53(b)(2). This is different from S/TACWIS or non-S/TACWIS projects that are used as the basis for meeting the requirements of § 1355.52. Existing automated functions of S/TACWIS or non-S/TACWIS projects are exempt from the CCWIS design requirements in § 1355.53(a). If a project does not meet the definition of a S/TACWIS or non-S/TACWIS project as of the effective date of these regulations, and the agency elects to implement a system meeting the requirements of this section it is classified as a new CCWIS project.

This phrase is used in § 1355.56—Requirements for S/TACWIS and non-S/TACWIS projects during and after the transition period and § 1355.57—Cost allocation for CCWIS projects.

Non-S/TACWIS Project

We propose to add a definition of active ''non-S/TACWIS project.'' We define this term because this is one type of an active project in which existing automated functions are exempt from the CCWIS design requirements in § 1355.53(a).

We propose to define a ''non-S/TACWIS project'' as an active automated data processing system or project that, prior to the effective date of these regulations, ACF has not classified as a S/TACWIS and for which: (1) ACF approved a development procurement; or (2) the applicable state or tribal agency approved a development procurement below the thresholds of 45 CFR 95.611(a); or (3) the operational automated data processing system provided the data for at least one AFCARS or NYTD file for submission to the federal system or systems designated by ACF to receive the report. By 'active' automated data processing system or project, we mean that the system is being used as of the effective date of these regulations or that the state or tribe is designing, developing or implementing the system as of the effective date of the regulations.

The first proposed criterion requires the approval of development procurement documents (such as requests for proposals or requests for quotations) by ACF for procurements that exceed the thresholds as established in 45 CFR 95.611. The second proposed criterion requires the approval of development procurement documents by the state or tribal agency with authority to approve the documents when they are below the threshold of 45 CFR 95.611 requiring approval by ACF.

These two proposed criteria are clear measures of a project that has progressed beyond preliminary planning stages of information system development. To reach this point the agency has defined the project's purpose, goals, and scope. The agency has also produced the clear, specific, and detailed requirements and other documentation necessary for vendors to develop realistic cost and technical proposals. Review and approval of the documents by the appropriate federal, state, or tribal authority provides assurances that the plans to develop a non-S/TACWIS automated data processing system are well conceived and meet the standards of the approving authority. This formal approval of development procurement documents is an early indicator of the title IV–E agency's commitment to build a system that qualifies the project as a non-S/TACWIS project.

The third proposed criterion to classify an application as a non-SACWIS is an operational system that has correctly gathered and formatted data for the submission of required title IV–E program reports. Having successfully submitted required reports, the agency has demonstrated that the application is an active automated data processing system and the system may be classified as a non-SACWIS project.

The two data collections are: AFCARS and, for states, NYTD. To be considered an operational non-S/TACWIS project, the title IV–E agency must have used the system to successfully provide the data needed to be submitted for either report during the most recent reporting period prior to the effective date of the final rule. ACF included this third criterion so that projects that are built in-house, such as without vendor assistance, may qualify as non-S/TACWIS projects.

This phrase is used in § 1355.56—Requirements for S/TACWIS and non-S/TACWIS projects during and after the transition period.

Notice of Intent

We propose to add a definition of ''notice of intent'' and to define it as a record from the title IV–E agency, signed by the governor, tribal leader, or designated state or tribal official, and provided to ACF declaring that the title IV–E agency plans to build a CCWIS project that is below the APD approval thresholds of 45 CFR 95.611(a). The definition specifies that this notice is a ''record'' rather than a ''letter'' to allow the title IV–E agency to electronically submit the notice of intent. The signatory must be an official who is authorized to commit the agency to building a CCWIS and is aware of and has approved this action.

This definition is used in § 1355.52—CCWIS project requirements where we propose the requirement for the notice of intent for CCWIS projects below the APD approval thresholds defined at 45 CFR 95.611.

S/TACWIS Project

We propose to add a definition of an active ''S/TACWIS project.'' We wish to define an active S/TACWIS project because this is one type of project in which existing automated functions are exempt from the CCWIS design requirements in § 1355.53(a).

We propose to define a ''S/TACWIS project'' as an active automated data processing system or project that, prior to the effective date of these regulations, ACF classified as a S/TACWIS and for which: (1) ACF approved a procurement to develop a S/TACWIS; or (2) the applicable state or tribal agency approved a development procurement for a S/TACWIS below the thresholds of 45 CFR 95.611 (a).

The first proposed criterion requires the approval of development procurement documents (such as Requests for Proposals or Requests for Quotations) by ACF. The second proposed criterion requires the approval of development procurement documents by the state or tribal agency with authority to approve the documents. By 'active' automated data processing system or project, we mean that the system is being used as of the effective date of these regulations or the state or tribe is designing, developing or implementing the system as of the effective date of the regulations.

These two proposed criteria are clear measures of a S/TACWIS project that has progressed beyond preliminary planning stages. This formal approval of development procurement documents is an early indicator of the title IV–E agency's commitment to build a system that qualifies the project as a S/TACWIS project.

This phrase is used in § 1355.56—Requirements for S/TACWIS and non-S/TACWIS projects during and after the transition period.

Transition Period

We propose to add a definition of ''transition period'' and to define it as the 24 month period after the effective date of these regulations.

This phrase is used in § 1355.56—Requirements for S/TACWIS and non-S/TACWIS projects during and after the transition period.

In new paragraph (b) of § 1355.51, we propose to use terms defined at 45 CFR 95.605 in §§ 1355.50 through 1355.59. 45 CFR 95.605 lists definitions for regulations under which the Department will approve FFP for the costs of automated data processing incurred under an approved State plan for titles IV–B, IV–D, IV–E, XIX or XXI of the Act.

§ 1355.52—CCWIS Project Requirements

We propose to revise § 1355.52 to include requirements for all CCWIS projects. We organized the proposed requirements as follows:

- In revised § 1355.52(a), we propose that CCWIS must support the efficient, economical, and effective administration of the title IV–B and IV–E plans.
- In revised § 1355.52(b), we propose the categories of data CCWIS must maintain.
- In revised § 1355.52(c), we propose CCWIS reporting requirements based on the data requirements proposed in § 1355.52(b).
- In new § 1355.52(d), we propose data quality requirements applicable to the data described in our proposals in § 1355.52(b) as well as the systems and processes used to collect this data.
- In new § 1355.52(e), we propose that CCWIS must support one bi-directional data exchange to exchange relevant data with specified program systems.
- In new § 1355.52(f), we propose CCWIS must use a single data exchange standard for certain bi-directional data exchanges.
- In new § 1355.52(g), we propose that CCWIS must support the title IV–E eligibility determination process.
- In new § 1355.52(h), we propose requirements for title IV–E agencies to provide copies of CCWIS software and documents to ACF.
- In new § 1355.52(i), we propose that title IV–E agencies must submit certain project documentation to qualify for CCWIS cost allocation.
- In new § 1355.52(j), we propose to list APD requirements applicable to all under threshold CCWIS projects.

In revised § 1355.52(a), we propose to continue the statutory requirement that the system support the efficient, economical, and effective administration of the title IV–B and IV–E plans pursuant to section 474(a)(3)(C)(iv) of the Act. ACF proposes in revised § 1355.52(a)(1) through (4) general requirements that an efficient, economical, and effective system must meet.

In revised § 1355.52(a)(1), we propose that the system must improve program management and administration by maintaining all program data required by federal, state or tribal law or policy. Maintaining program data supports case workers, supervisors, and managers in efficiently and effectively providing service to clients and administering the program. We provide further proposed program data requirements in paragraph (b).

In revised § 1355.52(a)(2), we propose that the design must appropriately apply computer technology. Such designs implement innovative, tested, and proven approaches to support efficient, economical, and effective systems. We provide further design requirements in revised § 1355.53(a).

In revised § 1355.52(a)(3), we propose that the project must not require duplicative application system development or software maintenance. Duplicative development and maintenance increases costs. During our system reviews, we have also observed that duplicative applications require caseworkers to enter the same data repeatedly which reduces worker efficiency.

In revised § 1355.52(a)(4), we propose that project costs must be reasonable, appropriate, and beneficial. Our processes for reviewing project activities and costs are described in the APD regulations at 45 CFR part 95, subpart F. We also propose in new § 1355.52(j) to apply a subset of these regulations to projects under the thresholds defined in 45 CFR 95.611.

We propose in revised § 1355.52(b) to require that the CCWIS maintain all program data mandated by statute and regulation, and the data that the title IV–E agency determines is needed for the more efficient, economical, and effective administration of the programs carried out under a state or tribal plan approved under titles IV–B and IV–E of the Act. Specifically, in § 1355.52(b) we propose that the title IV–E agency's CCWIS must maintain data that supports administration of the title IV–B and title IV–E program, data needed for ongoing federal child welfare reports, data to support state or tribal child welfare laws, regulations, policies, practices, reporting requirements, audits, program evaluations, and reviews. For states, CCWIS must maintain data to support specific measures taken to comply with 422(b)(9) of the Act related to the Indian Child Welfare Act (ICWA) and the National Child Abuse and Neglect Data System (NCANDS) data.

This is different from the S/TACWIS regulation in that the proposed requirements include an emphasis on maintaining data within the CCWIS, rather than the focus in S/TACWIS on where the data is collected. Focusing on the maintenance of data rather than the collection of data increases the flexibility available to title IV–E agencies regarding the design of automated data processing systems used to support their child welfare programs. We propose that the CCWIS maintain the data received from other sources, applying the data quality standards

defined in the new § 1355.52(d) to help ensure that the data is timely, consistent, accurate, and relevant. Therefore, the term ''maintain'' refers to data storage and data sharing with other appropriate child welfare automated data processing systems. Specific data storage requirements are defined by the authority requiring the data. For example, the data retention requirements for ongoing federal child welfare reports are defined in the applicable regulations and policies. ''Maintain'' also refers to the consistent application of data quality processes and procedures to the data no matter where the data may have been initially collected.

Some comments to the 2010 FR Notice requested that the proposed regulations define all required data. In general, other than the data specifically required in legislation, regulation, reviews, audits, and that needed by the title IV–E/IV–B agency to support its administration of its programs, as outlined below, we are not proposing to define a comprehensive set of CCWIS data elements. We determined that such specificity would require regulatory amendments to ensure consistency with future changes in law and policy and was not consistent with our goal of promoting the flexibility to design an automated data processing system to meet the title IV–E agency's business needs. Therefore, revised § 1355.52(b) defines categories of data that may overlap so that specific data elements may be covered by multiple requirements.

In new § 1355.52(b)(1), we propose to require that the CCWIS maintain all data required to support the efficient, effective, and economical administration of the programs under titles IV–B and IV–E of the Act. We outline requirements regarding the scope of this data in paragraphs (b)(1)(i) through (iv) of § 1355.52.

In new § 1355.52(b)(1)(i), we propose to require that the CCWIS maintain all data required for ongoing federal child welfare reports. This includes data for required federal data reporting such as AFCARS and NYTD (if applicable), the Title IV–E Programs Quarterly Financial Report (Form CB–496) and any other ongoing federal reporting that may be required by statute or regulation. Where applicable, this includes case management data maintained in the CCWIS that the title IV–E agency uses to create narrative based reports such as the Child and Family Service Plan (CFSP) and Annual Progress and Services Report (APSR).

We acknowledge that requirements may vary among title IV–E agencies, for example tribes are not required to submit data to the NYTD or NCANDS.

In new § 1355.52(b)(1)(ii), we propose to require that the CCWIS maintain data required for title IV–E eligibility determinations, authorizations of services and other expenditures that may be claimed for reimbursement under titles IV–B and IV–E.

For the purposes of this proposed requirement, data necessary for title IV–E eligibility determinations includes documentation of title IV–E eligibility requirements such as the factors used to demonstrate the child would qualify for AFDC under the 1996 rules, placement licensing and background check information and court findings. Data required for authorizations of services and other expenditures under titles IV–B and IV–E includes data on services authorized, records that the services were delivered, payments processed, and payment status, including whether the payment will be allocated to one or more federal, state, or tribal programs for reimbursement, and the amount of the payment. In addition, information needed to support federal financial claims reports for titles IV–B and IV–E are considered necessary, such as the Form CB–496, as well as information to support audits of the activities and services that are the basis of such claims. However, the automated functions that use this information, such as those that support financial claims processing and payments, are not required to be a part of the CCWIS. For example, the CCWIS may have an automated exchange with an external financial system(s) that processes payments and disburses funds as discussed in proposed new § 1355.52(e)(1)(i).

Proposed requirements regarding automated functions to support the process of making title IV–E eligibility determinations are in proposed new § 1355.52(g).

In new § 1355.52(b)(1)(iii), we propose to require that the CCWIS maintain all data needed to support federal child welfare laws, regulations, and policies. The data defined in this paragraph is expected to reflect title IV–B and IV–E federal policy and programmatic requirements and may change over time.

In new § 1355.52(b)(1)(iv), we propose to require that the CCWIS maintain all case management data to support federal audits, reviews and other monitoring activities that are not specifically covered by paragraph (iii). Examples include the data necessary for title IV–E reviews authorized under § 1356.71 and the Child and Family Services Reviews (CFSRs) authorized under 42 U.S.C. 1320a–2a. We do not propose to require the CCWIS to maintain additional data that a review team may collect for review purposes that is not gathered as part of the title IV–E agency's ongoing case management practice. For example, some of the data the state uses to evaluate CFSR systemic factors such as surveys or focus group summaries is not case management data and we would not expect that data to be maintained in the CCWIS.

In new § 1355.52(b)(2), we propose to require that the CCWIS maintain the data to support state or tribal laws, regulations, policies, practices, reporting requirements, audits, program evaluations, and reviews. We recognize that title IV–E agencies may identify a data need or functionality based on their specific circumstances, populations, title IV–E plan and business practices that is not specifically prescribed by federal law or policy. The title IV–E agency will define these requirements, specifying the basis for the data collection, as well as measures to help assure that the automated data processing system maintains quality data. Examples of these types of data include data specified in laws or policies, quality assurance, caseworker narratives, scanned documents, completed templates, and other program evaluation information or court monitor data. Title IV–E agencies may also identify candidate data elements by identifying common data collected across child welfare contributing agencies that is not shared with the CCWIS.

We propose this requirement to encourage title IV–E agencies to consider innovative ways CCWIS can support their unique programs. We look forward to working with and providing technical assistance to title IV–E agencies related to this requirement.

In new § 1355.52(b)(3), we propose to require that the CCWIS maintain for states, data to support specific measures taken to comply with the requirements in section 422(b)(9) of the Act regarding the Indian Child Welfare Act. Supporting ICWA with CCWIS makes administration of the state plan for compliance with ICWA more efficient, economical, and effective. As required by the Program Instruction ACYF–CB–PI–13–04, which was issued by ACYF on April 10, 2013, the state's APSR must cite available data used to assess the level of compliance and progress made to improve the agency's compliance with ICWA. Minimally, we expect states to maintain data in their CCWIS on notification of Indian parents and tribes of state proceedings involving Indian children. The CCWIS may maintain data

necessary to inform the APSR in the following areas:

- Placement preferences of Indian children in foster care, pre-adoptive, and adoptive homes;
- Active efforts to prevent the breakup of the Indian family when parties seek to place a child in foster care or for adoption; and
- The right of Indian parents and tribes to intervene in state proceeding or to transfer proceedings to the jurisdiction of the tribe.

In new § 1355.52(b)(4), we propose to require that the CCWIS maintain, for each state, data for NCANDS data. NCANDS is a voluntary data collection effort created in response to the requirements of the Child Abuse Prevention and Treatment Act (CAPTA) (Pub. L. 93–247) as amended. However, CB policy requires states that implement a SACWIS to submit NCANDS data. This proposed requirement is consistent with this policy.

In revised § 1355.52(c), we propose to incorporate the requirements in existing § 1355.53(a) and (b) and S/TACWIS policy described in the ACYF Action Transmittal ACF–OISM–001, which was issued on February 24, 1995, regarding generation and submission of reports. The reports must be based on data maintained in the CCWIS per the proposed requirements in revised § 1355.52(b). We simplified the regulations by placing all reporting requirements in revised § 1355.52(c) and organizing them into two general categories. We will provide technical assistance to title IV–E agencies as needed so that the CCWIS can use the data described in revised § 1355.52(b) to generate and submit the reports described in this paragraph.

In new § 1355.52 (c)(1), we propose to revise and incorporate the current requirements in § 1355.53(a) and (b). We propose to require that the system generate, or contribute to, title IV–B and IV–E federal reports according to applicable formatting and submission requirements and based on data maintained in the CCWIS per the proposed requirements in revised § 1355.52 (b). In order to avoid having to modify these rules as reporting requirements change over time, this requirement is inclusive of all current and any future federal reports required by titles IV–B or IV–E of the Act.

Examples of federal reports covered by this requirement include, but are not limited to:

- AFCARS reporting requirements found at § 1355.40. The CCWIS must maintain all data used to report information to AFCARS, even if data is collected and updated in child welfare contributing systems or received through exchanges with other agencies such as the title IV–D system. The AFCARS report must be generated entirely from the data maintained in the CCWIS and must be a full historical account of the child's foster care experience within the state/tribal service area.
- NYTD, for state title IV–E agencies only. Consistent with section 479B(f) of the Act tribal title IV–E agencies are exempt from NYTD requirements at 45 CFR 1356.80 through 1356.86. The CCWIS must maintain the case management data on youth in foster care and services provided to them, even if some data are collected and updated in child welfare contributing systems. Consistent with current policy in Program Instruction ACYF–CB–PI–10–04, which was issued on April 2, 2010, states have the option to collect survey data on outcomes in an external system. The report may be generated entirely from the CCWIS. Alternately, data from the CCWIS may be combined with the outcomes data to construct the NYTD report.
- CFSP/APSR requirements found at 45 CFR 1357.15 and 1357.16. These submissions follow guidance provided by CB and are largely narrative in format. The CCWIS will provide statistics as needed to support the title IV–E agency's program analysis.
- Title IV–E programs quarterly financial report on Form CB–496 as required by Program Instruction ACYF–CB–PI–10–14, which was issued on November 23, 2010. The CCWIS will provide a subset of the financial and demographic data required to complete this form to support claims for title IV–E funding.
- CFSR reporting found at 45 CFR 1355.34 and 1355.35. CFSR reporting may include data collected during review activities, which is not required to be maintained in the CCWIS. However, we expect the CCWIS to maintain data as proposed in revised § 1355.52(b) to support the CFSR review process.

In new § 1355.52(c)(2), we propose to incorporate the current requirement at § 1355.53(a) and S/TACWIS policy that the system generate or contribute to reports that support programs and services described in title IV–B and title IV–E of the Act and are needed to support state or tribal child welfare laws, regulations, policies, practices, reporting requirements, audits, and reviews. These reports will be specific to the needs of the title IV–E agency or the state or tribal executive offices. Examples include, but are not limited to:

- Management and statistical reports to monitor, track, and support agency, office, team, or individual needs;
- Contract compliance, budgeting and forecasting;
- Court settlement agreement monitoring;
- Outcomes data to support continuous quality improvement efforts; and
- Reports to state legislatures or tribal leadership regarding aggregated case data.

In new § 1355.52(d), we propose data quality requirements that apply to the CCWIS. We distinguish between current and proposed data quality requirements in our discussion of the subparagraphs.

A CCWIS must consistently provide high quality data to meet the statutory requirement to support the efficient, economical, and effective administration of child welfare programs, as required in section 474(a)(3)(C)(iv) of the Act. During our reviews of SACWIS systems, we determined that most title IV–E agencies understand the importance of high quality data and implement a variety of strategies to improve data quality. However, these reviews also indicate that it remains challenging for title IV–E agencies to consistently ensure SACWIS produces high quality data. Therefore, we propose to supplement current data quality requirements with new requirements based on best practices to improve data quality. Although title IV–E agencies already implement many of these best practices, our proposed requirements will mandate their consistent use by all title IV–E agencies implementing a CCWIS.

In new § 1355.52(d)(1), we outline the proposed data quality and confidentiality requirements for data that must be maintained in the CCWIS, per § 1355.52(b).

In new § 1355.52(d)(1)(i), we propose that the data described in revised § 1355.52(b) that is maintained in the CCWIS meet the applicable federal, and state or tribal standards for completeness, timeliness and accuracy. Currently, S/TACWIS regulations at § 1355.53(g) requires the system to perform quality assurance reviews of case files to ensure accuracy, completeness and compliance, and S/TACWIS policy in Action Transmittal ACF–OISM–001, Part IV requires automated quality assurance measures, processes, and functions to ensure the completeness, accuracy, and consistency of critical data.

Complete, timely, and accurate data supports the entire child welfare program. The data supports all aspects of direct service to clients, including:

Managing child abuse and neglect investigations, conducting assessments, case management, service provision, placements, and licensing. Title IV–E agencies need reliable data to support administrative functions such as monitoring staff, quality control, budgeting, and forecasting. High quality data is critical for the safety and well-being of the children in care and also supports research, program analysis, and policy formulation.

This proposed requirement means that all data maintained in the CCWIS must be complete, timely, and accurate in order to support the efficient, economical, and effective administration of the child welfare program. Statutes, regulations, or policy may establish specific data quality standards. For example, federal regulations specify the data quality standards for AFCARS and NYTD data. Likewise, title IV–E agencies have policies requiring the completion of certain tasks within defined deadlines such as caseworker visits, transition planning, administrative reviews, permanency hearings, and the collection of related data. CCWIS data follows the specific standards identified by both federal requirements and state or tribal laws and policies. If two or more standards apply to the same data, the title IV–E agency follows the more rigorous standard. For example, if one standard required updating the CCWIS in seven days and a second standard set a two-day limit, the two-day limit applies.

In new § 1355.52(d)(1)(ii), we propose to require that data be consistently and uniformly collected by CCWIS and, if applicable, child welfare contributing agency systems. By ''if applicable,'' we mean if the title IV–E agency permits child welfare contributing agencies to use other systems to collect CCWIS data, that data must meet the standards established for CCWIS data.

S/TACWIS rules enforce consistent and uniform data collection by requiring a single state or tribal system for the collection of all child welfare data. Our proposed rule will provide greater data collection flexibility to title IV–E agencies by eliminating this requirement and permitting other systems to collect and electronically share data with CCWIS and other contributing systems. However, this flexibility will require closer monitoring of data by title IV–E agencies to ensure that data collected by child welfare contributing agencies and systems has the same meaning to all staff collecting, entering, and using the data. If all users do not share a common understanding of data, client records transferred between agencies may be misinterpreted, adversely affecting client monitoring, services, and outcomes.

This proposed requirement means that the title IV–E agency will be able to ensure there is a shared understanding of all data electronically exchanged between CCWIS and child welfare contributing agency systems.

In new § 1355.52(d)(1)(iii), we propose that the title IV–E agency must exchange and maintain CCWIS data in accordance with the confidentiality requirements of applicable federal and state or tribal laws. This is not a new requirement as data maintained under a SACWIS are subject to federal, state, and tribal confidentiality requirements. The federal confidentiality provisions are those at section 471(a)(8) of the Act, regulations at 45 CFR 1355.30(p)(3) applying 45 CFR 205.50, and CB policy at sections 2.1A.1 and 8.4E of the Child Welfare Policy Manual. These statutes, regulations, and policies require that title IV–E agencies provide safeguards regarding the use and/or disclosure of data about children receiving title IV–E or IV–B assistance. They do not forbid agencies from sharing data with appropriate agencies, and set forth the parameters for when the data may (or must) be disclosed. Confidentiality requirements that apply to child abuse and neglect information is described in 42 U.S.C 5106a(b)(2)(B)(viii) through (x) of CAPTA. These confidentiality provisions also apply to agencies that are the recipients of the confidential information, such as child welfare contributing agencies.

In new § 1355.52 (d)(1)(iv), we propose to require that the CCWIS data described in revised § 1355.52(b) must support child welfare policies, goals, and practices. This means that data collected by or maintained in CCWIS is necessary to support the efficient, economical, and effective administration of the child welfare program.

In new § 1355.52(d)(1)(v), we propose to require that the CCWIS data described in revised § 1355.52(b) must not be created by default or inappropriately assigned. Through our S/TACWIS reviews, we have observed systems that create data by automatically completing data fields with a common response. For example, a system may classify all persons as U.S. citizens as a default, since the title IV–E agency presumes that most of the children and families that they serve are born in the United States. The practice of automatically generating data can create inaccurate data in the system because workers may not verify or correct the accuracy of system-generated data.

We acknowledge there are cases where system calculated data is appropriate. For example, it is acceptable to generate time stamps denoting the time of record entry in the CCWIS. System created data also is acceptable in instances where CCWIS can accurately derive or calculate the data, such as calculating current age by using the verified birth date and current date.

In new § 1355.52(d)(2), we propose to require that the title IV–E agency implement and maintain specific automated functions in CCWIS. We expect that these automated functions will support the IV–E agency's efforts to ensure that the CCWIS data described in revised § 1355.52(b) meets the data quality requirements of § 1355.52(d)(1). We propose five automated functions in CCWIS in the following subparagraphs. One requirement, for the CCWIS to monitor data quality, incorporates the current S/TACWIS regulatory requirement at § 1355.53(g). Of the four new automated function requirements, three are consistent with current S/TACWIS policy in Action Transmittal ACF–OISM–001.

We are proposing these requirements because information technology is consistently and successfully used to support data quality. It is efficient to use automation to support data quality processes since computers perform routine tasks quicker and more consistently than people. Computers can also review all data and flag potential data quality problems that require further investigation. This increases worker effectiveness by enabling workers to focus on solving data quality problems rather than sifting through data to identify errors.

In new § 1355.52(d)(2)(i), we propose to incorporate the requirement that the system regularly monitor data quality through automated functions. This requirement is currently found in S/TACWIS regulations at § 1355.53(g).

This proposed requirement means that CCWIS is expected to have automated functions at the point data is received in the CCWIS and other regular intervals to maintain data quality. For example, in addition to edit checks to validate data entry, automated functions in CCWIS should review data provided by data exchanges, compare data from different sources for inconsistencies, scan stored data for missing or out-of date information, and validate CCWIS data before it is exchanged with other systems.

In new § 1355.52(d)(2)(ii), we propose a new requirement that through an

automated function, the CCWIS supports data quality by alerting staff to collect, update, correct, and enter CCWIS data. By ''staff,'' we mean users of CCWIS or child welfare contributing agency systems. This proposed requirement is consistent with S/TACWIS policy in Action Transmittal ACF–OISM–001 to support workers in completing data quality tasks.

This proposed requirement means that the CCWIS must provide automated alerts, reports, and other appropriate automated tools to support workers to effectively maintain data quality. In our experience with SACWIS reviews, agencies report measurable data quality improvements after implementing appropriate alerts. Staff collecting data play a key data quality role and agency training is critical in supporting workers in their role.

In new § 1355.52(d)(2)(iii), we propose a new requirement that IV–E agency's CCWIS includes automated functions to send electronic requests to child welfare contributing agency systems to submit current and historical data to the CCWIS. This proposed requirement means that CCWIS automated functions must support bi-directional data exchanges with child welfare contributing agency systems, will monitor the data exchanged, and notify other systems when the CCWIS has not received data by the deadlines. Examples of such data include home visit reports, investigation reports, assessments, and placement changes. The required exchange between the CCWIS and systems operated by child welfare contributing agencies is described in new § 1355.52(e)(1)(ii).

Our proposed rule provides greater flexibility in allowing the CCWIS to maintain required child welfare data through an exchange with child welfare contributing agency systems. While ensuring data quality in a single system requires constant and diligent effort, it is even more challenging when independent systems are exchanging data. Therefore, we are proposing this requirement that CCWIS provide automated support for ensuring that the CCWIS is provided timely data from child welfare contributing agencies.

In new § 1355.52(d)(2)(iv), we propose a new requirement that a title IV–E agency implement and maintain automated functions in the CCWIS that prevent, to the extent practical, the need to re-enter data already captured or exchanged with the CCWIS. This includes data that is either entered directly into the CCWIS or maintained in the CCWIS through an exchange with a child welfare contributing agency's system. It is our expectation that data collected in the CCWIS or CCWIS data provided through an exchange should not need to be re-entered in either the CCWIS or a child welfare contributing agency's system. This proposed requirement is consistent with S/TACWIS policy in Action Transmittal ACF–OISM–001 to support efficient work processes.

When the CCWIS exchanges data with one of the systems identified in new § 1355.52(e)(2), we recognize it may not always be possible to meet this requirement due to competing system requirements. However, to the extent practicable, the title IV–E agency should work with the other agency to implement automated functions and exchange data in a way that prevents the need to re-enter data already maintained by the CCWIS.

The automated functions will likely also promote data quality by preserving accurate historical data and supporting the review and correction of data. This requirement will eliminate inefficiencies in the system caused by duplicate data entry. It may also result in reducing the presence of inconsistent data (for example, if two workers enter different dates for a child's birth date).

In new § 1355.52(d)(2)(v), we propose a new requirement that CCWIS generate reports of continuing or unresolved CCWIS data quality problems. For example, the CCWIS may flag children in foster care who have not received visits in expected timeframes so supervisors can follow-up to determine if a worker missed a visit or did not document the activity.

This proposed requirement is consistent with the best practice of creating regular or ad hoc reports to monitor data, which has been implemented by most title IV–E agencies. Title IV–E agencies indicate that these reports are an effective tool for improving data quality. State title IV–E agencies use such reports to continuously monitor data quality and to assist in identifying weaknesses in data quality processes. In many cases, agencies have corrected the weaknesses with new automated edit checks, staff training, or data collection processes.

In new § 1355.52(d)(3), we propose new requirements for annual title IV–E agency data quality reviews and what the reviews should entail. Data quality is critical to ensuring that agency staff have confidence in the data they rely on to make decisions or take action. Ensuring that data is not erroneous, missing, or misinterpreted is an important resource for effective case management activities and services that support children, families, and the child welfare program.

Annual data quality reviews ensure that the CCWIS maintains the high quality data necessary for the efficient, economical, and effective administration of the title IV–B and IV–E programs. The reviews are also critical to ensure that title IV–E agencies monitor and improve data, uncover the factors that negatively affect data quality, and implement corrective measures as needed. ACF will provide technical assistance related to these data quality reviews.

In new § 1355.52(d)(3)(i), we propose a new requirement that the annual data quality reviews determine if the title IV–E agency and, if applicable, child welfare contributing agencies, meet the new requirements of §§ 1355.52(b), (d)(1), and (d)(2). CCWIS data from child welfare contributing agency systems are included in annual data quality reviews because complete high quality data collected and exchanged by all partners is critical to supporting the communication and collaboration necessary for coordinating services to children and families, assisting with the title IV–E agency's monitoring activities, and producing accurate federal reports. We expect that title IV–E agencies will, as part of the reviews proposed, monitor child welfare contributing agency data collection activities and systems to ensure CCWIS data meets the standards established in contracts and agreements.

In new § 1355.52(d)(3)(ii), we propose a new requirement that the title IV–E agency's annual data quality reviews confirm that bi-directional data exchanges:

- Meet the bi-direction data exchange requirements described in § 1355.52(e);
- Meet the data exchange standard requirements described in § 1355.52(f); and
- Other ACF regulations and policies.

Having a process to periodically review established bi-directional data exchanges is essential to help exchange partners identify new opportunities for collaboration as well as uncover unexpected problems with the existing bi-directional data exchanges.

In new § 1355.52(d)(4), we propose a new requirement that the title IV–E agency must enhance CCWIS or the electronic bi-directional data exchanges of both to correct findings from the annual reviews described at § 1355.52 (d)(3). This proposed requirement means that the title IV–E agency must correct identified factors contributing to the findings from the annual reviews. For example, if the annual review determined that CCWIS did not capture data to accommodate changing program requirements, the CCWIS must be enhanced to correct this finding.

This proposed requirement to address review findings with corrective action establishes an annual, repeatable cycle of continuous quality improvement. Each successive review measures the impact of past corrective actions. This enables title IV–E agencies to determine the effectiveness of those actions and make adjustments leading to further improvements.

In new § 1355.52(d)(5), we propose a new requirement that the title IV–E agency must develop, implement, and maintain a CCWIS data quality plan in a manner prescribed by ACF and include it as part of the Annual or Operational APD as required in 45 CFR 95.610. Required components of the CCWIS data quality plan are identified in § 1355.52(d)(5)(i) and (ii).

This proposed requirement means that title IV–E agency must prepare and implement a formal plan that ensures CCWIS data quality. A comprehensive, formal approach embodied in a plan will ensure data quality in systems maintaining wide-ranging data critical to delivering and managing child welfare services. Because the plan will need to be amended occasionally in order to address new issues as federal, state, and tribal laws, regulations, policies, and practices change, ACF will provide further guidance as needed.

In new § 1355.52(d)(5)(i), we propose a new requirement that the data quality plan describe the comprehensive strategy to promote quality data including the steps to meet the requirements at § 1355.52(d)(1) through (3).

In new § 1355.52(d)(5)(ii), we propose a new requirement that the data quality plan must report the status of compliance with § 1355.52(d)(1). Section 1355.52(d)(1) outlines the data quality and confidentiality requirements. Title IV–E agencies demonstrated during our reviews that regularly measuring and reporting data quality can help them identify data quality issues that need to be addressed. For example, if certain data are low quality, the title IV–E agency may need to revise the data quality plan in specific areas to improve those data. Comparing the data quality measures in past and present data quality reports on a regular basis serves as an objective indicator of progress toward improving data quality. These measures can help both ACF and the title IV–E agency assess the overall effectiveness of the agency's data quality strategy. This proposed requirement means that the data quality report must include measures of the plan's impact on data quality.

In new § 1355.52(e), we propose requirements for eleven bi-directional data exchanges (formerly called interfaces) to exchange relevant data. We propose to replace the technical term ''interface'' used in the current S/TACWIS regulations at § 1355.53(b)(1) and (d) with the phrase ''data exchange'' in these proposed regulations to more fully convey the purpose of sharing information. Otherwise, the terms are similar in meaning. By ''relevant data,'' we mean data collected in an information system that may, in compliance with applicable confidentiality requirements, be shared with a program that considers the data useful for meeting goals or objectives. We provide examples of relevant data in the discussion of several of the bi-directional data exchange requirements.

Six bi-directional data exchanges are unchanged from S/TACWIS regulatory requirements at § 1355.53(b)(2) and five are new bi-directional data exchanges, as shown in the following table.

CCWIS exchange with . . .	Unchanged from S/TACWIS or new?
Title IV–E/IV–B financial system § 1355.52(1)(i)	Unchanged.
Child welfare contributing agencies § 1355.52(1)(ii)	New.
Title IV–E eligibility § 1355.52(1)(iii)	Unchanged.
Other systems IV–E agency uses to collect CCWIS data § 1355.52(1)(iv)	New.
Child abuse and neglect system § 1355.52(2)(i)	Unchanged.
TANF (title IV–A) § 1355.52(2)(ii)	Unchanged.
Medicaid eligibility (title XIX) § 1355.52(2)(iii)(A)	Unchanged.
Medicaid claims processing (title XIX) § 1355.52(2)(iii)(B)	New.
Child support (title IV–D) § 1355.52(2)(iv)	Unchanged.
Courts § 1355.52(2)(v)	New.
Education § 1355.52(2)(vi)	New.

The proposed bi-directional data exchanges are essential to:

- Support the efficient, economical, and effective administration of the titles IV–B and IV–E programs;
- Improve outcomes for children and families by promoting collaboration and service coordination with other programs;
- Gather comprehensive data on client histories, needs, and services;
- Eliminate duplicate work and service delivery across programs; and
- Reduce data collection costs.

Consistent with regulations at § 1355.53(a) requiring that a S/TACWIS promote the effective, economical, and efficient management of the titles IV–B and IV–E programs, we propose to incorporate the regulatory requirement that permits a maximum of one bi-directional data exchange for each of the data exchange requirements. For example, a title IV–E agency could not build a dozen different bi-directional data exchanges to education systems used by school districts across the state or tribe. The agency could build a single education bi-directional data exchange capable of exchanging data with systems in multiple school districts. It is also acceptable to build one bi-directional data exchange that can meet the requirements of more than one of the required data exchanges. For example, a single exchange with a system supporting eligibility determinations for the title XIX and title IV–A programs may meet the requirements of the title XIX and title IV–A data exchanges.

We also propose to incorporate the regulatory requirement at § 1355.53(b)(1) and policy in Action Transmittal ACF–OSS–05 specifying bi-directional data exchanges. This requirement means that the CCWIS must be capable of sending data to, and receiving data from the other system or systems participating in a bi-directional data exchange.

Finally, title IV–E agencies often incorrectly assume they must modify their S/TACWIS to store data in the format of the data received via an

exchange. That is not a S/TACWIS requirement. We propose to maintain that flexibility by requiring in proposed new § 1355.52(f) a single format for the exchange of information but continuing to allow data to be stored in the CCWIS database format.

In new § 1355.52(e)(1), we propose that CCWIS must support one-bi-directional data exchange to exchange relevant data with each of the systems in new § 1355.52(e)(i) through (iv), if data is generated by a system outside of CCWIS.

In new § 1355.52 (e)(1)(i), we propose a new requirement that CCWIS exchange data with systems generating financial payments and claims data for titles IV–B and IV–E, per § 1355.52(b)(1)(ii), if applicable. By ''if applicable'' we mean that the CCWIS must have a bi-directional data exchange if a system or module other than CCWIS generates financial payments and claims. If CCWIS generates the financial payments and claims, a bi-directional data exchange is not needed to provide the data to CCWIS.

We propose this requirement because child welfare agencies generate large numbers of financial payments and the resulting data is needed for audit and claiming purposes. Entering this data into multiple information systems can introduce errors. Electronic bi-directional data exchanges eliminate these data re-entry errors, ensure that all systems are using the same data, and increase worker efficiency.

This requirement incorporates current regulations at § 1355.53(b)(7) and S/TACWIS policy in Action Transmittal ACF–OISM–001. Current § 1355.53(b)(7) requires S/TACWIS to support financial management functions such as payment authorization and issuance, review and management. Action Transmittal ACF–OISM–001 requires that these financial management functions either be implemented in S/TACWIS or in a separate system that exchanges data with S/TACWIS.

In new § 1355.52(e)(1)(ii), we propose a new requirement that the CCWIS must have a bi-directional data exchange with systems operated by child welfare contributing agencies that are collecting or using data described in § 1355.52(b), if applicable. By ''if applicable'' we mean that the CCWIS must have a bi-directional data exchange if a system or module other than CCWIS is used to collect or generate the data. If CCWIS generates the required data for the entire population, a bi-directional data exchange is not needed to provide the data to CCWIS. An increasing number of title IV–E agencies contract with child welfare contributing agencies to provide a range of child welfare services, ranging from traditional supportive services and placements to case management. If a title IV–E agency contracts or has an agreement with a child welfare contributing agency to perform case management activities, we expect this exchange between the CCWIS and the contributing agency's system will avoid the need for duplicate data entry, which is monitored in the agencies data quality plan and reviews. If a child welfare contributing agency places children with multiple smaller providers, such as group homes, foster homes, or other institutions, the data exchange with the child welfare contributing agency that performs the case management activity and keeps records on the placements of its multiple providers will provide the required information. It is not necessary for CCWIS to exchange data with individual providers where the child is placed by the child welfare contributing agency.

The required bi-directional data exchange ensures the CCWIS maintains comprehensive case records while providing child welfare contributing agencies with the data needed to support services to children and families in the child welfare program.

The bi-directional data exchange should provide child welfare contributing agencies information with all available CCWIS data needed to administer the cases of children and families to whom they provide services.

In new § 1355.52(e)(1)(iii), we propose a new requirement that the CCWIS must have a bi-directional exchange with each system used to calculate one or more components of title IV–E eligibility determinations per § 1355.52(b)(1)(ii), if applicable. By ''if applicable'' we mean that the CCWIS must have a bi-directional data exchange if a system or module other than CCWIS generates the data. If CCWIS generates the required data, a bi-directional data exchange is not needed to provide the data to CCWIS.

Title IV–E agencies may use other systems to support different steps in the title IV–E eligibility process. For example, court findings related to title IV–E eligibility may reside in the private provider's system; a licensing system may track foster home licenses; and a financial system may calculate compliance with the AFDC factors. In these examples, a bi-directional data exchange with each system is required to ensure CCWIS maintains all data related to title IV–E determinations.

This requirement is consistent with current regulations at § 1355.53(b)(5) and (7) and S/TACWIS policy in Action Transmittal ACF–OSS–005 issued August 21, 1998. Current § 1355.53(b)(5) and (7) require S/TACWIS to support title IV–E eligibility determinations. Action Transmittal ACF–OSS–005 permits title IV–E agencies to use other systems to support title IV–E eligibility determinations provided the information is available to child welfare staff through the S/TACWIS.

We propose this requirement to promote efficiency and ensure CCWIS maintains complete, timely, and accurate data on all title IV–E eligibility determinations if the information is not part of the CCWIS. Title IV–E agencies report that consolidating eligibility information and case management data in the same system improves program operations. However, data errors may be introduced if data generated by one system is manually re-entered in CCWIS. It is also inefficient to reenter data manually. This requirement to exchange data eliminates the errors and inefficiencies of manual reentry.

In new § 1355.52(e)(1)(iv), we propose to require a bi-directional data exchange between CCWIS and each system external to CCWIS used by title IV–E agency staff to collect CCWIS data, if applicable. By ''if applicable'' we mean that the CCWIS must have a bi-directional data exchange if an external system used by title IV–E agency staff collects the data. If, for example, one external system conducts child assessments and a second external system collects NYTD survey data, CCWIS must have two bi-directional data exchanges. The bi-directional data exchange supports efficient, economical, and effective work by automatically transferring CCWIS data between systems. This requirement is more flexible than the current S/TACWIS policy that does not permit external systems for the collection of CCWIS data.

In new § 1355.52(e)(2), we propose that, to the extent practicable, the IV–E agency must support one bi-directional data exchange to exchange relevant data with specified state or tribal systems. These are exchanges with titles IV–D, IV–A, XIX (two exchanges), courts, education, and the child abuse and neglect systems. The one bi-directional data exchange requirement means that if there are multiple systems supporting one program, the title IV–E agency should design one data exchange that accommodates the multiple systems. If this cannot be done, the title IV–E may present a business case in an APD describing the circumstances that make the data exchange impracticable, in accordance with section 474(a)(3)(C)(ii)

and (iii) of the Act. ''To the extent practicable'' means that the title IV–E agency does not have to support a bi-directional data exchange requirement if the other system is not capable of an exchange or if the bi-directional data exchange is not feasible due to cost constraints. This is consistent with the S/TACWIS requirement applicable to bi-directional data exchanges at § 1355.53(b)(2) that must be implemented ''if practicable.'' To encourage the other programs to participate in bi-directional data exchanges with the title IV–E agency, we intend to provide technical assistance on each of the proposed data exchanges. This technical assistance will include information on the specific benefits the data exchange provides to both the title IV–E agency and the other programs.

We note that CCWIS funding is available for enhancements to CCWIS to support the data exchange. This funding is not available for enhancing the other system exchanging data.

In new § 1355.52(e)(2)(i), we propose that the IV–E agency must support one bi-directional data exchange with the child abuse and neglect system(s), to the extent practicable. This incorporates the current requirement at § 1355.53(b)(1)(ii) requiring a bi-directional data exchange with the system(s) collecting data related to child abuse and neglect. Consistent with guidance in Action Transmittal ACF–OSS–05, this means that the bi-directional data exchange supports the automatic exchange of common or relevant data between the CCWIS and the child abuse and neglect system(s).

Relevant data related to child abuse and neglect for the purposes of this requirement as listed in Action Transmittal ACF–OSS–05 includes screening, investigation, and assessment data collected during child abuse and neglect incidents as well as child welfare case management information related to prior or current child abuse and neglect cases.

Most state title IV–E agencies, recognizing the close connection between child protection and child welfare services, opted to integrate child abuse and neglect functions into their SACWIS. Because of the success of this approach over the 20 year S/TACWIS history, ACF strongly encourages title IV–E agencies to build their CCWIS to integrate these two systems in order to exchange essential data.

In new § 1355.52(e)(2)(ii), we propose that the title IV–E agency must support one bi-directional data exchange with the system(s) operated under title IV–A of the Act, to the extent practicable. This proposed requirement continues the statutory provision requiring a bi-directional data exchange with systems supporting the title IV–A (TANF) program. Consistent with guidance in Action Transmittal ACF–OSS–05, this means the bi-directional data exchange:

- Supports the automatic exchange of common or relevant data between the two systems;
- Accepts and processes new or updated case data; and
- Identifies potential duplicate payments under the title IV–E and title IV–A programs, if applicable.

''Relevant data,'' as listed in Action Transmittal ACF–OSS–05 for the purposes of this requirement, includes data that may benefit data exchange partners in serving clients and improving outcomes. Some examples of data title IV–E agencies report is beneficial include: Case management information such as child and family histories, assessments, contact notes, calendars, services recommended and delivered, eligibility for programs and services, and client outcomes. We encourage data exchange partners to learn about each other's programs and systems to identify relevant data that may be shared while complying with the applicable confidentiality requirements as described in new § 1355.52(d)(2)(iii).

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193) allows states and tribes to implement separate title IV–A programs within the jurisdiction and to administer the programs using a number of different information systems. In such circumstances, the CCWIS must have one bi-directional data exchange flexible enough to be used by the state or tribe's title IV–A programs with which the title IV–E agency exchanges data.

In new § 1355.52(e)(2)(iii), we propose that the title IV–E agency must support one bi-directional data exchange with systems operated under title XIX of the Act, to the extent practicable. First, we propose to incorporate the requirement at § 1355.53(b)(2)(iii) and implemented in Action Transmittal ACF–OSS–05 requiring a bi-directional data exchange with the Medicaid eligibility system. Second, we propose to add a requirement for a bi-directional data exchange with claims processing and information retrieval systems under title XIX. We discuss both requirements below.

In new § 1355.52(e)(2)(iii)(A), we propose to incorporate the requirement at existing § 1355.53(b)(2)(iii) that the title IV–E agency must support one bi-directional data exchange with systems used to determine Medicaid eligibility, to the extent practicable. Consistent with guidance in Action Transmittal ACF–OSS–05, the bi-directional data exchange:

- Provides for the exchange of information needed by the Medicaid eligibility system to calculate and track Medicaid eligibility for children in foster care;
- Allows for the automatic exchange of common or relevant data between the two systems; and
- Captures the data necessary to report AFCARS foster care data indicating whether the child is eligible for, or receiving assistance under title XIX.

''Relevant data'' for the purposes of this requirement includes data that may facilitate the timely provision of Medicaid insurance to children under the care and custody of the title IV–E agency. Some examples may include: Categorical title IV–E indicators, income and resources for the child and family, insurance coverage (other than Medicaid) that may apply to the child, and eligibility ID numbers and effective dates. We encourage data exchange partners to learn about each other's programs and systems to identify relevant data that may be shared while complying with the applicable confidentiality requirements as described in new § 1355.52(d)(2)(iii).

In new § 1355.52(e)(2)(iii)(B), we propose a new requirement that the title IV–E agency must support one bi-directional data exchange with the Medicaid mechanized claims processing and information retrieval systems as defined at 42 CFR 433.111(b), to the extent practicable.

We are adding this requirement because recent studies indicate that the movement of foster children between placements and medical providers may make the provision of consistent, coordinated, and cost effective care difficult. Providers may be unable to access critical information, including information on chronic conditions, needed immunizations, and current medications. As a result, previously diagnosed conditions may go untreated, immunizations may be missed or unnecessarily repeated, and drug regimens, such as psychotropic medications, stopped or inappropriately modified. A bi-directional data exchange can provide information to promote quality health care for these children and reduce costs to both programs.

This proposed new requirement means that the CCWIS maintains complete and current medical records on children in foster care.

''Relevant data'' for the purposes of this requirement includes data on services paid by the state, tribe, or other federal programs, including Medicaid or the Children's Health Insurance Program that is available in the Medicaid mechanized claims processing and information retrieval system, and that facilitates coordinated delivery of health care to children under the care and custody of the title IV–E agency. As noted above, examples of relevant data may include medical appointment histories, immunizations, and prescription records.

If the Medicaid eligibility and claims processing and information retrieval systems are integrated, we propose that these requirements may be met with one bi-directional data exchange to the single system. However, because these are substantially different bi-directional data exchanges, title IV–E agencies may build one bi-directional data exchange to meet the requirements of new § 1355.52(e)(2)(iii)(A) and a second bi-directional data exchange to meet the requirements of new § 1355.52(e)(2)(iii)(B) even if one Medicaid system performs all these functions.

Finally, we note that a number of states have already implemented such exchanges to the benefit of the children in care.

In new § 1355.52(e)(2)(iv), we propose to incorporate the requirement at § 1355.53(b)(2)(iv) that the title IV–E agency must support one bi-directional data exchange with system(s) operated under the title IV–D of the Act (child support), to the extent practicable. Consistent with guidance in Action Transmittal ACF–OSS–05, the bi-directional data exchange:

- Provides for the exchange of data necessary to establish a child support case;
- Accurately records child support collections on appropriate title IV–E federal reports;
- Identifies potential child support resources for the title IV–E child;
- Allows for the automatic exchange of common or relevant data between the two systems;
- Accepts and processes updated or new case data;
- Captures the data necessary to report AFCARS foster care data indicating whether child support funds are being paid to the state agency on behalf of the child; and
- Provides the title IV–D system with information about the current foster care maintenance payment.

''Relevant data'' for the purposes of this requirement includes data that may facilitate timely identification of resources for children under the care and custody of the title IV–E agency. Examples may include family resources such as contact information for the non-custodial parent and relatives that may be able to participate in family team meetings or as placement resources. The exchange may also facilitate establishment of a child support order, as appropriate, or the assignment of child support funds to the title IV–E agency on behalf of the child.

For tribal title IV–E agencies, Part 1, Section A, Line 3 of the title IV–E federal reporting form CB–496, instructs tribes to leave the ''Federal Share of Child Support Collections'' blank. This is because as of December 2014 there is no federal mechanism for tribes to report child support collections on behalf of title IV–E eligible children in placements. If a reporting mechanism becomes available in the future, this proposed regulation should be read consistent with updated regulation and policy.

In new § 1355.52(e)(2)(v), we propose a new requirement that the title IV–E agency must support one bi-directional data exchange with the systems operated by the court(s) of competent jurisdiction over the title IV–E foster care, adoption, and, guardianship programs, to the extent practicable.

We propose this requirement because of the necessary partnership child welfare programs and the courts have in protecting the well-being of children and meeting statutory requirements under title IV–E. State or tribal courts with jurisdiction over the title IV–E foster care and adoption programs review the information provided by title IV–E agencies and approve or make other related legal determinations, including custody and placement activity. The courts are responsible for resolving a wide variety of issues with relevance to child welfare. Title IV- E of the Act requires that courts provide on-going oversight of child welfare cases to:

- Make a determination that it is ''contrary to the welfare'' for the child to remain in the home, and that removal by the child welfare agency is necessary to keep the child safe from abuse or neglect (section 472(a)(2)(A)(ii) of the Act);
- Ensure that the child welfare agency makes reasonable efforts to avoid unnecessary removals of children from their homes and to reunify foster children with their families (section 472(a)(2)(A)(ii) of the Act);
- Finalize the child's permanency goal, whether it is reunification, guardianship, adoption, permanent placement with a relative, or another planned permanent living arrangement, within 12 months of the date the child entered foster care and to assess progress toward that goal every 12 months after that the child remains in care (section 475(5)(C) of the Act);
- Determine whether a voluntary placement of a child with a child welfare agency continues to be in the best interest of the child within 180 days of placement (section 472(e) of the Act); and determine whether termination of parental rights is in the child's best interest (section 475(5)(C) and (E) of the Act).

In many jurisdictions, courts currently obtain the case information for judicial determinations and reviews from written petitions and filings submitted by the title IV–E agency. Caseworkers document the outcome of judicial events and rulings and the issuance of court orders in children's case records. Much of this information is entered into child welfare information systems. A bi-directional data exchange between the CCWIS and courts can increase worker efficiency, enrich case information, improve case tracking, and promote safe and timely permanency decisions.

This proposed requirement will support improved outcomes for children by:

- Providing courts with relevant data for child welfare hearings and decisions; and
- Providing the title IV–E agency with relevant data on hearing schedules, logistics, court findings, actions, and decisions.

''Relevant data'' for the purposes of this requirement includes data that may help improve case tracking and promote safe and timely permanency decisions. Examples may include petition dates, hearing dates and outcomes, documentation of timely completion of required actions by courts and the title IV–E agency, and documentation of upcoming court-related due dates.

In new § 1355.52(e)(2)(vi), we propose a new requirement that the title IV–E agency must support one bi-directional data exchange with the systems operated by the state or tribal education agency, or school districts, or both, to the extent practicable. The data exchange must comply with applicable confidentiality requirements in federal and other laws, such as the Privacy Rule under the Health Insurance Portability and Accountability Act, the Family Educational Rights and Privacy Act, and Parts B and C of the Individuals with Disabilities Education Act.

Title IV–E agencies must assure in the title IV–E plan that each child receiving a title IV–E payment and who has attained the age for compulsory school

attendance is a full-time student in an elementary or secondary school, in an authorized independent study program, or is home schooled consistent with the law of the state or other jurisdiction in which the school, program or home is located. Alternatively, the title IV–E agency must assure that such a child has completed secondary school or is incapable of attending school full time due to a medical condition as established in section 471(a)(30) of the Act.

Child welfare agencies must also include in a child's case plan a strategy for ensuring the educational stability of a child in foster care as established in section 475(1)(G) of the Act. The plan must take into account the appropriateness of the current educational setting and the proximity to the school the child was enrolled in at the time of placement, and the title IV–E agency must coordinate with the local education agency or agencies to ensure the child can remain in that school, or if remaining in that school is not in the best interests of the child, an assurance to enroll the child immediately in a new school with all of his or her educational records.

Consistent with the requirements under title IV–E, recent amendments made to the Family Education Rights and Privacy Act (FERPA) by the Uninterrupted Scholars Act (Pub. L. 112–278) (U.S.A.), allow education agencies and institutions to disclose the education records of a child in foster care, without parental consent, to a caseworker or other representative of a state or local child welfare agency or tribal organization authorized to access a student's case plan ''when such agency or organization is legally responsible, in accordance with state or tribal law, for the care and protection of the student . . .'' pursuant to 20 U.S.C. 1232g(b)(1)(L). These changes are further described in May 27, 2014 guidance issued by the U.S. Department of Education (located at *https://www2.ed.gov/policy/gen/guid/fpco/ferpa/uninterrupted-scholars-act-guidance.pdf*) regarding how the U.S.A. amended the confidentiality requirements in FERPA and Parts B and C of the Individuals with Disabilities Education Act (IDEA).

As a result, bi-directional data exchanges between the CCWIS and education systems can facilitate interagency coordination and assist state title IV–E agencies and local educational agencies in meeting the obligations mandated by title IV–E of the Act. For example, educational data, such as attendance records, progress reports, and individualized education programs or individualized family service plans under the IDEA, may now be shared with a child welfare agency, and that can help title IV–E agencies improve monitoring and develop appropriate plans for educational stability. Child welfare data can inform schools of legal custody changes, the physical location of children, and assist with the development of appropriate education plans. A number of states, recognizing these advantages, have passed legislation or established polices supporting bi-directional data exchanges between child welfare and education systems.

An electronic bi-directional data exchange will promote timeliness of data transfers, reduce administrative burden by eliminating the interim step of translating and importing data into separate systems, ensure standardization of data elements, streamline mandated administrative reporting, and provide access to standardized information that can be used for cross-systems, multi-level analyses.

We acknowledge that states and tribes with de-centralized education systems may be challenged to build a single, bi-directional data exchange, and we look forward to providing technical assistance to state and tribal title IV–E agencies as they work to overcome these barriers and build exchanges with education system(s).

In new § 1355.52(f), we propose a new requirement that title IV–E agencies use a single data exchange standard for CCWIS electronic bi-directional data exchanges described in § 1355.52(f)(1) through (3) upon implementing a CCWIS.

The data exchange standard must describe the data, definitions, formats, and other specifications sending and receiving systems implement when exchanging data. This shared vocabulary improves collaboration and communication since partners know precisely what data to share and the meaning of data they receive. A data exchange standard may reduce costs as the standard may be reused for multiple exchanges and purposes. The standard applies only to the exchange and not to how the information is stored or collected in either the sending or receiving system.

In response to our 2010 FR notice, we received comments requesting that ACF specify a data exchange standard. We do not propose to mandate the specific data exchange standard. Instead, we propose to allow title IV–E agencies the flexibility to implement a standard that best meets their needs. For example, the data exchange standard may be:

- Developed by the title IV–E agency;
- An existing standard selected by the title IV–E agency, such as the National Information Exchange Model (NIEM);
- Designated by the federal government, such as DHHS or the Office of Management and Budget; or
- Designated by the state or tribe for use by all programs within the state or tribal service area.

In new § 1355.52(f)(1), we propose to require that a single data exchange standard be used for electronic bi-directional data exchanges between CCWIS and each child welfare contributing agency.

Implementing a common data exchange standard between the title IV–E agency and all child welfare contributing agencies ensures that all agencies know what data to share and the meaning of the data they receive. It also eliminates redundant work and supports coordinated services.

In new § 1355.52(f)(2), we propose to require that the data exchange standard must apply to internal data exchanges between CCWIS automated functions where at least one of the automated functions meets the requirements of § 1355.53(a), which are our proposed new requirements for the design of CCWIS automated functions. For example, if the CCWIS intake, case management, and eligibility modules exchange data with each other, the data exchanges must conform to the data exchange standard specifications.

A standardized data exchange between modules allows title IV–E agencies to more efficiently upgrade one module without changing other parts of the CCWIS sharing data with that module. The standard data exchange also helps document the module's operation and supports reuse. Modules using the same data exchange standard are more efficiently integrated into a single system, even if they are built by different developers or vendors.

In new § 1355.52(f)(3), we propose to require that the data exchange standard must apply for data exchanges with systems described under new § 1355.52(e)(1)(iv). These are electronic systems external to CCWIS used by title IV–E agency staff to collect CCWIS data. A standardized data exchange between CCWIS and these external systems will enable the title IV–E agency to efficiently and economically exchange data thereby preventing duplicate data entry and promptly providing CCWIS and external systems with CCWIS data.

Although our data exchange standard proposal applies to the three data exchanges specified above, we invite commenters to identify other entities, both within and across jurisdictions that

may benefit from a data exchange standard.

In new § 1355.52(g), we propose requirements for automated support for title IV–E eligibility determinations.

In new § 1355.52(g)(1), we propose to incorporate the requirement that a state title IV–E agency must use the same automated function or the same group of automated functions for all title IV–E eligibility determinations. This proposal is consistent with the existing S/TACWIS requirement at § 1355.53(b)(5) and incorporates into regulation current guidance in Action Transmittal ACF–OSS–05 that specifies that the automated support for the title IV–E eligibility determination process is:

- Wholly provided by the CCWIS;
- Wholly provided by another system such as a larger system that determines eligibility for multiple programs; or
- Provided by different systems that have different steps of the title IV–E eligibility determination process. For example, the automated support for determining if a child meets the AFDC requirements may be located in the system supporting the title IV–A program while the remaining automated support is in the CCWIS.

States have the flexibility to choose from these three options, however we emphasize that the same automated function or group of automated functions must be used for all title IV–E eligibility determinations. For example, states may not use one automated function for determining the AFDC eligibility requirement for some children and a different automated function for determining the AFDC eligibility requirement for the remaining children in the state.

In new § 1355.52(g)(2), we propose to require that tribal title IV–E agencies, to the extent practicable, use the same automated function or the same group of automated functions for all title IV–E eligibility determinations. This includes, for example, eligibility determinations for the title IV–E foster care, adoption assistance and, if elected by the title IV–E agency, the guardianship assistance programs.

Our proposal to require that tribal title IV–E agencies meet this provision ''to the extent practicable'' is a change from the S/TACWIS regulations at § 1355.53(b)(5) that require tribal title IV–E agencies to use, without exception, at most one automated function to support each step in the eligibility determination process. We propose this exception because it may be unrealistic for tribal title IV–E agencies to implement one automated function to support each step of the eligibility determination process. For example, tribes are required by section 479B(c)(C)(ii)(II) of the Act to use the state AFDC plan that was in effect on July 16, 1996 of the state in which the child resides at the time of removal from the home to determine if the child meets the AFDC eligibility requirement. This means that tribal title IV–E agencies may need to use the AFDC plan from different states for different children, depending on the child's location at the time of removal. Therefore, it may not be cost effective for tribal title IV–E agencies to build an automated function to accommodate AFDC eligibility requirements of all states from which tribal children may be removed. However, if it is cost effective for a tribal title IV–E agency to automate other steps in the title IV–E eligibility process, those steps are expected to be automated.

Guidance in Action Transmittal ACF–OSS–05 regarding automated support for the title IV–E eligibility determination process also applies to tribal title IV–E agencies.

In new § 1355.52(h), we propose to require that the title IV–E agency must provide a copy of agency-owned software that is designed, developed, or installed with FFP and associated documentation to the designated federal repository upon ACF's request. This new requirement is a reasonable way to exercise our authority in 45 CFR 95.617(b) that provides the federal government ''a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes, such software, modifications, and documentation'' funded with FFP. Our proposed requirement is consistent with guidance issued by the Department, such as the Centers for Medicare and Medicaid Services' Medicaid IT Supplement (MITS–11–01-v1.0): Enhanced Funding Requirements: Seven Conditions and Standards.

This requirement means title IV–E agencies must provide copies of all software and associated documentation requested by ACF and developed with FFP. We anticipate using this requirement to deposit specific, tested, and proven CCWIS automated functions into a federal repository so that they may be shared and reused by other title IV–E agencies. For example, if a title IV–E agency adds software supporting a new safety assessment to the federal repository other title IV–E agencies using that safety assessment could access the software. In this way, the ability to reuse software modules may significantly reduce system development costs for the federal government, states, and tribes.

In new § 1355.52(i), we propose to require the title IV–E agency to submit specific documentation for CCWIS projects.

In new § 1355.52(i)(1), we propose to require that before claiming funding in accordance with a CCWIS cost allocation, a title IV–E agency must submit an APD or, if below the APD submission thresholds defined at 45 CFR 95.611, a Notice of Intent. We propose to require that all projects must include the information described in this paragraph in its APD, or, if applicable Notice of Intent.

This proposed Notice of Intent will provide ACF with advance notice that an agency intends to implement a CCWIS project. This advance notice is necessary so that ACF can plan for the funding anticipated for these projects and provide technical assistance as they proceed.

In new § 1355.52(i)(1)(i), we propose to require the title IV–E agency to include in the APD or Notice of Intent a project plan describing how the CCWIS will meet the requirements in § 1355.52(a) through (h) and, if applicable, CCWIS options as described in § 1355.54.

ACF will provide guidance to IV–E agencies required to submit a Notice of Intent to describe the desired scope of a project plan in these documents. The documents should describe the activities, timeline, resources, and budget to be used to plan, design, develop, and implement a CCWIS.

In new § 1355.52(i)(1)(ii), we propose to require the APD or Notice of Intent include a list of all automated functions that will be included in the CCWIS.

Providing this list in addition to the more detailed information required in new § 1355.52(i)(1)(iii) at the start of a CCWIS project will help both ACF and the title IV–E agency to more reliably estimate project costs per CCWIS cost allocation requirements in § 1355.57.

In new § 1355.52(i)(1)(iii), we propose to require that the APD or Notice of Intent provide a notation whether each automated function listed in § 1355.52(i)(1)(ii) meets, or when implemented will meet, the requirements of § 1355.52(i)(1)(iii)(A) through (C). This proposed requirement will allow ACF and the title IV–E agency to determine which costs may qualify for CCWIS cost allocation throughout the development and operation of the CCWIS.

In new § 1355.52(i)(1)(iii)(A), we propose to require that the title IV–E agency report in the APD or Notice of Intent whether an automated function

supports (or when implemented will support) at least one of the CCWIS requirements listed at § 1355.52 or, if applicable, CCWIS options as described in § 1355.54. This requirement means that the title IV–E agency must indicate if the automated function supports the child welfare program. An automated function may support more than one CCWIS requirement.

We propose to add this new requirement because automated functions that support the child welfare program may qualify for CCWIS cost allocation, per the requirements described in § 1355.57. Providing additional detail to the list of automated functions will allow ACF and the title IV–E agency to more reliably estimate which project costs may qualify for CCWIS cost allocation.

In new § 1355.52(i)(1)(iii)(B), we propose to require that the title IV–E agency report in the APD or Notice of Intent whether an automated function is not (or when implemented will not be) duplicated within the CCWIS or systems supporting child welfare contributing agencies and is consistently used by all child welfare workers responsible for the area supported by the automated function.

This requirement incorporates S/TACWIS policy in Action Transmittal ACF–OISM–001 into regulation. We propose to include this new requirement because it is not effective, economical, or efficient to fund the implementation of automated functions that are duplicated or not consistently used by all users performing the function. For example, supporting a different risk assessment tool across multiple systems used by contracted providers and the CCWIS would not be an efficient use of CCWIS funding.

Providing this additional detail to the list of automated functions will allow ACF and the title IV–E agency to more reliably estimate which project costs may qualify for CCWIS cost allocation.

In new § 1355.52(i)(1)(iii)(C), we propose a new requirement that the title IV–E agency report in the APD or Notice of Intent whether an automated function complies (or when implemented will comply) with CCWIS design requirements described under § 1355.53(a), unless exempted in accordance with § 1355.53(b). We propose to add this requirement because automated functions that comply with CCWIS design requirements may qualify for CCWIS cost allocation. Providing this additional detail to the list of automated functions will allow ACF and the title IV–E agency to more reliably estimate which project costs may qualify for CCWIS cost allocation.

In new § 1355.52(i)(2), we propose to require title IV–E agencies to submit new information in their annual Operational APDs and Annual APD Updates for all CCWIS projects.

In new § 1355.52 (i)(2)(i), we propose to require that the Annual APD Update or Operational APD must include an updated list of automated functions included in CCWIS. This is a new requirement. We propose to require an updated list each year because changes to CCWIS may affect the number of automated functions included in CCWIS and eligible for CCWIS funding. Receiving updated information regarding automated functions allows ACF to monitor progress and adjust the CCWIS cost allocation, if necessary, to account for changes in whether new or existing automated functions comply with the requirements listed in § 1355.52(i)(2)(ii) and (iii).

In new § 1355.52(i)(2)(ii), we propose a new requirement that the title IV–E agency provide updates in the Annual APD Update or Operational APD including a notation whether each automated function listed in § 1355.52(i)(2)(i) meets (or when implemented will meet) the requirements of § 1355.52(i)(1)(iii)(B).

This requirement incorporates S/TACWIS policy from Action Transmittal ACF–OISM–001 into regulation. We propose to include this new reporting requirement because it is not effective, economical, or efficient to fund the implementation of automated functions that are either duplicated or not consistently used by all users performing the function.

In new paragraph (i)(2)(iii), we propose to require that that the title IV–E agency report in the Annual APD Update or Operational APD a description of any changes to the scope or the design criteria described at § 1355.53(a) for any automated function listed in § 1355.52(i)(2)(i). This information is necessary to determine the appropriate cost allocation for automated functions, because complying with CCWIS design requirements is one of the criteria to determine if an automated function may qualify for CCWIS cost allocation.

In new § 1355.52(j), we propose a new requirement that a title IV–E agency claiming title IV–E FFP for CCWIS projects below the APD submission thresholds at 45 CFR 95.611, will be subject to certain portions of the APD rules that we have determined are necessary for effective project management.

These rules are a subset of 45 CFR part 95, subpart F that apply controls to projects using FFP for the planning, design, development, implementation, operations and maintenance of automated data processing systems. These rules cover requirements that fall under the following topics:

- 95.613—Procurement standards;
- 95.615—Access to systems and records;
- 95.617—Software and ownership rights;
- 95.619—Use of Automated Data Processing (ADP) systems;
- 95.621—Automated Data Processing (ADP) Reviews;
- 95.626—Independent Verification and Validation;
- 95.627—Waivers;
- 95.631—Cost identification for purpose of FFP claims;
- 95.633—Nondiscrimination requirements;
- 95.635—Disallowance of FFP for automated systems that fail to comply substantially with requirements; and
- 95.641—Applicability of rules for charging equipment in Subpart G.

CCWIS projects claiming title IV–E FFP, with costs above the thresholds in § 95.611 (currently $5 million total project cost) continue to be subject to all of the provisions of 45 CFR part 95, subpart F, including submission of APDs. For these over threshold projects, application of the APD rules will not change.

We note that this proposed rule does not cite all federal laws relevant to information technology. For example, title IV–E agencies should ensure compliance with federal and state or tribal laws related to data privacy and confidentiality, such as: the Gramm-Leach-Bliley Act, the Federal Trade Commission Act, the Health Information Technology for Economic and Clinical Health (HITECH) Act, the Federal Educational Rights and Privacy Act (FERPA) and the Individuals with Disabilities Education Act (IDEA).

§ 1355.53—CCWIS Design Requirements

In revised § 1355.53, we propose new requirements for the design of CCWIS automated functions. This is a change from S/TACWIS regulations, which do not specify design requirements for S/TACWIS automated functions. In revised § 1355.53(a), we list the proposed design requirements. We propose these requirements to ensure that federal investments in information technology projects are efficient, economical, and effective in supporting programs. In revised § 1355.53(b), we propose to exempt CCWIS automated functions from one or more of the CCWIS design requirements in § 1355.53(a) under certain conditions.

We discuss the two proposed exemptions below.

Our proposed design requirements are consistent with several requirements in the Centers for Medicare and Medicaid Services' (CMS) *Final Rule—Medicaid Program: Federal Funding for Medicaid Eligibility Determination and Enrolment Activities* issued on April 19, 2011 in 76 FR 21905 through 21975. Establishing design requirements consistent with CMS guidance will reduce duplication across information systems and increase opportunities for states and tribes to share and benefit from technology innovations.

In new § 1355.53(a)(1), we propose a new requirement that CCWIS automated functions must follow a modular design that includes the separation of business rules from core programming.

By ''modular'' we mean a software development approach that breaks down complex program functions into separate manageable components with well-defined methods of communicating with other components. We propose this requirement because designing custom and highly specialized business processes to be independent and exchanging information by clear methods will allow title IV–E agencies to change one component of their CCWIS without modifying other processes or services. This will make subsequent CCWIS development and maintenance more efficient and economical. ACF will provide additional guidance on the design requirements to explain the efficiencies that may be gained if a title IV–E agency develops or licenses automated functions that:

1. May be reused in other automated processes requiring the same functions or services;

2. Are easier to maintain and enhance than large complex interlocking systems; and

3. Can be reliably connected to other automated functions without extensive re-testing of their internal processes.

ACF will consider the potential for re-use, ease of maintenance, and reliability to determine whether automated functions in a CCWIS comply with this requirement.

In new § 1355.53(a)(2), we propose a new requirement that title IV–E agencies must document automated functions contained in a CCWIS using plain language. By ''plain language'' we mean written communication using English, free of unexplained information technology jargon.

We propose this requirement because title IV–E agencies need complete and clear documentation, both in internal explanations of code and external documentation, for their information systems to promote re-usability and integrate an automated function into an existing system. Title IV–E agencies report that it is difficult to train new staff without complete and clear documentation and poorly documented systems are difficult to maintain.

This proposed requirement means that child welfare programmatic staff will be able to understand the meaning and purpose of an automated function from the documentation. The documentation should be complete so that technical staff unfamiliar with an automated function can understand, maintain, and enhance the automated function. Although we expect the documentation to include detailed technical specifications, it should include keys or other features to prevent misinterpretation.

As part of our reviews in proposed § 1355.55, ACF may review documentation to confirm compliance with this requirement.

In new § 1355.53(a)(3), we propose a new requirement that automated functions contained in CCWIS must adhere to a state, tribal, or industry defined standard that promotes efficient, economical, and effective development of automated functions and produce reliable systems.

This proposed requirement means that the title IV–E agency will use a development standard consistently for the documentation, design, development, testing, implementation, and maintenance of CCWIS automated functions. The standard may be selected by the title IV–E agency or it may be a standard that the state or tribe requires all information technology projects to follow.

ACF will evaluate the title IV–E agency's compliance with the selected standard as part of our reviews per proposed § 1355.55 to determine if the agency meets this requirement.

In new § 1355.53(a)(4), we propose a new requirement that CCWIS automated functions be capable of being shared, leveraged, and reused as a separate component within and among states and tribes. Title IV–E agencies share common goals, policies, and practices, which provide opportunities for sharing successful technology solutions that support their child welfare business practices. Promoting the development of automated functions in the CCWIS that may be reused and shared among states and tribes can save development costs and time.

This proposed requirement means that the title IV–E agency will develop CCWIS automated functions, with associated documentation, that could be used in another state or tribal modularly-designed system.

In revised § 1355.53(b), we propose to exempt CCWIS automated functions from one or more of the CCWIS design requirements in § 1355.53(a) under certain conditions. We discuss the two proposed exemptions below.

In revised § 1355.53(b)(1), we propose to exempt CCWIS automated functions from one or more of the CCWIS design requirements in § 1355.53(a) if the CCWIS project meets the requirements of § 1355.56(b) or 1355.56(f)(1). We are proposing this exemption so that title IV–E agencies do not have to replace existing automated functions of S/TACWIS and non-S/TACWIS projects transitioning to CCWIS if the automated functions do not meet the proposed design requirements of § 1355.53(a). This may reduce the costs of transitioning these systems to CCWIS.

In revised § 1355.53(b)(2), we propose to exempt CCWIS automated functions from one or more of the CCWIS design requirements in § 1355.53(a) if ACF approves, on a case-by-case basis, an alternative design proposed by a title IV–E agency that is determined by ACF to be more efficient, economical, and effective than what is found in paragraph (a). ACF will review and may approve requests for an exemption of paragraph (a) on a case-by-case basis.

We offer this exemption to accommodate technological advances that may provide new approaches, which are different from the requirements of § 1355.53(a), to design systems more efficiently, economically, and effectively. This allows title IV–E agencies to take advantage of such technological advances that meet CCWIS requirements.

An exemption may excuse a title IV–E agency from any or all requirements of § 1355.53(a). For example, the title IV–E agency may propose an approach different from the modular design requirement of § 1355.53(a)(1). If the title IV–E agency provides sufficient evidence that the alternative design approach delivers more efficient, economical, and effective results than § 1355.53(a)(1), ACF may exempt the title IV–E agency from § 1355.53(a)(1) and permit the agency to substitute the alternative design approach. Under this scenario, the other CCWIS design requirements remain in effect. If a design waiver is approved by ACF, CCWIS operational and development funding will be available.

§ 1355.54—CCWIS Options

In revised § 1355.54, we propose that if a project meets, or when completed will meet, the requirements of

§ 1355.52, then ACF may approve CCWIS funding described at § 1355.57 for other ACF-approved data exchanges or automated functions that are necessary to achieve title IV–E or IV–B programs goals. This is consistent with S/TACWIS regulations at § 1355.53(c) and (d) that provide S/TACWIS funding for specified optional data exchanges and automated functions. An example of an optional exchange could be the implementation of a data exchange with the Social Security Administration to support timely automated verification of social security numbers and identification of client benefit information. An example of optional automated functions could be the implementation of intake and investigation functions as a component of the CCWIS.

This proposal means that CCWIS funding may be available to support the development and operation of optional data exchange or automated functions, provided that:

- It is part of a CCWIS project that meets, or when completed will meet, the requirements of § 1355.52 by supporting either an implemented CCWIS or an ACF-approved CCWIS project under development;
- It can qualify for the CCWIS cost allocation as described in § 1355.57;
- The title IV–E agency submits a business case to ACF for prior approval that explains how the automated function or data exchange supports a specific title IV–B or IV–E program goal; and
- It is approved by ACF.

Consistent with S/TACWIS regulations at §§ 1355.53(d) and 1355.57(a) and APD regulations at 45 CFR 95.631, CCWIS cost allocation may be available for the planning, design, development, installation, operations and maintenance of the CCWIS portion of approved optional data exchanges. CCWIS funding is not available for work completed on other systems, including those systems exchanging data with CCWIS.

§ 1355.55—Review and Assessment of CCWIS Projects

In revised § 1355.55 we propose that ACF will review, assess, and inspect the planning, design, development, installation, operation, and maintenance of each CCWIS project on a continuing basis, in accordance with APD requirements in 45 CFR part 95, subpart F, to determine the extent to which the project meets the requirements in §§ 1355.52, 1355.53, 1355.56, and, if applicable, § 1355.54. This is consistent with current S/TACWIS regulations at 45 CFR 1355.55 and APD regulations at 45 CFR part 95, subpart F. Our reviews will evaluate aspects of the system such as: system functionality, CCWIS design requirements, data quality requirements, and compliance with data exchange standards, as well as the requirements specific to new CCWIS projects and projects transitioning to CCWIS as described in the proposed sections on funding, cost allocation, and submission requirements which are §§ 1355.52, 1355.53, 1355.56, and, if applicable, § 1355.54.

We propose to incorporate this requirement because ACF has responsibility to monitor and support activities funded with FFP. It is important to validate that the state or tribe's system is complete, fulfills the approved development and operational goals laid out in the APD or Notice of Intent, and that it conforms to relevant regulations and policies. The review process may also help the state or tribe to: document that the system meets federal requirements, identify system deficiencies, determine necessary corrective actions, and obtain technical assistance as needed.

§ 1355.56—Requirements for S/TACWIS and Non-S/TACWIS Projects During and After the Transition Period

In revised § 1355.56, we propose new transition requirements that will apply to existing S/TACWIS and non-S/TACWIS projects (as defined at § 1355.51). Some requirements, as specified below, apply only during the transition period (defined at § 1355.51 as 24 months from the effective date of the final rule); other requirements apply both during and after the transition period. We intend for title IV–E agencies to use the transition period to evaluate the feasibility of using their legacy applications as the foundation of a CCWIS.

A title IV–E agency may preserve information technology investments in a S/TACWIS or non-S/TACWIS system or project by using that system or project as the foundation of a CCWIS. Portions of such a system may already meet some CCWIS requirements, and the title IV–E agency may enhance the system to meet the remaining CCWIS requirements. However, a title IV–E agency with a S/TACWIS or non-S/TACWIS is not required to use that system as the foundation of a CCWIS. The agency may implement a new CCWIS at any time during or after the transition period.

In revised § 1355.56(a), we propose that during the transition period a title IV–E agency with a S/TACWIS project may continue to claim title IV–E funding according to the cost allocation methodology approved by ACF for development or the operational cost allocation plan approved by the Department, or both. This is permitted for active S/TACWIS projects as defined in § 1355.51. The title IV–E funding continues according to the developmental cost allocation methodology approved by ACF for development or the operational cost allocation plan approved by Cost Allocation Services (CAS) within the Department, or both. We propose this requirement to provide title IV–E agencies with a period of uninterrupted funding sufficient to make a determination about how to proceed under the CCWIS rules and whether to transition their existing system to a CCWIS. The title IV–E agency must submit proposed changes to their development or operational cost allocation methodologies either in an APD (for development) or for states, a cost allocation plan amendment (for operations). The changes must be approved by ACF or CAS respectively. There are no tribal title IV–E agencies that currently have an active TACWIS. If this occurs, a tribe may submit an APD for development costs, if required, or a cost allocation methodology amendment for operational costs. ACF will offer technical assistance to title IV–E agencies during the transition period.

In revised § 1355.56(b), we propose that a S/TACWIS project must meet the submission requirements of § 1355.52(i)(1) during the transition period to qualify for the CCWIS cost allocation methodology described in § 1355.57(a) after the transition period. This means the title IV–E agency must submit an APD or Notice of Intent as described at § 1355.52(i)(1) during the transition period, notifying ACF of their intent to transition the S/TACWIS to a CCWIS, in order to qualify for the CCWIS cost allocation methodology in § 1355.57(a) after the transition period. This is a new requirement that only applies if a title IV–E agency has a S/TACWIS project that the agency intends to transition to a CCWIS and claim title IV–E funds according to the CCWIS cost allocation methodology after the transition period.

In new § 1355.56(c), we propose that a title IV–E agency with a S/TACWIS may request approval to initiate a new CCWIS and qualify for the CCWIS cost allocation methodology described in § 1355.57(b) by meeting the submission requirements of § 1355.52(i)(1). This means the title IV–E agency must submit an APD or Notice of Intent as required in § 1355.52(i)(1). Title IV–E agencies that choose to implement a

CCWIS will have the flexibility to receive CCWIS funding if they start a new CCWIS project rather than transition their existing S/TACWIS.

In new § 1355.56(d), we propose new requirements for a title IV–E agency that elects not to transition a S/TACWIS project to a CCWIS project.

In new § 1355.56(d)(1), we propose that a title IV–E agency must notify ACF in an APD or Notice of Intent submitted during the transition period of this election not to transition a S/TACWIS project to a CCWIS project.

In new § 1355.56(d)(2), we propose to require that the title IV–E agency that elects not to transition its S/TACWIS must continue to use S/TACWIS throughout its life expectancy in accordance with 45 CFR 95.619. The life expectancy is the length of time before the system may be retired or replaced as determined in APD submissions.

Title IV–E agencies that do not elect during the transition period to transition their S/TACWIS systems to a CCWIS may seek title IV–E reimbursement for administrative costs, including system development, under section 474(a)(3)(E) after the transition period ends. However, it is important that the title IV–E agency submit the APD or Notice of Intent as required in § 1355.56(d), so that the title IV–E agency can reclassify a S/TACWIS project to non-CCWIS projects without the risk of having to repay the costs invested in the project, as discussed in § 1355.56(e).

In new § 1355.56(e), we propose to incorporate the S/TACWIS requirement at § 1355.56(b)(4) allowing for recoupment of FFP for failure to meet the conditions of the approved APD. In our proposed requirement a title IV–E agency that elects not to transition its S/TACWIS project to a CCWIS and fails to meet the requirements of paragraph (d) is subject to funding recoupment described under § 1355.58(d). ACF may recoup all title IV–E FFP provided for the S/TACWIS project. This recoupment requirement is described in § 1355.58(d) that applies to non-compliant CCWIS projects and is consistent with S/TACWIS requirements.

In new § 1355.56(f), we propose that a title IV–E agency with a non-S/TACWIS (as defined in § 1355.51) that elects to build a CCWIS or transition to a CCWIS must meet the submission requirement of § 1355.52(i)(1). This means the title IV–E agency must submit an APD or Notice of Intent at the times described in § 1355.52(f)(1) and (2).

In new § 1355.56(f)(1), we propose that the APD or Notice of Intent must be submitted during the transition period to qualify for a CCWIS cost allocation as described at § 1355.57(a).

In new § 1355.56(f)(2), we propose that a title IV–E agency may submit an APD or, if applicable, a Notice of Intent at any time to request approval to initiate a new CCWIS and qualify for a CCWIS cost allocation as described at § 1355.57(b).

The title IV–E agency must notify ACF that they intend to transition to a CCWIS in a manner that meets the submission requirements at § 1355.52(i)(1).

§ 1355.57—Cost Allocation for CCWIS Projects

In revised § 1355.57 we propose cost allocation requirements for CCWIS projects.

We are providing the following table to summarize the costs that may be allocated to title IV–E using the three different cost allocation methodologies described in this proposed section (CCWIS development, CCWIS operational, and non-CCWIS cost allocation). The table also references paragraphs of the proposed regulation related to each methodology. This table is for illustrative purposes and is not intended to address all cost allocation scenarios.

COSTS ALLOCATED TO TITLE IV–E USING PROPOSED COST ALLOCATION METHODOLOGIES

Cost allocation methodology	Applicable regulations for each methodology	Allocate costs to title IV–E, if costs benefit . . .			
		title IV–E funded participants in title IV–E programs and activities.	state or tribal funded participants of programs and activities described in title IV–E.	title IV–B programs.	both title IV–E and child welfare related programs (at this time, ACF only classifies juvenile justice and adult protective services as child welfare related programs).
CCWIS development	1355.57(a)(2), (b), (c), (e)(1), & (e)(2).	✓	✓	✓	✓
CCWIS operational	1355.57(a)(2), (b), (c), & (e)(1).	✓	✓		
Non-CCWIS (development and operational).	1355.57(f)	✓			

These proposed regulations are similar to S/TACWIS cost allocation requirements, which permit title IV–E agencies to allocate title IV–E system costs that support all participants of programs and activities described in title IV–E. CCWIS also incorporates the same development and operational cost allocation as S/TACWIS.

The proposed regulations provide a cost allocation incentive to build automated functions meeting the CCWIS requirements. As noted in the above table, the non-CCWIS cost allocation is the least beneficial to the title IV–E agency.

The proposed CCWIS cost allocation requirements provide title IV–E agencies with new flexibility to build a CCWIS supporting their specific program and circumstances while still qualifying for CCWIS cost allocation. Specifically, CCWIS cost allocation is available for automated functions and approved activities meeting CCWIS requirements. Automated functions and activities not meeting CCWIS requirements may qualify for a non-CCWIS cost allocation. For example, a title IV–E agency may build a system that partially qualifies for the CCWIS cost allocation, while the remaining parts of the system do not.

This approach is a change from S/TACWIS regulations, which require a title IV–E agency to implement a system providing all mandatory S/TACWIS functionality to qualify for S/TACWIS cost allocation. If a single mandatory functional requirement, such as the

required case management screens and functions, is not supported by S/TACWIS, then the entire system, including components meeting S/TACWIS requirements, does not qualify for S/TACWIS cost allocation and ACF classifies the application as non-S/TACWIS.

In revised § 1355.57(a), we propose cost allocation requirements for projects transitioning to CCWIS. Transitioning projects may be either a S/TACWIS or a non-S/TACWIS project that meets the definitions in § 1355.51(i)(1).

In new § 1355.57(a)(1), we propose a requirement that all automated functions developed after the transition period for projects meeting the submission requirements in § 1355.56(b) or 1355.56(f)(1) must meet the CCWIS design requirements described under § 1355.53(a), unless exempted by § 1355.53(b)(2). Our proposed regulations provide a transition period to accommodate title IV–E agencies with existing systems that may transition to CCWIS. After the transition period, new development in these systems must comply with CCWIS design requirements under § 1355.53(a), unless exempted by § 1355.53(b)(2).

In new § 1355.57(a)(2), we propose two requirements an automated function of a project transitioning to CCWIS must meet in order for the Department to consider approving the applicable CCWIS cost allocation. The department will apply the definitions of ''development'' and ''operation'' in 45 CFR 95.605 to determine if the applicable CCWIS cost allocation for automated function costs is CCWIS development cost allocation or CCWIS operational cost allocation. ACF is authorized to approve state and tribal development cost allocation methodologies. CAS is authorized to approve operational cost allocation methodologies for states. The Department approves operational cost allocation methodologies for tribes.

In new § 1355.57(a)(2)(i), we propose that an automated function must support programs authorized under titles IV–B or IV–E, and at least one requirement in § 1355.52 or, if applicable § 1355.54. This proposed requirement is consistent with established cost allocation regulations and policies at 45 CFR 95.631, 1356.60(d)(2) and 45 CFR part 75 (45 CFR part 75 superseded OMB Circular A–87). These regulations and policies require system costs be allocated to the benefiting programs.

This means that the automated function must support the programs authorized under title IV–B or title IV–E (including the John H. Chaffee Foster Care Independence program), in addition to at least one requirement at § 1355.52 or, if applicable § 1355.54.

In new § 1355.57(a)(2)(ii), we propose that an automated function also must not be duplicated within either the CCWIS or systems supporting the child welfare contributing agency and be consistently used by all child welfare workers responsible for the area supported by the automated function. Automated functions of a CCWIS that do not meet this requirement but support title IV–E programs or services may qualify for non-CCWIS cost allocation as described in § 1355.57(f).

While similar to the S/TACWIS policy in Action Transmittal ACF–OISM–001, this requirement is more flexible than the current policy that requires that the entire S/TACWIS be used for all child welfare tasks in the state or tribal service area.

In revised § 1355.57(b), we propose cost allocation requirements for new CCWIS projects. A new CCWIS project is one that starts after the effective date of the final rule and will meet the CCWIS project requirements of §§ 1355.52 and 1355.53(a). We use the term ''New CCWIS Project,'' which is defined in § 1355.51, to distinguish these projects from S/TACWIS or non/S/TACWIS projects that began before the effective date of the final rule.

In new § 1355.57(b)(1), we propose that unless ACF grants the title IV–E agency an exemption in accordance with § 1355.53(b)(2), all automated functions of a new CCWIS project must meet all the CCWIS design requirements described under § 1355.53(a) to qualify for CCWIS cost allocation. By this we mean, if all automated functions of a project that the IV–E agency plans to implement as new CCWIS, do not meet the requirement at § 1355.53(a) and are not exempt from those requirements by § 1355.53(b)(2), the project may not be classified a new CCWIS.

In new § 1355.57(b)(2), we propose the requirements an automated function must meet so that it may qualify for CCWIS cost allocation.

In new § 1355.57(b)(2)(i), we propose that an automated function must support programs authorized under titles IV–B or IV–E, and at least one requirement of § 1355.52 or, if applicable § 1355.54. This is similar to the proposed requirement for CCWIS development cost allocation in § 1355.57(a)(2)(i).

This means that the automated function must support programs authorized under title IV–B or title IV–E (including the John H. Chaffee Foster Care Independence program), in addition to at least one requirement at § 1355.52 or, if applicable § 1355.54 to qualify for CCWIS cost allocation.

In new § 1355.57(b)(2)(ii), we propose that an automated function must not be duplicated within the CCWIS or other systems supporting child welfare contributing agencies and be consistently used by all child welfare users responsible for the area supported by the automated function.

While similar to the S/TACWIS policy in Action Transmittal ACF–OISM–001, this requirement is more flexible than the current policy that requires that the entire S/TACWIS be used for all child welfare tasks in the state or tribal service area.

CCWIS automated functions not meeting this requirement but that support title IV–E programs or services may qualify for non-CCWIS cost allocation as described in § 1355.57(f).

In new § 1355.57(c), we propose a new requirement consistent with the APD rule at 45 CFR part 95 subpart F that the Department may approve a CCWIS cost allocation for an approved activity for a CCWIS project meeting the requirements of § 1355.57(a) (transitioning projects) or (b) (new CCWIS projects).

Approved activities may be directly associated with an automated function, such as requirements gathering sessions, meetings to design screens, or writing test plans. However, certain automated systems related activities that are not directly linked to developing, implementing, or operating an automated function may also qualify for CCWIS cost allocation. Examples include developing the data quality plan, and conducting data quality reviews. ACF plans to issue guidance on approved activities.

In new § 1355.57(d), we propose a requirement that the title IV–E agency must allocate project costs in accordance with applicable HHS regulations and guidance. This requirement is consistent with current regulations at 45 CFR 95.631 and 45 CFR 95.503 as well as 45 CFR part 75.

We propose this requirement because our experience with title IV–E agencies on S/TACWIS reviews indicate that they frequently integrate child welfare information systems into enterprise systems shared with other health and human services programs. For example, a state or tribe may have one system supporting the child welfare, juvenile justice, and child support programs. We encourage this strategy to improve program collaboration and reduce system development costs.

However, this proposed requirement clarifies the order in which project costs must be allocated to be consistent with

applicable regulations and HHS policy. Specifically, we propose to require that the title IV–E agency must allocate project costs so as to identify child welfare and non-child welfare benefiting components. Any project costs assigned as non-child welfare costs must be allocated to all benefiting programs (including other health and human service programs). Project costs assigned as child welfare costs are subject to allocation according to the specific CCWIS or non-CCWIS cost allocation requirements of this section.

In new § 1355.57(e), we propose cost allocation requirements for CCWIS development and operational costs. This proposal means that title IV–E agencies will be able to continue to receive the favorable cost allocation available to S/TACWIS projects for CCWIS projects meeting the requirements of §§ 1355.50 through 1355.57.

In new § 1355.57(e)(1), we propose to allow a title IV–E agency to allocate CCWIS development and operational costs to title IV–E for approved system activities and automated functions that meet three requirements as described in § 1355.57(e)(1)(i), (ii), and (iii).

We propose in new § 1355.57(e)(1)(i) that the costs are approved by the Department.

In new § 1355.57(e)(1)(ii), we propose that the costs meet the requirements of § 1355.57(a) (transitioning projects), (b) (new CCWIS projects), or (c) (approved activities).

In new § 1355.57(e)(1)(iii), we propose that the share of costs for system approved activities and automated functions that benefit federal, state or tribal funded participants in programs and allowable activities described in title IV–E of the Act may be allocated to the title IV–E program. Therefore, system costs benefiting children in foster care, adoptive, or guardianship programs, regardless of title IV–E eligibility, may be allocated to title IV–E.

In new § 1355.57(e)(2), we propose to allow title IV–E agencies to also allocate additional CCWIS development costs to title IV–E for the share of system approved activities and automated functions that meet requirements in § 1355.57(e)(1)(i) and (ii). These additional costs are described in new § 1355.57(e)(2)(i) and (ii).

In new § 1355.57(e)(2)(i), we propose that CCWIS development costs benefiting title IV–B programs may be allocated to title IV–E.

In new § 1355.57(e)(2)(ii), we propose that CCWIS development costs benefiting both title IV–E and child welfare related programs may be allocated to title IV–E. At this time, ACF only classifies juvenile justice and adult protective services as child welfare related programs.

In new § 1355.57(f), we propose to require that title IV–E costs not previously described in this section may be charged to title IV–E at the regular administrative rate but only to the extent that title IV–E eligible children are served under that program. This requirement is consistent with regulations at 45 CFR 95.631 and 1356.60(d)(2) and 45 CFR part 75 that allocate system costs to the benefiting programs.

This proposed requirement means that system costs that benefit title IV–E programs but do not meet the requirements of this section may still be allocated to title IV–E as administrative costs, but only to the extent that title IV–E eligible children are served under that program. However, as noted previously, costs that do not meet the requirements of § 1355.57(a), (b) or (c) but benefit title IV–B, other child welfare related programs, other human service programs, or participants in state or tribal funded programs may not be allocated to title IV–E but instead must be allocated to those programs.

§ 1355.58—Failure To Meet the Conditions of the Approved APD

New § 1355.58 of the proposed rule incorporates the current regulation at 45 CFR 1355.56. This section introduces the consequences of not meeting the requirements of the APD. Those consequences may include suspension of title IV–B and IV–E funding and possible recoupment of title IV–E funds claimed for the CCWIS project as described below.

In new § 1355.58(a), we propose that in accordance with 45 CFR 75.371 to 75.375 and 45 CFR 95.635, ACF may suspend IV–B and IV–E funding approved in the APD if ACF determines that the title IV–E agency fails to comply with the APD requirements in 45 CFR part 95, subpart F or meet the CCWIS requirements at § 1355.52 or, if applicable, §§ 1355.53, 1355.54, or 1355.56. The proposed requirement incorporates S/TACWIS regulations at 45 CFR 1355.56(a). We added a reference to the Department administrative rules at 45 CFR 75.371 to 75.375 that provides authority to suspend the funding and updated references to the proposed CCWIS requirements.

We propose to continue this requirement because our authority under 45 CFR part 75 and the APD rules in 45 CFR part 95, subpart F remains unchanged. Furthermore, it is not an efficient, economical, or effective use of federal funds to allow agencies to claim FFP using the CCWIS cost allocation for projects that do not meet the CCWIS requirements.

In new § 1355.58(b), we propose to incorporate the requirement that the suspension of funding under this section begins on the date that ACF determines that the agency failed to comply with or meet either the requirements of § 1355.58(b)(1) or (2). The proposed requirement incorporates the existing S/TACWIS rules at 45 CFR 1355.56(b)(2).

In new § 1355.58(b)(1), we propose that a suspension of CCWIS funding begins on the date that ACF determines the title IV–E agency failed to comply with APD requirements in 45 CFR part 95 subpart F.

In new § 1355.58(b)(2), we propose that a suspension of CCWIS funding begins on the date that ACF determines the title IV–E agency failed to meet the requirements at § 1355.52 or, if applicable, §§ 1355.53, 1355.54, or 1355.56 and has not corrected the failed requirements according to the time frame in the approved APD.

In new § 1355.58(c)(1) and (2), we propose that the suspension of funding will remain in effect until the date that ACF determines, in accordance with § 1355.58(c)(1), that the title IV–E agency complies with 45 CFR part 95, subpart F; or, in accordance with 1355.58(c)(2), until ACF approves the title IV–E agency's plan to change the application to meet the requirements at § 1355.52 and, if applicable, § 1355.53, § 1355.54, or § 1355.56. These proposed requirements incorporate the S/TACWIS regulations at 45 CFR 1355.56(b)(3).

In new § 1355.58(d), we propose that if ACF suspends an APD, or the title IV–E agency voluntarily ceases the design, development, installation, operation, or maintenance of an approved CCWIS, ACF may recoup all title IV–E funds claimed for the CCWIS project. The requirement incorporates the S/TACWIS requirements at 45 CFR 1355.56(b)(4), but we have modified the requirement to allow for all FFP to be recouped consistent with 2010 changes in the APD rules at § 95.635. We are including this requirement in the proposal because it is not an efficient, economical, or effective use of federal funds to allow title IV–E agencies to claim FFP using the CCWIS cost allocation for projects that do not meet the APD or CCWIS requirements.

§ 1355.59—Reserved

We propose reserving § 1355.59 for future regulations related to CCWIS.

§ 1356.60—Fiscal Requirements (Title IV–E)

We propose changing the title of § 1356.60(e) from ''Federal matching funds for SACWIS/TACWIS'' to ''Federal matching funds for CCWIS and Non-CCWIS.'' We also propose to revise the paragraph to describe that federal matching funds are available at the rate of fifty percent (50%) and that the cost allocation of CCWIS and non-CCWIS project costs are at § 1355.57 of this chapter. These changes clarify that while the same matching rate applies to CCWIS and non-CCWIS, the proposed cost allocation requirements at § 1355.57 apply. The cost allocation rules describe the more favorable cost allocation available to CCWIS.

§ 95.610—Submission of Advance Planning Documents

We propose to revise § 95.610(b)(12) to conform with our proposed regulations at §§ 1355.50 through 1355.58. We propose deleting the references to §§ 1355.54 through 1355.57, which is a title IV–E regulation since enhanced funding for information systems supporting the title IV–E program expired in 1997. We also propose revising § 95.610(b)(12) by adding the phrase ''or funding, for title IV–E agencies as contained at § 1355.52(i).'' because our proposed regulations at § 1355.52(i) add new requirements for CCWIS APDs.

§ 95.611—Prior Approval Conditions

We propose to revise § 95.611(a)(2) to delete the reference to the title IV–E regulation, § 1355.52 because enhanced funding for information systems supporting the title IV–E program expired in 1997.

§ 95.612—Disallowance of Federal Financial Participation (FFP)

We propose to revise § 95.612 which provides guidance on conditions that may lead to a disallowance of FFP for APDs for certain information systems. We propose to replace the phrase ''State Automated Child Welfare Information System'' with ''Comprehensive Child Welfare Information System (CCWIS) project and, if applicable the transitional project that preceded it.'' We also propose to change the identified CCWIS regulations from §§ 1355.56 through 1355.58 because the paragraph also identifies other departmental regulations that are applicable when approval of an APD is suspended.

§ 95.625—Increased FFP for Certain ADP Systems

We propose to revise § 95.625(a) which provides guidance on FFP that may be available for information systems supporting title IV–D, IV–E and/or XIX programs at an enhanced matching rate. We propose removing the reference to title IV–E enhanced funding in the paragraph since enhanced funding for information systems supporting the title IV–E program expired at the end of Federal Fiscal Year 1997.

Section 95.625(b) identifies other departmental regulations that systems must meet to qualify for FFP at an enhanced matching rate. We propose removing the reference to title IV–E enhanced funding in the paragraph because enhanced funding for SACWIS expired at the end of Federal Fiscal Year 1997.

VII. Impact Analysis

Executive Order 12866

Executive Order (E.O.) 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the E.O. The Department has determined that this proposed rule is consistent with these priorities and principles, and represents the best and most cost effective way to achieve the regulatory and program objectives of CB. We consulted with OMB and determined that this proposed rule meets the criteria for a significant regulatory action under E.O. 12866. Thus, it was subject to OMB review.

We determined that the costs to states and tribes as a result of this proposed rule will not be significant. First, CCWIS is an optional system that states and tribes may implement; therefore, we have determined that the proposed rule will not result in mandatory increased costs to states and tribes. Second, most if not all of the costs that states and tribes will incur will be eligible for FFP. Depending on the cost category and each agency's approved plan, states and tribes may be reimbursed 50 percent of allowable costs, applying the cost allocation rate authorized under section 474(a)(3)(C) and (D) of the Act, and section 474(c) of the Act, or at the 50 percent administrative rate authorized under section 474(a)(3)(E).

Costs will vary considerably depending upon a title IV–E agency's decision to either (1) build a new CCWIS or (2) transition an existing system to meet CCWIS requirements. Furthermore, the cost of the system will be affected by the optional functions an agency elects to include in the CCWIS.

We used cost data from five recent SACWIS implementations for mid-to-large sized states to estimate the average cost to design, develop, and implement a new SACWIS as $65 million (costs ranged from approximately $39 to $83 million). There are five states currently in the planning phase for a new system; the length of the planning phase typically ranges from 1 to 4 years. Once the final rule is issued, we anticipate that a similar number of states in the planning phase for a new SACWIS at that time will implement a new CCWIS for a total federal and state cost that will not exceed the $325 million (5 states x $65 million) estimated to build a new SACWIS. Based on our experience with SACWIS projects, development efforts typically last 3 to 5 years. We lack comparable tribal data for this estimate as no tribe has implemented a TACWIS.

We expect actual CCWIS costs to be lower than this S/TACWIS-based estimate for the following reasons. First, because CCWIS has fewer functional requirements than SACWIS, title IV–E agencies may build a new CCWIS for significantly lower cost. Whereas a S/TACWIS must develop and implement at least 51 functional requirements, the proposed rule only requires fourteen functional requirements, including eleven data exchanges, federal and agency reporting, and the determination of title IV–E eligibility. Second, CCWIS requirements permit title IV–E agencies to use less expensive commercial-off-the-shelf software (COTS) as CCWIS modules. A S/TACWIS must be custom built or transferred from another state and customized to meet agency business practices; lower cost COTS are just recently available to S/TACWIS projects. Third, the requirement to build CCWIS with reusable modules reduces overall costs as newer projects benefit from software modules shared by mature CCWIS projects. Finally, we anticipate lower tribal costs as most tribes serve smaller populations with fewer workers than states.

A title IV–E agency may also meet CCWIS requirements by enhancing an operational system to meet new CCWIS requirements. The new CCWIS requirements are data exchanges with courts, education, and Medicaid claims processing systems (and if applicable, data exchanges with child welfare contributing agencies and other systems used to collect CCWIS data), developing a data quality plan, compiling a list automated functions, and, if applicable, drafting a Notice of Intent. To estimate data exchange costs, we reviewed a sample of APDs where states reported S/TACWIS costs for eight data exchanges ranging from $106,451 to $550,000. The

average is approximately $247,000 or $741,000 ($247,000 × 3) for three data exchanges. We expect 46 states (50 states plus the District of Columbia minus 5 states anticipated to be planning a new system) to exercise the flexibility in the proposed rule to transition their operational system to CCWIS for a total cost of $34 million (46 states × $741,000). The costs for the data quality plan, automated functions list, and Notice of Intent are listed in the following Paperwork Reduction Act section and are not significant.

Historically a S/TACWIS has a useful life ranging from 12—20 years and the age of current systems varies from new to nearing retirement. Consistent with past replacement trends, we anticipate that after the final rule is published, 2 to 4 systems annually will be replaced with new CCWIS systems for the average cost not to exceed the average SACWIS cost of $65 million each.

State and tribes will realize significant program administration and IT benefits from CCWIS. The requirements to maintain comprehensive high quality data will support the efficient, economical, and effective administration of the title IV–B and title IV–E programs. The requirements to exchange standardized data with other programs will support coordinated service delivery to clients served by multiple programs. The data exchanges will also reduce data collection costs and improve data quality for all participating programs. The requirements to build CCWIS with modular, reusable components meeting industry standards will result in systems that can be more quickly modified, easier to test, and less expensive to maintain. These modular, reusable components may be shared within and among states and tribes resulting in benefits to other programs and systems.

Alternatives Considered: We considered alternatives to the approach described in the proposed rule. First, an approach that leaves the current rules in place encourages the overdevelopment of large costly systems, and makes it increasingly difficult for title IV–E agencies to implement an efficient, economical, and effective case management system that supports their evolving business needs. Such an approach does not support a service model managed by multiple service providers that is still capable of providing high quality data on the children and families served. Second, an approach that provides even greater flexibility than what we proposed will undermine our collective goal of using the data maintained by child welfare information systems to help improve the administration of the programs under titles IV–B and IV–E of the Act and improving overall outcomes for the children and families served by title IV–E agencies.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this proposed rule will not result in a significant impact on a substantial number of small entities. The primary impact of this proposed NPRM is on state and tribal governments, which are not considered small entities under the Act.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act (Pub. L. 104–4) requires agencies to prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation). That threshold level is currently approximately $151 million. We propose CCWIS as an option for states and tribes, therefore this proposed rule does not impose any mandates on state, local, or tribal governments, or the private sector that will result in an annual expenditure of $151 million or more.

Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. Ch. 35, as amended) (PRA), all Departments are required to submit to OMB for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. Collection of APD information for S/TACWIS projects is currently authorized under OMB number 0970–0417 and will be applicable to CCWIS projects. This proposed rule does not make a substantial change to those APD information collection requirements; however, this proposed rule contains new information collection activities, which are subject to review. As a result of the new information collection activities in this NPRM, we estimate the reporting burden, over and above what title IV–E agencies already do for the APD information collection requirements, as follows: (1) 550 Hours for the automated function list requirement; (2) 2,200 hours for the first submission of the data quality plan; and (3) 80 hours for the one-time Notice of Intent submission by states and tribes not submitting an APD.

The following are estimates:

Collection	Number of respondents	Number of responses per respondent	Average burden per response	Total burden hours
Automated Function List § 1355.52(i)(1)(ii) and (iii) and (i)(2)	55	1	10	550
Data Quality Plan § 1355.52(d)(5) (first submission)	55	1	40	2,200
Notice of Intent § 1355.52.(i)(1) (one-time submission)	12	1	8	96
One-time Total				2,296
Annual Total				550

Burden Hour Estimate

1. List of automated functions. Our first step was to estimate the burden associated with the requirements we propose in §§ 1355.52(i)(1)(ii) and (iii) and 1355.52(i)(2)(i) and (ii). In those sections, we propose that the title IV–E agencies must provide a list of automated functions to be included in the CCWIS and report compliance with the design standards in § 1355.53(a). We applied the following assumptions:

- We assume that all 50 states plus the District of Columbia will build a CCWIS or transition their existing systems to CCWIS in the next three years.
- We also assume that few tribes will elect to build a CCWIS. As of December 2014, no tribal title IV–E grantee has expressed an interest in building a TACWIS-compliant system. To ensure that our estimate is not understated, we assume that four tribes will elect to build a CCWIS in the next three years.

We estimate the burden for these activities at 10 hours per respondent per year. We multiplied our estimate of 10 burden hours by 55 respondents (50 states + District of Columbia + 4 tribes)

to arrive at an annual burden increase of 550 hours (10 burden hours × 55 respondents) for the proposed automated function list requirement.

2. Data quality plan. Our next step was to estimate the burden associated with the requirements we propose in § 1355.52(d) that title IV–E agencies building a CCWIS must develop and report on a data quality plan as part of an Annual or Operational APD submission. We applied the following assumptions:

• We assume that all 50 states plus the District of Columbia and four tribes will build a CCWIS or transition their existing systems to CCWIS in the next three years.

• We assume that states and tribes already have mechanisms in place to monitor and improve the quality of the data to meet program reporting and oversight needs.

We estimate the burden for these activities at 40 hours per respondent for the initial submission.

We do not estimate an additional burden in subsequent years because those submissions will require minimal updates of information previously submitted. We multiplied our estimate of 40 burden hours by 55 respondents (50 states + District of Columbia + 4 tribes) to arrive at a one-time burden increase of 2,200 hours (40 burden hours × 55 respondents) for the proposed data quality plan requirement.

3. APD or Notice of Intent. Finally, we estimated the burden associated with the proposed requirement in § 1355.52(i)(2)(ii), that a title IV–E agency that elects to build a CCWIS must announce their intention to do so either by submitting an APD, if the proposed project requires an APD, or a Notice of Intent if an APD is not required. We applied the following assumptions:

• A title IV–E agency with a CCWIS project subject to the APD process will have no new burden as such projects are already required to contain a plan per 45 CFR 95.610.

• The four tribes will submit a Notice of Intent because their projects are unlikely to exceed the threshold requiring submission of an Implementation APD at 45 CFR 95.611.

• 8 of 14 states with complete, fully functional SACWIS projects will undertake projects that will not exceed the threshold requiring submission of an Implementation APD at 45 CFR 95.611 and therefore will submit a Notice of Intent.

Our burden estimate for completing the Notice of Intent includes additional time for title IV–E agencies to review the submission requirements and for producing the letter and project plan for those projects not subject to the APD rules at 45 CFR part 95. We estimate that burden at 8 hours per respondent. We multiplied our estimate of 8 burden hours by 12 respondents (8 states + 4 tribes) to arrive at a one-time burden increase of 96 hours (8 burden hours × 12 respondents) for the proposed Notice of Intent requirement.

Total Burden Cost

Once we determined the burden hours, we developed an estimate of the associated cost for states and tribes to conduct these activities, as applicable. We reviewed 2013 Bureau of Labor Statistics data to help determine the costs of the increased reporting burden as a result of the proposed provisions of this NPRM. We assume that staff with the job role of Management Analyst (13–111) with a mean hourly wage estimate of $43.26 will be completing the Automated Function List, Data Quality Plan, and Notice of Intent documentation. Based on these assumptions, the Data Quality Plan and Notice of Intent represent a one-time cost of $99,324.96 (2,296 hours × $43.26 hourly cost = $99,324.96. We estimate that the average annual burden increase of 550 hours for the Automated Function List will cost $23,793 (550 hours × $43.26 hourly cost = $23,793.00).

We specifically seek comments by the public on this proposed collection of information in the following areas:

1. Evaluating whether the proposed collection is necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;

2. Evaluating the accuracy of ACF's estimate of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhancing the quality, usefulness, and clarity of the information to be collected; and

4. Minimizing the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technology, such as permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB for the proposed information collection should be sent directly to the following:

Office of Management and Budget, either by fax to 202–395–6974 or by email to *OIRA_submission@omb.eop.gov.* Please mark faxes and emails to the attention of the desk officer for ACF.

Congressional Review

This proposed rule is not a major rule as defined in 5 U.S.C. Ch. 8 and is thus not subject to the major rule provisions of the Congressional Review Act. The Congressional Review Act (CRA), 5 U.S.C. Chapter 8, defines a major rule as one that has resulted in or is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. 5 U.S.C. 804(2).

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act, 2000 (Pub. L. 106–58) requires federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These proposed regulations will not have an impact on family well-being as defined in the law.

Executive Order 13132

Executive Order (E.O.) 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. We do not believe the regulation has federalism impact as defined in the Executive Order. Consistent with E.O. 13132, the Department specifically solicits comments from state and local government officials on this proposed rule.

Tribal Consultation Statement

ACF published a notice of tribal consultation in the **Federal Register** on

January 5, 2012 (77 FR 467). The notice advised the public of meetings regarding how the current SACWIS regulations affect tribes administering a title IV–E program. Notices of the consultation were mailed to tribal leaders of federally recognized tribes and the consultation was publicized through electronic mailing lists maintained by CB and the National Resource Center for Tribes.

The consultation with tribal leaders and their representatives was held via 2 teleconferences on February 15 and 16, 2012. Each consultation session was preceded by an introductory session that provided an overview of current federal policy and regulations regarding S/TACWIS. Tribes and tribal organizations used a total of 33 phone lines during the two teleconferences; multiple individuals were on shared lines at some of the participating sites.

The tribal consultation addressed three questions:

(1) What are the obstacles for your tribe in building a child welfare information system in general and a SACWIS-type system specifically?

(2) What information do you consider critical to managing your child welfare program?

(3) Is there any special information that tribes need or will need in order to operate child welfare programs funded with title IV–E dollars?

Commonly-cited barriers to the development of child welfare automation were fiscal concerns and staffing resources. Participants in the tribal consultation told CB that the scale of available S/TACWIS applications exceed their operational needs and the cost is more than a tribe could afford. In addition, smaller-scale systems that could quickly and economically be adapted for tribal needs were cited as a preferred alternative to custom system development.

One written comment was submitted, citing financial issues associated with system development. A full summary of the tribal consultation on child welfare automation can be found at *https://www.acf.hhs.gov/programs/cb/resource/tribal-consultation-on-title-iv-e-information-systems-regulations.*

Generally, there was support from the tribal commenters to issue a regulation that will provide them with the flexibility in implementing a child welfare information system. These proposed rules provide sufficient latitude to allow a tribe to implement a system scaled to the size of their child welfare program, tailored to the tribe's program needs, and capable of collecting those data the tribe requires and required under this proposed rule.

List of Subjects

45 CFR Part 95

Automatic data processing equipment and services—conditions for federal financial participation (FFP).

45 CFR Part 1355

Adoption and foster care, Child welfare, Data collection, Definitions grant programs–social programs.

45 CFR Part 1356

Administrative costs, Adoption and foster care, Child welfare, Fiscal requirements (title IV–E), Grant programs—social programs, Statewide information systems.

Dated: March 9, 2015.

Mark H. Greenberg,

Acting Assistant Secretary for Children and Families.

Approved: April 23, 2015.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

For the reasons set out in the preamble, HHS and the Administration for Children and Families propose to amend parts 95, 1355, and 1356 of 45 CFR as follows:

PART 95—GENERAL ADMINISTRATION—GRANT PROGRAMS (PUBLIC ASSISTANCE, MEDICAL ASSISTANCE AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS)

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 5 U.S.C. 301, 42 U.S.C. 622(b), 629b(a), 652(d), 654A, 671(a), 1302, and 1396a(a).

■ 2. Revise paragraph (b)(12) of § 95.610 to read as follows:

§ 95.610 Submission of advance planning documents.

* * * * *

(b) * * *

(12) Additional requirements, for acquisitions for which the State is requesting enhanced funding, as contained at § 307.15 and 42 CFR subchapter C, part 433 or funding for title IV–E agencies as contained at § 1355.52(i) of this title.

* * * * *

■ 3. Revise paragraph (a)(2) of § 95.611 to read as follows:

§ 95.611 Prior approval conditions.

(a) * * *

(2) A State shall obtain prior approval from the Department which is reflected in a record, as specified in paragraph (b) of this section, when the State plans to acquire ADP equipment or services with proposed FFP at the enhanced matching rate authorized by § 205.35 of this title, part 307 of this title, or 42 CFR part 433, subpart C, regardless of the acquisition cost.

* * * * *

■ 4. Revise the last sentence of § 95.612 to read as follows:

§ 95.612 Disallowance of Federal Financial Participation (FFP).

* * * In the case of a suspension of the approval of an APD for a Comprehensive Child Welfare Information System (CCWIS) project and, if applicable the transitional project that preceded it, *see* § 1355.58 of this title.

■ 5. Revise paragraph (a) and the last sentence of paragraph (b) of § 95.625 to read as follows:

§ 95.625 Increased FFP for certain ADP systems.

(a) *General.* FFP is available at enhanced matching rates for the development of individual or integrated systems and the associated computer equipment that support the administration of state plans for titles IV–D and/or XIX provided the systems meet the specifically applicable provisions referenced in paragraph (b) of the section.

(b) * * * The applicable regulations for the title IV–D program are contained in 45 CFR part 307. The applicable regulations for the title XIX program are contained in 42 CFR part 433, subpart C.

PART 1355—GENERAL

■ 6. The authority citation for part 1355 continues to read as follows:

Authority: 42 U.S.C. 620 *et seq.,* 42 U.S.C. 670 *et seq.;* 42 U.S.C. 1301 and 1302.

■ 7. Revise § 1355.50 to read as follows:

§ 1355.50 Purpose of this part.

Sections 1355.50 through 1355.59 contain the requirements a title IV–E agency must meet to receive federal financial participation authorized under sections 474(a)(3)(C) and (D), and 474(c) of the Act for the planning, design, development, installation, operation, and maintenance of a comprehensive child welfare information system.

■ 8. Add § 1355.51 to read as follows:

§ 1355.51 Definitions applicable to Comprehensive Child Welfare Information Systems (CCWIS).

(a) The following terms as they appear in §§ 1355.50 through 1355.59 are defined as follows—

Approved activity means a project task that supports planning, designing,

developing, installing, operating, or maintaining a CCWIS.

Automated function means a computerized process or collection of related processes to achieve a purpose or goal.

Child welfare contributing agency means a public or private entity that, by contract or agreement with the title IV–E agency, provides child abuse and neglect investigations, placement, or child welfare case management (or any combination of these) to children and families.

Data exchange means the automated, electronic submission or receipt of information, or both, between two automated data processing systems.

Data exchange standard means the common data definitions, data formats, data values, and other guidelines that the state's or tribe's automated data processing systems follow when exchanging data.

New CCWIS project means a project to build an automated data processing system meeting all requirements in § 1355.52 and all automated functions meet the requirements in § 1355.53(a).

Non-S/TACWIS project means an active automated data processing system or project that, prior to the effective date of these regulations, ACF had not classified as a S/TACWIS and for which:

(i) ACF approved a development procurement; or

(ii) The applicable state or tribal agency approved a development procurement below the thresholds of 45 CFR 95.611(a); or

(iii) The operational automated data processing system provided the data for at least one AFCARS or NYTD file for submission to the federal system or systems designated by ACF to receive the report.

Notice of intent means a record from the title IV–E agency, signed by the governor, tribal leader, or designated state or tribal official and provided to ACF declaring that the title IV–E agency plans to build a CCWIS project that is below the APD approval thresholds of 45 CFR 95.611(a).

S/TACWIS project means an active automated data processing system or project that, prior to the effective date of these regulations, ACF classified as a S/TACWIS and for which:

(i) ACF approved a procurement to develop a S/TACWIS; or

(ii) The applicable state or tribal agency approved a development procurement for a S/TACWIS below the thresholds of 45 CFR 95.611(a).

Transition period means the 24 months after the effective date of these regulations.

(b) Other terms as they appear in §§ 1355.50 through 1355.59 are defined in 45 CFR 95.605.

■ 9. Revise § 1355.52 to read as follows:

§ 1355.52 CCWIS project requirements.

(a) *Efficient, economical, and effective requirement.* The title IV–E agency's CCWIS must support the efficient, economical, and effective administration of the title IV–B and IV–E plans pursuant to section 474(a)(3)(C)(iv) of the Act by:

(1) Improving program management and administration by maintaining all program data required by federal, state or tribal law or policy;

(2) Appropriately applying computer technology;

(3) Not requiring duplicative application system development or software maintenance; and

(4) Ensuring costs are reasonable, appropriate, and beneficial.

(b) *CCWIS data requirements.* The title IV–E agency's CCWIS must maintain:

(1) Title IV–B and title IV–E data that supports the efficient, effective, and economical administration of the programs including:

(i) Data required for ongoing federal child welfare reports;

(ii) Data required for title IV–E eligibility determinations, authorizations of services, and expenditures under IV–B and IV–E;

(iii) Data to support federal child welfare laws, regulations, and policies; and

(iv) Case management data to support federal audits, reviews, and other monitoring activities;

(2) Data to support state or tribal child welfare laws, regulations, policies, practices, reporting requirements, audits, program evaluations, and reviews;

(3) For states, data to support specific measures taken to comply with the requirements in section 422(b)(9) of the Act regarding the state's compliance with the Indian Child Welfare Act; and

(4) For each state, data for the National Child Abuse and Neglect Data System.

(c) *Reporting requirements.* The title IV–E agency's CCWIS must use the data described in paragraph (b) of this section to:

(1) Generate, or contribute to, required title IV–B or IV–E federal reports according to applicable formatting and submission requirements; and

(2) Generate, or contribute to, reports needed by state or tribal child welfare laws, regulations, policies, practices, reporting requirements, audits, and reviews that support programs and services described in title IV–B and title IV–E.

(d) *Data quality requirements.* (1) The CCWIS data described in paragraph (b) of this section must:

(i) Meet the applicable federal, and state or tribal standards for completeness, timeliness, and accuracy;

(ii) Be consistently and uniformly collected by CCWIS and, if applicable, child welfare contributing agency systems;

(iii) Be exchanged and maintained in accordance with confidentiality requirements in section 471(a)(8) of the Act, and 45 CFR 205.50, and 42 U.S.C. 5106a(b)(2)(B)(viii)–(x) of the Child Abuse Prevention and Treatment Act, if applicable, and other applicable federal and state or tribal laws;

(iv) Support child welfare policies, goals, and practices; and

(v) Not be created by default or inappropriately assigned.

(2) The title IV–E agency must implement and maintain automated functions in CCWIS to:

(i) Regularly monitor CCWIS data quality;

(ii) Alert staff to collect, update, correct, and enter CCWIS data;

(iii) Send electronic requests to child welfare contributing agency systems to submit current and historical data to the CCWIS;

(iv) Prevent, to the extent practicable, the need to re-enter data already captured or exchanged with the CCWIS; and

(v) Generate reports of continuing or unresolved CCWIS data quality problems.

(3) The title IV–E agency must conduct annual data quality reviews to:

(i) Determine if the title IV–E agency and, if applicable, child welfare contributing agencies, meet the requirements of paragraphs (b), (d)(1), and (d)(2) of this section; and

(ii) Confirm that the bi-directional data exchanges meet the requirements of paragraphs (e) and (f) of this section, and other applicable ACF regulations and policies.

(4) The title IV–E agency must enhance CCWIS or the electronic bi-directional data exchanges or both to correct any findings from reviews described at paragraph (d)(3) of this section.

(5) The title IV–E agency must develop, implement, and maintain a CCWIS data quality plan in a manner prescribed by ACF and include it as part of Annual or Operational APDs submitted to ACF as required in 45 CFR 95.610. The CCWIS data quality plan must:

(i) Describe the comprehensive strategy to promote data quality

including the steps to meet the requirements at paragraphs (d)(1) through (3) of this section; and

(ii) Report the status of compliance with paragraph (d)(1) of this section.

(e) *Bi-directional data exchanges.* (1) The CCWIS must support one bi-directional data exchange to exchange relevant data with:

(i) Systems generating the financial payments and claims for titles IV–B and IV–E per paragraph (b)(1)(ii) of this section, if applicable;

(ii) Systems operated by child welfare contributing agencies that are collecting or using data described in paragraph (b) of this section, if applicable;

(iii) Each system used to calculate one or more components of title IV–E eligibility determinations per paragraph (b)(1)(ii) of this section, if applicable; and

(iv) Each system external to CCWIS used by title IV–E agency staff to collect CCWIS data, if applicable.

(2) To the extent practicable, the title IV–E agency's CCWIS must support one bi-directional data exchange to exchange relevant data, including data that may benefit IV–E agencies and data exchange partners in serving clients and improving outcomes, with each of the following state or tribal systems:

(i) Child abuse and neglect system(s);

(ii) System(s) operated under title IV–A of the Act;

(iii) Systems operated under title XIX of the Act including:

(A) Systems to determine Medicaid eligibility; and

(B) Mechanized claims processing and information retrieval systems as defined at 42 CFR 433.111(b);

(iv) Systems operated under title IV–D of the Act;

(v) Systems operated by the court(s) of competent jurisdiction over title IV–E foster care, adoption, and guardianship programs;

(vi) Systems operated by the state or tribal education agency, or school districts, or both.

(f) *Data exchange standard requirements.* The title IV–E agency must use a single data exchange standard that describes data, definitions, formats, and other specifications upon implementing a CCWIS:

(1) For bi-directional data exchanges between CCWIS and each child welfare contributing agency;

(2) For internal data exchanges between CCWIS automated functions where at least one of the automated functions meets the requirements of § 1355.53(a); and

(3) For data exchanges with systems described under paragraph (e)(1)(iv) of this section.

(g) *Automated eligibility determination requirements.* (1) A state title IV–E agency must use the same automated function or the same group of automated functions for all title IV–E eligibility determinations.

(2) A tribal title IV–E agency must, to the extent practicable, use the same automated function or the same group of automated functions for all title IV–E eligibility determinations.

(h) *Software provision requirement.* The title IV–E agency must provide a copy of the agency-owned software that is designed, developed, or installed with FFP and associated documentation to the designated federal repository within the Department upon request.

(i) *Submission requirements.* (1) Before claiming funding in accordance with a CCWIS cost allocation, a title IV–E agency must submit an APD or, if below the APD submission thresholds defined at 45 CFR 95.611, a Notice of Intent that includes:

(i) A project plan describing how the CCWIS will meet the requirements in paragraphs (a) through (h) of this section and, if applicable § 1355.54;

(ii) A list of all automated functions included in the CCWIS; and

(iii) A notation of whether each automated function listed in paragraph (i)(1)(ii) of this section meets, or when implemented will meet, the following requirements:

(A) The automated function supports at least one requirement of this section or, if applicable § 1355.54;

(B) The automated function is not duplicated within the CCWIS or systems supporting child welfare contributing agencies and is consistently used by all child welfare users responsible for the area supported by the automated function; and

(C) The automated function complies with the CCWIS design requirements described under § 1355.53(a), unless exempted in accordance with § 1355.53(b).

(2) Annual APD Updates and Operational APDs for CCWIS projects must include:

(i) An updated list of all automated functions included in the CCWIS;

(ii) A notation of whether each automated function listed in paragraph (i)(2)(i) of this section meets the requirements of paragraph (i)(1)(iii)(B) of this section; and

(iii) A description of changes to the scope or the design criteria described at § 1355.53(a) for any automated function listed in paragraph (i)(2)(i) of this section.

(j) *Other applicable requirements.* Regulations at 45 CFR 95.613 through 95.621 and 95.626 through 95.641 are applicable to all CCWIS projects below the APD submission thresholds at 45 CFR 95.611.

■ 10. Revise § 1355.53 to read as follows:

§ 1355.53 CCWIS design requirements.

(a) Except as exempted in paragraph (b) of this section, automated functions contained in a CCWIS must:

(1) Follow a modular design that includes the separation of business rules from core programming;

(2) Be documented using plain language;

(3) Adhere to a state, tribal, or industry defined standard that promotes efficient, economical, and effective development of automated functions and produces reliable systems; and

(4) Be capable of being shared, leveraged, and reused as a separate component within and among states and tribes.

(b) CCWIS automated functions may be exempt from one or more of the requirements in paragraph (a) of this section if:

(1) The CCWIS project meets the requirements of § 1355.56(b) or § 1355.56(f)(1); or

(2) ACF approves, on a case-by-case basis, an alternative design proposed by a title IV–E agency that is determined by ACF to be more efficient, economical, and effective than what is found in paragraph (a) of this section.

■ 11. Revise § 1355.54 to read as follows:

§ 1355.54 CCWIS options.

If a project meets, or when completed will meet, the requirements of § 1355.52, then ACF may approve CCWIS funding described at § 1355.57 for other ACF-approved data exchanges or automated functions that are necessary to achieve title IV–E or IV–B programs goals.

■ 12. Revise § 1355.55 to read as follows:

§ 1355.55 Review and assessment of CCWIS projects.

ACF will review, assess, and inspect the planning, design, development, installation, operation, and maintenance of each CCWIS project on a continuing basis, in accordance with APD requirements in 45 CFR part 95, subpart F, to determine the extent to which the project meets the requirements in §§ 1355.52, 1355.53, 1355.56, and, if applicable, § 1355.54.

■ 13. Revise § 1355.56 to read as follows:

§ 1355.56 Requirements for S/TACWIS and non-S/TACWIS projects during and after the transition period.

(a) During the transition period a title IV–E agency with a S/TACWIS project may continue to claim title IV–E funding according to the cost allocation methodology approved by ACF for development or the operational cost allocation plan approved by the Department, or both.

(b) A S/TACWIS project must meet the submission requirements of § 1355.52(i)(1) during the transition period to qualify for the CCWIS cost allocation methodology described in § 1355.57(a) after the transition period.

(c) A title IV–E agency with a S/TACWIS may request approval to initiate a new CCWIS and qualify for the CCWIS cost allocation methodology described in § 1355.57(b) by meeting the submission requirements of § 1355.52(i)(1).

(d) A title IV–E agency that elects not to transition a S/TACWIS project to a CCWIS project must:

(1) Notify ACF in an APD or Notice of Intent submitted during the transition period of this election; and

(2) Continue to use the S/TACWIS through its life expectancy in accordance with 45 CFR 95.619.

(e) A title IV–E agency that elects not to transition its S/TACWIS project to a CCWIS and fails to meet the requirements of paragraph (d) of this section is subject to funding recoupment described under § 1355.58(d).

(f) A title IV–E agency with a non-S/TACWIS (as defined in § 1355.51) that elects to build a CCWIS or transition to a CCWIS must meet the submission requirements of § 1355.52(i)(1):

(1) During the transition period to qualify for a CCWIS cost allocation as described at § 1355.57(a); or

(2) At any time to request approval to initiate a new CCWIS and qualify for a CCWIS cost allocation as described at § 1355.57(b).

■ 14. Revise § 1355.57 to read as follows:

§ 1355.57 Cost allocation for CCWIS projects.

(a) *CCWIS cost allocation for projects transitioning to CCWIS.* (1) All automated functions developed after the transition period for projects meeting the requirements of § 1355.56(b) or § 1355.56(f)(1) must meet the CCWIS design requirements described under § 1355.53(a), unless exempted by § 1355.53(b)(2).

(2) The Department may approve the applicable CCWIS cost allocation for an automated function of a project transitioning to a CCWIS if the automated function:

(i) Supports programs authorized under titles IV–B or IV–E, and at least one requirement of § 1355.52 or, if applicable § 1355.54; and

(ii) Is not duplicated within either the CCWIS or systems supporting child welfare contributing agencies and is consistently used by all child welfare users responsible for the area supported by the automated function.

(b) *CCWIS cost allocation for new CCWIS projects.* (1) Unless exempted in accordance with § 1355.53(b)(2), all automated functions of a new CCWIS project must meet the CCWIS design requirements described under § 1355.53(a).

(2) An automated function of a CCWIS project described in paragraph (b)(1) of this section may qualify for a CCWIS cost allocation if the automated function:

(i) Supports programs authorized under titles IV–B or IV–E, and at least one requirement of § 1355.52 or, if applicable § 1355.54; and

(ii) Is not duplicated within the CCWIS or other systems supporting child welfare contributing agencies and is consistently used by all child welfare users responsible for the area supported by the automated function.

(c) *CCWIS cost allocation for approved activities.* The Department may approve a CCWIS cost allocation for an approved activity for a CCWIS project meeting the requirements of paragraph (a) or (b) of this section.

(d) *Project cost allocation.* A title IV–E agency must allocate project costs in accordance with applicable HHS regulations and other guidance.

(e) *CCWIS cost allocation.* (1) A title IV–E agency may allocate CCWIS development and operational costs to title IV–E for the share of approved activities and automated functions that:

(i) Are approved by the Department;

(ii) Meet the requirements of paragraphs (a), (b), or (c) of this section; and

(iii) Benefit federal, state or tribal funded participants in programs and allowable activities described in title IV–E of the Act to the title IV–E program.

(2) A title IV–E agency may also allocate CCWIS development costs to title IV–E for the share of system approved activities and automated functions that meet requirements (e)(1)(i) and (ii) of this section and:

(i) Benefit title IV–B programs; or

(ii) Benefit both title IV–E and child welfare related programs.

(f) *Non-CCWIS cost allocation.* Title IV–E costs not previously described in this section may be charged to title IV–E in accordance with § 1356.60(d) .

■ 15. Add § 1355.58 to read as follows:

§ 1355.58 Failure to meet the conditions of the approved APD.

(a) In accordance with 45 CFR 75.371 through 75.375 and 45 CFR 95.635, ACF may suspend title IV–B and title IV–E funding approved in the APD if ACF determines that the title IV–E agency fails to comply with APD requirements in 45 CFR part 95, subpart F, or meet the requirements at § 1355.52 or, if applicable, § 1355.53, 1355.54, or 1355.56.

(b) Suspension of CCWIS funding begins on the date that ACF determines the title IV–E agency failed to:

(1) Comply with APD requirements in 45 CFR part 95, subpart F; or

(2) Meet the requirements at § 1355.52 or, if applicable, § 1355.53, 1355.54, or 1355.56 and has not corrected the failed requirements according to the time frame in the approved APD.

(c) The suspension will remain in effect until the date that ACF:

(1) Determines that the title IV–E agency complies with 45 CFR part 95, subpart F; or

(2) Approves a plan to change the application to meet the requirements at § 1355.52 and, if applicable, § 1355.53, 1355.54, or 1355.56.

(d) If ACF suspends an APD, or the title IV–E agency voluntarily ceases the design, development, installation, operation, or maintenance of an approved CCWIS, ACF may recoup all title IV–E funds claimed for the CCWIS project.

§ 1355.59 [Reserved]

■ 16. Add and reserve § 1355.59.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

■ 17. The authority citation for part 1356 continues to read as follows:

Authority: 42 U.S.C. 620 *et seq.,* 42 U.S.C. 670 *et seq.;* 42 U.S.C. 1302.

■ 18. Revise paragraph (e) of § 1356.60 to read as follows:

§ 1356.60 Fiscal requirements (title IV–E).

* * * * *

(e) *Federal matching funds for CCWIS and Non-CCWIS.* Federal matching funds are available at the rate of fifty percent (50%). Requirements for the cost allocation of CCWIS and non-CCWIS project costs are at § 1355.57 of this chapter.

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FEDERAL REGISTER

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Part V

The President

Notice of August 7, 2015—Continuation of the National Emergency With Respect to Export Control Regulations

Federal Register
Vol. 80, No. 154
Tuesday, August 11, 2015

Presidential Documents

Title 3—

The President

Notice of August 7, 2015

Continuation of the National Emergency With Respect to Export Control Regulations

On August 17, 2001, consistent with the authority provided to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the President issued Executive Order 13222. In that order, he declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States in light of the expiration of the Export Administration Act of 1979 (50 U.S.C. App. 2401 *et seq.*). Because the Export Administration Act has not been renewed by the Congress, the national emergency declared on August 17, 2001, must continue in effect beyond August 17, 2015. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13222.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
August 7, 2015.

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FEDERAL REGISTER PAGES AND DATE, AUGUST

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LIST OF PUBLIC LAWS

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H.R. 212/P.L. 114–45
Drinking Water Protection Act (Aug. 7, 2015; 129 Stat. 473)

H.R. 1138/P.L. 114–46
Sawtooth National Recreation Area and Jerry Peak Wilderness Additions Act (Aug. 7, 2015; 129 Stat. 476)

H.R. 1531/P.L. 114–47
Land Management Workforce Flexibility Act (Aug. 7, 2015; 129 Stat. 485)

H.R. 2131/P.L. 114–48

To designate the Federal building and United States courthouse located at 83 Meeting Street in Charleston, South Carolina, as the ''J. Waties Waring Judicial Center''. (Aug. 7, 2015; 129 Stat. 488)

H.R. 2559/P.L. 114–49

To designate the ''PFC Milton A. Lee Medal of Honor Memorial Highway'' in the State of Texas. (Aug. 7, 2015; 129 Stat. 489)

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