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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 319

**[Docket No. APHIS–2015–0005]**

**RIN 0579–AE09**

## Importation of Citrus From Peru; Expansion of Citrus-Growing Area

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the fruits and vegetable regulations to allow citrus fruit from the entire country of Peru to be imported into the continental United States. Currently, the regulations allow the importation of citrus fruit to the United States from five approved citrus-producing zones in Peru, subject to a systems approach. However, based on the findings of a pest list and commodity import evaluation document, we have determined that this systems approach also mitigates the plant pest risk associated with citrus fruit produced in all other areas of Peru. This action will allow the importation of citrus fruit from the entire country of Peru while continuing to provide protection against the introduction of plant pests into the continental United States.

**DATES:** Effective September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tony Román, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 851–2242.

**SUPPLEMENTARY INFORMATION:**

### Background

The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–72, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests within the United States. The regulations in § 319.56–41 have provided conditions for the importation of citrus from five approved citrus-producing zones in Peru.

On May 1, 2015, we published in the **Federal Register** (80 FR 24838–24840, Docket No. APHIS–2015–0005) a proposal [1] to amend § 319.56–41 to allow citrus from the entire country of Peru to be imported into the continental United States based on the findings of a pest list and commodity import evaluation document (CIED).

We solicited comments on the proposal, pest list, and CIED for 60 days ending June 30, 2015. We received 13 comments by that date. They were from producers, exporters, representatives of State and foreign governments, U.S. citrus industry representatives, a chamber of commerce, a pork producers organization, a port representative, and private citizens. All of the commenters supported the action; however, one commenter asked if the citrus would be required to undergo cold treatment.

As explained in the proposal, citrus from Peru may be imported into the continental United States under a systems approach designated to mitigate the risk presented by four species of fruit fly (*Anastrepha fraterculus, A. obliqua, A. serpentina,* and *Ceratitis capitata*) and a Tortricid (*Ecdytolopha aurantiana*). One of the conditions of the systems approach requires that citrus from Peru, except limes, be cold treated for fruit flies in accordance with 7 CFR part 305.

Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

### Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. The shipping season for citrus from Peru is in progress. Making this rule effective immediately will allow interested producers and others in the marketing chain to benefit during this year's shipping season. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

### Executive Order 12866 and Regulatory Flexibility Act

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

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. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The regulations have allowed the importation of fresh grapefruit, lime, mandarin, orange, tangerine or hybrids, sweet orange, and tangelo from five approved citrus-producing zones in Peru to the United States. This rule will allow the importation of these fruits from the entire country of Peru into the continental United States under the same conditions that have been in place for the five zones. This change is expected to increase the area in Peru approved to produce citrus for export to the United States to about 1,500 hectares over 3 years. Additional volumes of citrus expected to be shipped to the United States are 5,000 metric tons (MT) in the first year that the rule is in effect, 6,500 MT in the second year, and 8,000 MT in the third year. These quantities are equivalent to less than 1 percent of annual U.S. citrus production or U.S. citrus imports.

The primary entities that may be affected by this rule are citrus producers, citrus importers, and support industries such as packinghouses. Based on data from the 2012 Census of Agriculture and Small Business Administration small-entity standards, the majority of these operations are small.

[1] To view the proposed rule, pest list, CIED, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0005.*

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 12988**

This final rule allows citrus to be imported into the continental United States from the entire country of Peru. State and local laws and regulations regarding citrus imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0433, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

**E-Government Act Compliance**

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

**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.

**§ 319.56–41 [Amended]**

■ 2. Section 319.56–41 is amended as follows:

■ a. In the introductory text, by adding the word ''continental'' between the words ''the'' and ''United States''.

■ b. By removing paragraph (c).

■ c. By redesignating paragraphs (d) through (h) as paragraphs (c) through (g), respectively.

■ d. By adding the words ''(Approved by the Office of Management and Budget under control number 0579–0433)'' at the end of the section.

Done in Washington, DC, this 9th day of September 2015.

**Michael C. Gregoire,**

*Associate Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2015–23039 Filed 9–11–15; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 319

**[Docket No. APHIS–2014–0028]**

**RIN 0579–AD97**

## Importation of Fresh Peppers From Peru into the Continental United States and the Territories

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the fruits and vegetables regulations to allow the importation of fresh peppers into the continental United States and the Territories from Peru. As a condition of entry, the fruit will have to be produced in accordance with a systems approach that includes requirements for fruit fly trapping, pre-harvest inspections, production sites, and packinghouse procedures designed to exclude quarantine pests. The fruit will also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of Peru with an additional declaration stating that the consignment was produced in accordance with the requirements of the systems approach. This action allows for the importation of untreated fresh peppers from Peru while continuing to provide protection against the introduction of plant pests into the continental United States and the Territories.

**DATES:** Effective October 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Balady, Senior Regulatory Policy Specialist, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 851–2240.

**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–72, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

On April 24, 2015, we published in the **Federal Register** (80 FR 22934–22938, Docket No. APHIS–2014–0028) a proposal [1] to amend the regulations in order to allow the common chili pepper (*Capsicum annuum* L.), aji pepper (*Capsicum baccatum* L.), habanero chili (*Capsicum chinense* Jacq.), Thai pepper (*Capsicum frutescens* L.), and rocoto (*Capsicum pubescens* Ruiz & Pav.) (hereafter we refer to these species as ''fresh peppers'') to be imported into the continental United States and the Territories (the Commonwealth of Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, and any other territory or possession of the United States).

We prepared a pest risk assessment (PRA) and a risk management document (RMD) to accompany the proposed rule. Based on the conclusions of the PRA and the RMD, we proposed to allow the importation of fresh peppers from Peru into the continental United States and the Territories, provided that the fresh peppers were produced in accordance with a systems approach consisting of the following requirements: Provision of an operational workplan to the Animal and Plant Health Inspection Service (APHIS) by the national plant protection organization (NPPO) of Peru; importation in commercial consignments only; fresh peppers grown in a pest-free, pest-exclusionary structure approved by and registered

[1] To view the proposed rule, supporting documents, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-V2014-0028.*

with the Peruvian NPPO; inspection of registered production sites prior to harvest for the fruit boring moth, *Neoleucinodes elegantalis* (Guenée), and *Puccinia pampeana* Speg., the pathogenic fungus that causes pepper and green pepper rust, by the Peruvian NPPO or its approved designee; trapping both within and around the production site for the South American fruit fly (*Anastrepha fraterculus* (Wiedemann)) and the Mediterranean fruit fly (Medfly, *Ceratitis capitata* (Wiedemann)); packinghouse procedures including registration and insect-proof cartons, containers, or coverings; and issuance of a phytosanitary certificate.

We also proposed to add a definition for *continental United States* to the regulations in § 319.56–2, as it is used throughout the regulations but not defined.

We solicited comments concerning our proposal for 60 days ending June 23, 2015. We received 23 comments by that date. They were from trade organizations, the Peruvian NPPO, consumer groups, ports, the Peruvian embassy, and private citizens. All comments except one were supportive of the proposed action. The remaining comment is discussed below.

The commenter said that APHIS is dependent on local authorities in Peru to enforce the requirements set forth in the regulations and the operational workplan. The commenter cited the 2015 Index of Economic Freedom issued by The Heritage Foundation [2] as proof that corruption within Peru will most certainly occur in connection with the export of fresh peppers.

Like the United States, Peru is a signatory to the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures (SPS Agreement). As such, it has agreed to respect the phytosanitary measures the United States imposes on the importation of plants and plant products from Peru when the United States demonstrates the need to impose these measures in order to protect plant health within the United States. The PRA that accompanied the proposed rule provided evidence of such a need. That being said, as we mentioned in the proposed rule, APHIS will monitor and audit Peru's implementation of the systems approach for the importation of fresh peppers into the continental United States and the Territories. If we determine that the systems approach has not been fully implemented or maintained, we will take appropriate remedial action to ensure that the importation of fresh peppers from Peru does not result in the dissemination of plant pests within the United States.

The commenter argued that the interests of pepper producers in the United States need to be given the same consideration as U.S. consumers or Peruvian producers. The commenter said that, therefore, APHIS needs to ensure that U.S. pepper producers would truly be marginally affected. To achieve this end, the commenter suggested that APHIS limit the importation of fresh peppers from Peru to domestic out-of-season growing months.

APHIS bases market access on potential pest risk and our capacity to mitigate that risk. APHIS may implement different entry requirements for a commodity based upon port of entry and time of year in order to mitigate the risk posed by a pest, but APHIS does not restrict market access for the purposes of eliminating market competition.

We prepared an initial regulatory flexibility analysis to assess the potential economic impacts associated with the proposed rule. The commenter stated that the initial regulatory flexibility analysis did not fully account for the impacts to domestic producers. The commenter said that, in addition to reduced sales, domestic pepper producers are at a financial disadvantage due to the fact that reductions in crop premium insurance for fresh peppers as detailed in the Agricultural Act of 2014 [3] could potentially lead to further financial losses in the event that a portion of a producer's pepper crop was destroyed and the remaining crop sold at a lower price due to the increased availability of imported peppers in the marketplace.

The purpose of the economic analysis was to examine whether or not the rule will have a significant economic impact on a substantial number of small entities. Despite the other pressures on the financial viability of domestic pepper producers cited by the commenter, any additional impact associated with this rule is expected to be very small. An increase in the U.S. fresh pepper supply of less than 0.03 percent is unlikely to have a significant impact on domestic fresh pepper prices and therefore on domestic producers.

Finally, the commenter maintained that the United States should examine any importation requests from Peru in light of what the commenter categorized as unfair taxation of U.S. biodiesel in that country.

We disagree. Under the authority of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), APHIS may prohibit or restrict the entry of plants and plant products into the United States in order to prevent the introduction of plant pests or noxious weeds. Trade considerations such as those suggested by the commenter do not factor into such determinations.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

**Executive Order 12866 and Regulatory Flexibility Act**

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

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. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The rule will amend the regulations to allow the importation of fresh peppers from Peru into the continental United States and the Territories when a systems approach to pest risk mitigation is used to prevent the introduction of quarantine pests. The systems approach will integrate prescribed mitigation measures that cumulatively achieve the appropriate level of phytosanitary protection.

Peru produced an average of about 9,600 metric tons (MT) of fresh peppers annually from 2005 through 2011. From 2010 to 2014, fresh pepper exports from Peru averaged 356 MT annually, the equivalent of about 4 percent of its annual fresh pepper production.

Based on Peru's pepper production area and yields, APHIS estimates in the pest risk assessment for this rule that no more than 22 containers (440 MT) of fresh peppers will be imported from Peru into the United States annually. This quantity is the equivalent of less than 0.03 percent of annual U.S. fresh pepper consumption.

U.S. pepper producers and current foreign suppliers will face increased competition because of the Peruvian exports. However, economic effects of the rule will be minimal, given the very

[2] The 2015 Index of Economic Freedom may be viewed here: *http://www.heritage.org/index/country/peru*.

[3] You may view the Agricultural Act of 2014 on the Internet at *https://agriculture.house.gov/bill/agricultural-act-2014*.

small quantity of pepper expected to be imported from Peru.

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 12988**

This final rule allows fresh peppers to be imported into the continental United States and the Territories from Peru. State and local laws and regulations regarding fresh peppers imported under this rule would be preempted while the fruit is in foreign commerce. Fresh vegetables are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0434, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

**E-Government Act Compliance**

The Animal and Plant Health Inspection Service is committed to compliance with the EGovernment Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this final rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

**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 319.56–2 is amended by adding in alphabetical order a definition of *continental United States* to read as follows:

**§ 319.56–2 Definitions.**

* * * * *

*Continental United States.* The 48 contiguous States, Alaska, and the District of Columbia.

* * * * *

■ 3. Section 319.56–73 is added to read as follows:

**§ 319.56–73 Peppers From Peru.**

Fresh peppers (*Capsicum annum* L., *Capsicum baccatum* L., *Capsicum chinense* Jacq., *Capsicum frutescens* L., and *Capsicum pubescens* Ruiz & Pav.) may be imported into the continental United States and its Territories only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Anastrepha fraterculus* (Wiedemann), South American fruit fly; *Ceratitis capitata* (Wiedemann), Mediterranean fruit fly; *Neoleucinodes elegantalis* (Guenée), a fruit boring moth; and *Puccinia pampeana* Speg., a pathogenic fungus that causes pepper and green pepper rust.

(a) *Operational workplan.* The national plant protection organization (NPPO) of Peru must provide an operational workplan to APHIS that details the activities that the NPPO of Peru will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. The operational workplan must include and describe the quarantine pest survey intervals and other specific requirements as set forth in this section.

(b) *Commercial consignments.* Peppers from Peru may be imported in commercial consignments only.

(c) *Production site requirements.* (1) Pepper production sites must consist of pest-exclusionary structures, which must have double self-closing doors and have all other windows, openings, and vents covered with 1.6 mm (or less) screening.

(2) All production sites that participate in the export program must be registered with the Peruvian NPPO.

(3) The production sites must be inspected prior to harvest for *Neoleucinodes elegantalis* (Guenée) and *Puccinia pampeana* Speg. If either of these pests, or other quarantine pests, are found to be generally infesting or infecting the production site, the NPPO of Peru will immediately prohibit that production site from exporting peppers to the continental United States and its Territories and notify APHIS of this action. The prohibition will remain in effect until the Peruvian NPPO and APHIS determine that the pest risk has been mitigated.

(4) The production sites must contain traps for the detection of *Anastrepha fraterculus* (Wiedemann) and *Ceratitis capitata* (Wiedemann) both within and around the structures. Internal traps must be set for the duration of the time the production site is used to produce peppers for export to the continental United States or the Territories. External traps must be set for at least 2 months before export and trapping must continue to the end of the harvest as follows:

(i) Traps with an approved protein bait must be placed inside the production site at a density of four traps per hectare, with a minimum of two traps per structure. Traps must be serviced once every 7 days.

(ii) If a single *Anastrepha fraterculus* (Wiedemann) or *Ceratitis capitata* (Wiedemann) is detected inside a registered production site or in a consignment, the registered production site will lose its ability to export peppers to the continental United States or its Territories until APHIS and the Peruvian NPPO mutually determine that risk mitigation is achieved.

(iii) Traps with an approved protein bait must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares and a minimum of 10 traps. These traps must be checked at least once every 7 days. At least one of these traps must be near the production site.

(iv) Capture of 0.7 or more *Anastrepha fraterculus* (Wiedemann) or *Ceratitis capitata* (Wiedemann) per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of peppers from that registered production site until APHIS and the Peruvian NPPO can agree that the pest risk has been mitigated.

(v) The Peruvian NPPO must maintain records of trap placement, checking of traps, and any quarantine pest captures. The Peruvian NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS review.

(d) *Packinghouse procedures.* (1) All packinghouses that participate in the export program must be registered with the Peruvian NPPO.

(2) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. The peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit into the continental United States or its Territories. These safeguards must remain intact until arrival in the continental United States or its Territories or the consignment will be denied entry into the continental United States or its Territories.

(3) During the time the packinghouse is in use for exporting peppers to the continental United States or its Territories, the packinghouse may only accept peppers from registered approved production sites.

(e) *Phytosanitary certificate.* Each consignment of peppers must be accompanied by a phytosanitary certificate of inspection issued by the Peruvian NPPO stating that the fruit in the consignment has been produced in accordance with the requirements of the systems approach in 7 CFR 319.56–73.

(Approved by the Office of Management and Budget under control number 0579–0434)

Done in Washington, DC, this 9th day of September 2015.

**Michael C. Gregoire,**

*Associate Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2015–23037 Filed 9–11–15; 8:45 am]

**BILLING CODE 3410–34–P**

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 127

**RIN 3245–AG72**

## Women-Owned Small Business Federal Contract Program

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** This rule makes changes to the regulations governing the Women-Owned Small Business (WOSB) program. The U.S. Small Business Administration (SBA) is making changes to those regulations to implement section 825 of the National Defense Authorization Act for Fiscal Year 2015. Specifically, this rule implements the authority set forth in section 825 of the 2015 NDAA allowing sole source awards to Women-Owned Small Businesses (WOSBs) or Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs) in appropriate circumstances.

**DATES:** This rule is effective October 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning & Liaison, 409 Third Street SW., Washington, DC 20416; (202) 205–7337; *brenda.fernandez@sba.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

The WOSB Program, set forth in section 8(m) of the Small Business Act, 15 U.S.C. 637(m), authorizes Federal contracting officers to restrict competition to eligible Women-Owned Small Businesses (WOSBs) or Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs) for Federal contracts in certain industries. Section 8(m) establishes criteria for the WOSB Program, including the eligibility and contract requirements for the program. Congress recently amended the WOSB Program in section 825 of the National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, 128 Stat. 3292 (December 19, 2014) (2015 NDAA), which included language granting contracting officers the authority to award sole source awards to WOSBs and EDWOSBs and shortening the time period for SBA to conduct a required study to determine the industries in which WOSBs are underrepresented in Federal contracting. In addition, section 825 of the 2015 NDAA created a requirement that a firm be certified as a WOSB or EDWOSB by a Federal Agency, a State government, SBA, or a national certifying entity approved by SBA.

On May 1, 2015, SBA published in the **Federal Register** a proposed rule to implement the sole source authority for WOSBs and EDWOSBs and the revised timeline for SBA to conduct a study to determine the industries in which WOSBs are underrepresented. 80 FR 24846. The rule proposed amendments to Sec. 127.101 to include sole source contracts as a type of contracting assistance available under part 127. The rule also proposed to revise Sec. 127.102 by adding the term ''sole source contracts'' to the definitions of ''EDWOSB requirement'' and ''WOSB requirement'' and establishing that the terms ''Substantial underrepresentation'' and ''Underrepresentation'' would be determined by the study to be conducted. The term ''sole source contracts'' was also a proposed addition to Sec. 127.500, which concerns the industries in which a contracting officer is authorized to restrict competition under the WOSB program. This change to Sec. 127.500 proposed to authorize contracting officers to award sole source contracts in those industries as well. SBA also proposed amendments to Sec. 127.503 to establish the conditions for awarding a sole source contract. Essentially if, after conducting market research in an industry where a WOSB or EDWOSB set-aside is authorized, a contracting officer cannot identify two or more WOSBs or EDWOSBs that can perform at a fair and reasonable price but identifies one WOSB or EDWOSB that can perform at a fair and reasonable price, a contract may be awarded on a sole source basis, provided the value of the contract, including options, does not exceed $6.5 million for manufacturing contracts and $4 million for all other contracts. SBA also proposed to amend Sec. 127.507 to authorize contracting officers to award sole source contracts in the WOSB program if the contract requirement is valued at or below the simplified acquisition threshold. Finally, the rule proposed to amend the protest regulations in Sec. 127.600 to make them consistent with the protest procedures for sole source contracts involving service-disabled veteran owned small business concerns (SDVO SBC) (Sec. 125.24(a) and HUBZone small business concerns (Sec. 126.800(a).

Paragraph (a) of Sec. 127.501 sets out that the agency will designate ''the industries in which WOSBs are underrepresented and substantially underrepresented'' by NAICS code. However, because paragraph (b) uses the term ''disparity'' instead, SBA intended to propose a technical amendment to this paragraph to replace that term with ''underrepresentation''; such an amendment would make the paragraph consistent with amendments to the definitions and other sections of the WOSB regulations. This purely technical conforming change to Sec. 127.501 is included in this final rule.

As explained in the proposed rule, SBA recognized that the new certification requirement for WOSBs would require a more prolonged rulemaking. Because SBA did not want to delay the implementation of the WOSB sole source authority by combining it with the new certification requirement, SBA did not propose any changes to implement the certification requirement but rather indicated that it

would do so through a separate future rulemaking. SBA received 495 comments on the proposed rule. With the exception of comments which did not set forth any rationale or make suggestions, SBA discusses and responds fully to all the comments below.

**II. Summary of Comments**

Most of the comments supported the rule. Specifically, most of the comments favored SBA's decision to quickly implement the sole source authority granted by the 2015 NDAA. Many of the commenters noted that they believe this authority and the quick implementation by SBA will help WOSB and EDWOSB businesses, and will put the program on more equal footing with SBA's other socio-economic contracting programs. In addition, the comments supported incorporating the statutory authority for sole source awards into the regulations and suggested no meaningful changes to the proposed regulatory text. As such, this final rule adopts the changes set forth in the proposed rule regarding sole source awards to WOSBs and EDWOSBs.

The second most covered topic in the comments received pertained to the language of the 2015 NDAA requiring the certification of WOSB and EDWOSB firms. As noted above, SBA did not propose to address the certification portion of the 2015 NDAA in the proposed rule because its implementation is more complicated, could not be accomplished by merely incorporating the statutory language into the regulations, and would have delayed the implementation of the sole source authority unnecessarily. In addition, SBA noted in the supplementary information to the proposed rule that there is no evidence that Congress intended to halt the existing WOSB Program until such time as SBA establishes the infrastructure and issues regulations implementing the statutory certification requirement. SBA continues to believe that the new WOSB sole source authority can and should be implemented as quickly as possible, using existing program rules and procedures, while SBA proceeds with development of the certification requirement through a separate rulemaking.

SBA believes that any certification process must be fair, efficient and comprehensive, but should not be burdensome or prevent new WOSBs and EDWOSBs from entering into the Federal marketplace. SBA wants to balance the need to protect the Government and other participants from fraud, with the goal of increasing WOSB and EDWOSB participation in the program. SBA believes that this process should be implemented in a systematic and thoughtful manner, and that increased public participation in the process will help SBA develop the best possible certification program.

The comments pertaining to certification of WOSBs and EDWOSBs were varied and covered a wide range of topics. SBA is in the process of developing its strategy for implementation of the certification language in the 2015 NDAA. SBA will consider the comments relating to certification received in response to this proposed rule when drafting the rule implementing the certification requirement. The certification rulemaking will give the public an opportunity to provide SBA with comments relating to SBA's proposed approach to the certification process and assist SBA in crafting the best possible certification program.

SBA also received several comments on the definitional changes related to the mandatory study to determine the industries in which WOSBs are underrepresented. The comments were generally supportive of SBA's proposed changes. As such, this final rule adopts the proposed changes to the definitions of the terms ''Underrepresentation,'' ''Substantial underrepresentation,'' ''EDWOSB requirement,'' and ''WOSB requirement'' in § 127.102.

Several comments recommended that all NAICS codes should be available for WOSB and EDWOSB set-asides. Determining the industries in which WOSB and/or EDWOSB contracts are available is outside the scope of this rule. In addition, section 825 of the 2015 NDAA specifically requires the Administrator to conduct a study to identify the industries in which small business concerns owned and controlled by women are underrepresented with respect to Federal procurement contracting in order to determine the industries in which WOSB and/or EDWOSB contracts can be awarded.

**III. Compliance With Executive Orders 12866, 12988, 13132, 13563, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)**

*Executive Order 12866*

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action under Executive Order 12866. This is not a major rule under the Congressional Review Act (CRA), 5 U.S.C. 800.

*Executive Order 12988*

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

*Executive Order 13132*

For the purpose of Executive Order 13132, SBA has determined that the rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore SBA has determined that this rule has no federalism implications warranting the preparation of a federalism assessment.

*Executive Order 13563*

A description of the need for this regulatory action, the benefits and costs associated with this action, and any alternatives are included in the Initial Regulatory Flexibility Analysis. In drafting this rule, SBA considered input submitted by three coalitions of women's groups representing women-owned small businesses that support this rule and encourage its quick implementation.

*Paperwork Reduction Act, 44 U.S.C., Ch. 35*

For the purpose of the Paperwork Reduction Act, SBA has determined that this proposed rule does not impose additional reporting or recordkeeping requirements.

*Regulatory Flexibility Act, 5 U.S.C., 601–612*

According to the Regulatory Flexibility Act (RFA), when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities. In accordance with this requirement, SBA has prepared a Final Regulatory Flexibility Analysis addressing the impact of this rule.

1. What are the need for and objective of this final rule?

This final rule is necessary to implement section 825 of the National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, December 19, 2014, 128 Stat. 3292 (2015 NDAA). Section 825 of the 2015 NDAA included language granting contracting officers the authority to award sole source contracts to Women-Owned Small Businesses (WOSBs) and Economically Disadvantaged Women-

Owned Small Businesses (EDWOSBs). The purpose of this rule is to establish the procedures whereby Federal agencies may award sole source contracts to WOSBs and EDWOSBs and to provide a mechanism to protest such awards. The rule provides an additional tool for Federal agencies to ensure that WOSBs have an equal opportunity to participate in Federal contracting and ensures consistency among SBA's socio-economic small business contracting programs. The objectives of this final rule are to put the WOSB Program on a level playing field with other SBA government contracting programs with sole source authority, and to provide an additional, needed tool for agencies to meet the statutorily mandated 5% prime contracting goal for WOSBs.

Section 825 of the 2015 NDAA also revised the timeline for SBA to conduct a study to determine the industries in which WOSBs are underrepresented. This final rule is necessary to allow SBA to conduct the most reliable and relevant study of WOSB participation in Federal contracting and comply with the new statutorily mandated timeline.

2. What is the legal basis for this final rule?

The legal basis for this final rule is section 825 of the National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, December 19, 2014, 128 Stat. 3292, which amended section 8(m) of the Small Business Act, 15 U.S.C. 637(m).

3. What is SBA's description and estimate of the number of small entities to which the rule will apply?

The RFA directs agencies to provide a description, and where feasible, an estimate of the number of small business concerns that may be affected by the rule. This final rule establishes a new procurement mechanism to benefit WOSBs. Therefore, WOSBs and EDWOSBs available to compete for Federal contracts under the WOSB Program are the specific group of small business concerns most directly affected by this rule.

SBA searched the Dynamic Small Business Search (DSBS) database and determined that there were approximately 34,000 firms listed as either WOSBs or EDWOSBs under the WOSB Program. In addition, according to the fiscal year 2013 small business goaling report, there were a little over 250,000 actions concerning women-owned small businesses and the total dollar value of those actions was approximately $15 billion. An analysis of the Federal Procurement Data System from April 1, 2011, (the implementation date of the WOSB Program) through January 1, 2013, revealed that there were approximately 26,712 women-owned small business concerns, including 131 EDWOSBs and 388 WOSBs eligible under the WOSB Program, that received Federal contract awards, task or delivery orders, and modifications to existing contracts.

Therefore, this rule could affect a smaller number of EDWOSBs and WOSBs than those eligible under the WOSB Program. We note that the sole source authority can only be used where a contracting officer conducts market research in an industry where a WOSB or EDWOSB set-aside is authorized, and the contracting officer cannot identify two or more WOSBs or EDWOSBs that can perform at a fair and reasonable price, but identifies one WOSB or EDWOSB that can perform. In addition, the sole source authority for WOSBs and EDWOSBs is limited to contracts valued at $6.5 million or less for manufacturing contracts and $4 million or less for all other contracts.

Nonetheless, we believe that this rule may have a significant positive economic impact on EDWOSB concerns competing for Federal contracting opportunities in industries determined by SBA to be underrepresented by WOSB concerns and likewise may positively affect WOSB concerns eligible under the WOSB Program competing in industries determined by SBA to be substantially underrepresented by WOSB concerns, since the sole source authority will still provide greater access to Federal contracting opportunities.

4. What are the projected reporting, recordkeeping, Paperwork Reduction Act, and other compliance requirements?

SBA has determined that this rule does not impose additional reporting or recordkeeping requirements.

5. What relevant federal rules may duplicate, overlap, or conflict with this rule?

SBA has not identified any relevant Federal rules currently in effect that duplicate this rule. The sole source mechanism of the WOSB program will be an addition to the procurement mechanisms available under the existing small business contracting programs that agencies currently administer, such as the HUBZone Program, the Service-Disabled Veteran-Owned (SDVO) Small Business Program, and the 8(a) Business Development Program. The sole source mechanism for WOSBs and EDWOSBs is only authorized where a contracting officer conducts market research in an industry where a WOSB or EDWOSB set aside is authorized, and the contracting officer cannot identify two or more WOSBs or EDWOSBs that can perform at a fair and reasonable price, but identifies one WOSB or EDWOSB that can perform (and so long as the value of the contract, including options, does not exceed $6.5 million for manufacturing contracts and $4 million for all other contracts). Therefore, the addition of the sole source mechanism for WOSBs and EDWOSBs should complement rather than conflict with the goals of existing small business procurement programs.

SBA believes that the Federal Acquisition Regulations (FAR) will need to be amended to include this authority so that there is no conflict between the SBA's rules and the FAR.

6. What significant alternatives did SBA consider that accomplish the stated objectives and minimize and significant economic impact on small entities?

The RFA requires agencies to identify alternatives to the rule in an effort to minimize any significant economic impact of the rule on small entities. The statutory authority for the sole source awards sets forth specific criteria, including dollar value thresholds for the awards. Therefore, the regulations must implement the statutory provisions, and there are no alternatives for these regulations.

**List of Subjects in 13 CFR Part 127**

Government contracts, Reporting and recordkeeping requirements, Small businesses.

Accordingly, for the reasons stated in the preamble, SBA amends 13 CFR part 127 as follows:

## PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

■ 1. The authority for part 127 continues to read as follows:

**Authority:** 15 U.S.C. 632, 634(b)(6), 637(m), and 644.

■ 2. Revise § 127.101 to read as follows:

### § 127.101 What type of assistance is available under this part?

This part authorizes contracting officers to restrict competition or award sole source contracts or orders to eligible Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs) for certain Federal contracts or orders in industries in which the Small Business Administration (SBA) determines that WOSBs are underrepresented in Federal

procurement. It also authorizes contracting officers to restrict competition or award sole source contracts or orders to eligible WOSBs for certain Federal contracts or orders in industries in which SBA determines that WOSBs are substantially underrepresented in Federal procurement and has waived the economically disadvantaged requirement.

■ 3. Amend § 127.102 by revising the definitions of the terms ''EDWOSB requirement'', ''Substantial underrepresentation'', ''Underrepresentation'', and ''WOSB requirement'' to read as follows:

**§ 127.102 What are the definitions of the terms used in this part?**

* * * * *

*EDWOSB requirement* means a Federal requirement for services or supplies for which a contracting officer has restricted competition or awarded a sole source contract or order to eligible EDWOSBs, including Multiple Award Contracts, partial set-asides, reserves, sole source awards, and orders set aside for EDWOSBs issued against a Multiple Award Contract.

* * * * *

*Substantial underrepresentation* is determined by a study using a reliable and relevant methodology.

* * * * *

*Underrepresentation* is determined by a study using a reliable and relevant methodology.

* * * * *

*WOSB requirement* means a Federal requirement for services or supplies for which a contracting officer has restricted competition or awarded a sole source contract or order to eligible WOSBs, including Multiple Award Contracts, partial set-asides, reserves, sole source awards, and orders set aside for WOSBs issued against a Multiple Award Contract.

■ 4. Revise § 127.500 to read as follows:

**§ 127.500 In what industries is a contracting officer authorized to restrict competition or make a sole source award under this part?**

A contracting officer may restrict competition or make a sole source award under this part only in those industries in which SBA has determined that WOSBs are underrepresented or substantially underrepresented in Federal procurement, as specified in § 127.501.

**§ 127.501 [Amended]**

■ 5. Amend § 127.501 by removing the word ''disparity'' in the two places where it appears in paragraph (b) and adding the word ''underrepresentation'' in its place.

■ 6. Amend § 127.503 as follows:

■ a. Revise the section heading;

■ b. Revise paragraph (a) subject heading and paragraph (b) subject heading;

■ c. Redesignate paragraphs (c), (d), (e) and (f) as paragraphs (e), (f), (g) and (h); and

■ d. Add new paragraphs (c) and (d).

The revisions and additions read as follows:

**§ 127.503 When is a contracting officer authorized to restrict competition or award a sole source contract or order under this part?**

(a) *Competition restricted to EDWOSBs.* * * *

(b) *Competition restricted to WOSBs.* * * *

(c) *Sole source awards to EDWOSBs.* For requirements in industries designated by SBA as underrepresented pursuant to § 127.501, a contracting officer may issue a sole source award to an EDWOSB when the contacting officer determines that:

(1) The EDWOSB is a responsible contractor with respect to performance of the requirement and the contracting officer does not have a reasonable expectation that 2 or more EDWOSBs will submit offers;

(2) The anticipated award price of the contract (including options) will not exceed $6,500,000 in the case of a contract assigned a North American Industry Classification System (NAICS) code for manufacturing, or $4,000,000 in the case of any other contract opportunity; and

(3) In the estimation of the contracting officer, the award can be made at a fair and reasonable price.

(d) *Sole source awards to WOSBs.* For requirements in industries designated by SBA as substantially underrepresented pursuant to § 127.501, a contracting officer may issue a sole source award to a WOSB when the contacting officer determines that:

(1) The WOSB is a responsible contractor with respect to performance of the requirement and the contracting officer does not have a reasonable expectation that 2 or more WOSBs will submit offers;

(2) The anticipated award price of the contract (including options) will not exceed $6,500,000 in the case of a contract assigned a NAICS code for manufacturing, or $4,000,000 in the case of any other contract opportunity; and

(3) In the estimation of the contracting officer, the award can be made at a fair and reasonable price.

* * * * *

■ 7. Revise § 127.507 to read as follows:

**§ 127.507 Are there EDWOSB and WOSB contracting opportunities at or below the simplified acquisition threshold?**

If the requirement is valued at or below the simplified acquisition threshold, the contracting officer may set aside the requirement or award the requirement on a sole source basis as set forth in § 127.503.

■ 8. Revise § 127.600 to read as follows:

**§ 127.600 Who may protest the status of a concern as an EDWOSB or WOSB?**

(a) *For sole source procurements.* SBA or the contracting officer may protest the proposed awardee's EDWOSB or WOSB status.

(b) *For all other EDWOSB or WOSB requirements.* An interested party may protest the apparent successful offeror's EDWOSB or WOSB status.

**Maria Contreras-Sweet,**

*Administrator.*

[FR Doc. 2015–22927 Filed 9–11–15; 8:45 am]

**BILLING CODE 8025–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 170

**RIN 3038–AE09**

### Membership in a Registered Futures Association

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is adopting a new rule (''Final Rule'') to require that all persons registered with the Commission as introducing brokers (''IB''), commodity pool operators (''CPO''), or commodity trading advisors (''CTA''), subject to an exception for those persons who are exempt from registration as a CTA pursuant to a particular provision of the Commission's regulations, must, in each case, become and remain a member of at least one registered futures association (''RFA'').

**DATES:** The Final Rule will become effective November 13, 2015. All persons subject to the Final Rule must comply with the Final Rule by not later than December 31, 2015.

**FOR FURTHER INFORMATION CONTACT:** Katherine Driscoll, Associate Chief

Counsel, 202–418–5544, *kdriscoll@cftc.gov;* or Jacob Chachkin, Special Counsel, 202–418–5496, *jchachkin@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Part 170 of the Commission's regulations relates to RFAs. An RFA is an association of persons registered with the Commission as such pursuant to Section 17 of the Commodity Exchange Act (''CEA'' or ''Act'').[1] Subject to Commission oversight, RFAs serve a vital self-regulatory role by functioning as frontline regulators of their members (which members also remain subject to Commission oversight).

An RFA cannot enforce its rules over Commission registrants who are not members of the RFA.[2] As such, the Commission promulgated regulations 170.15 and 170.16 to require each registered futures commission merchant (''FCM''), and each registered swap dealer (''SD'') and major swap participant (''MSP''), respectively, to be an RFA member, subject to an exception for certain notice registered securities brokers or dealers.[3] Because the National Futures Association (''NFA'') was the only RFA under Section 17(a) of the CEA [4] at the time § 170.15 and § 170.16, respectively, were promulgated, these registered FCMs, SDs, and MSPs were required to be NFA members and, thus, were subject to NFA's rules. The Commission did not promulgate regulations requiring other Commission registrants, including IBs,[5] CPOs,[6] and CTAs,[7] to be members of an RFA. One of the NFA rules to which NFA members are subject, however, is NFA's Bylaw 1101. NFA Bylaw 1101 requires that, generally, no NFA member may ''carry an account, accept an order or handle a transaction in commodity futures contracts'' for, or on behalf of, any non-member of NFA that is required to be registered with the Commission as, among other things, an IB, CPO, or CTA.[8] Accordingly, any IB, CPO, or CTA required to be registered with the Commission that desires to conduct business with respect to commodity futures contracts directly with an FCM that is an NFA member must also become an NFA member, and derivatively, must ensure that it only conducts such business with those IBs, CPOs, or CTAs that also are NFA members. Therefore, § 170.15, at the time it was promulgated, operated in conjunction with NFA Bylaw 1101 ''to assure essentially complete NFA membership from the universe of commodity professionals: [FCMs, CPOs, CTAs, and IBs].'' [9]

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') amended the

[1] 7 U.S.C. 21.

[2] Those Commission registrants that are not RFA members are nevertheless subject to the rules and regulations of the Commission. *See* 7 U.S.C. 21(e), which specifies that any person registered under the CEA, who is not an RFA member, ''in addition to the other requirements and obligations of [the CEA] and the regulations thereunder shall be subject to such other rules and regulations as the Commission may find necessary to protect the public interest and promote just and equitable principles of trade.''

[3] 17 CFR 170.15 and 170.16. *See also* Registration of Swap Dealers and Major Swap Participants, 77 FR 2613 (Jan. 19, 2012).

[4] 7 U.S.C. 21(a). NFA remains the only RFA under Section 17(a) of the CEA and is also a self-regulatory organization (''SRO''). Per Commission regulation 1.3(ee), SROs are designated contract markets, swap execution facilities, and registered futures associations. 17 CFR 1.3(ee). Certain SROs maintain and update, among other things, a standardized audit program and coordinate audit and financial statement surveillance activities over certain types of firms that are members of more than one SRO. *See* 17 CFR 1.52.

[5] IB is defined, subject to certain exclusions and additions, in CEA Section 1a(31) as any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant) (i) who (I) is engaged in soliciting or in accepting orders for (aa) the purchase or sale of any commodity for future delivery, security futures product, or swap; (bb) any agreement, contract, or transaction described in Section 2(c)(2)(C)(i) or Section 2(c)(2)(D)(i); (cc) any commodity option authorized under Section 4c; or (dd) any leverage transaction authorized under Section 19; and (II) does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or (ii) who is registered with the Commission as an IB. 7 U.S.C. 1a(31).

IB is further defined, subject to certain exclusions and additions, in Commission regulation 1.3(mm) as (1) Any person who, for compensation or profit, whether direct or indirect: (i) Is engaged in soliciting or in accepting orders (other than in a clerical capacity) for the purchase or sale of any commodity for future delivery, security futures product, or swap; any agreement, contract or transaction described in Section 2(c)(2)(C)(i) or Section 2(c)(2)(D)(i) of the Act; any commodity option transaction authorized under Section 4c; or any leverage transaction authorized under Section 19; or who is registered with the Commission as an IB; and (ii) Does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom. 17 CFR 1.3(mm).

IBs are subject to registration with the Commission under CEA Section 4d(g) and Commission regulation 3.4(a). 7 U.S.C. 6d(g) and 17 CFR 3.4(a).

[6] CPO is defined, subject to certain exclusions and additions, in CEA Section 1a(11) as any person (i) engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interests, including any (I) commodity for future delivery, security futures product, or swap; (II) agreement, contract, or transaction described in Section 2(c)(2)(C)(i) or Section 2(c)(2)(D)(i); (III) commodity option authorized under Section 4c; or (IV) leverage transaction authorized under Section 19; or (ii) who is registered with the Commission as a CPO. 7 U.S.C. 1a(11).

CPO is further defined, subject to certain exclusions and additions, in Commission regulation 1.3(cc) as any person engaged in a business which is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interests, including any commodity for future delivery, security futures product, or swap; any agreement, contract or transaction described in Section 2(c)(2)(C)(i) or Section 2(c)(2)(D)(i) of the Act; any commodity option authorized under Section 4c of the Act; any leverage transaction authorized under Section 19 of the Act; or any person who is registered with the Commission as a CPO, but does not include such persons not within the intent of the definition as the Commission may specify by rule or regulation or by order. 17 CFR 1.3(cc).

CPOs are subject to registration with the Commission under CEA Section 4m and Commission regulation 3.4(a). 7 U.S.C. 6m and 17 CFR 3.4(a).

[7] CTA is defined, subject to certain exclusions and additions, in CEA Section 1(a)(12) as any person who (i) for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in (I) any contract of sale of a commodity for future delivery, security futures product, or swap; (II) any agreement, contract, or transaction described in Section 2(c)(2)(C)(i) or Section 2(c)(2)(D)(i); (III) any commodity option authorized under Section 4c; or (IV) any leverage transaction authorized under Section 19; (ii) for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the activities referred to in clause (i); (iii) is registered with the Commission as a CTA; or (iv) the Commission, by rule or regulation, may include if the Commission determines that the rule or regulation will effectuate the purposes of the Act. 7 U.S.C. 1a(12).

CTA is further defined, subject to certain exclusions and additions, in Commission regulation 1.3(bb) as any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery, security futures product, or swap; any agreement, contract or transaction described in Section 2(c)(2)(C)(i) or Section 2(c)(2)(D)(i) of the Act; any commodity option authorized under Section 4c of the Act; any leverage transaction authorized under Section 19 of the Act; any person registered with the Commission as a CTA; or any person, who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing. 17 CFR 1.3(bb).

CTAs are subject to registration with the Commission under CEA Section 4m and Commission regulation 3.4(a). 7 U.S.C. 6m and 17 CFR 3.4(a).

[8] NFA Bylaw 1101 is available at: *http://www.nfa.futures.org/nfamanual/NFAManual.aspx?RuleID=BYLAW%201101&Section=3.*

[9] Futures Associations: Futures Commission Merchants: Mandatory Membership, 48 FR 26304, 26306 and n.22 (June 7, 1983).

CEA to establish a comprehensive new regulatory framework for swaps and security-based swaps.[10] The new regulatory framework provides that, among other things, persons that engage in regulated activity with respect to swaps will be required to register with the Commission as IBs, CPOs, or CTAs, as appropriate. Because of these definitional amendments, the intersection of § 170.15 and NFA Bylaw 1101 no longer assures NFA membership for IBs, CPOs, or CTAs that are required to register with the Commission because, as noted above, NFA Bylaw 1101 relates only to commodity futures contracts.[11]

## II. Proposed Rule

On November 8, 2013, the Commission proposed to amend part 170 by adding § 170.17, which would, if adopted, have required each IB, CPO, and CTA registered with the Commission to become and remain a member of at least one RFA (''Proposal'').[12]

In the Proposal, the Commission specifically solicited comments regarding, among other things, the impact of the Proposal on CTAs that are registered with the Commission despite being eligible to rely on the exemption from registration set forth in Commission regulation 4.14(a)(9) (''§ 4.14(a)(9) Exempted CTAs'').[13] Regulation 4.14(a)(9) provides that a person is not required to register with the Commission as a CTA if it does not: (i) Direct any client accounts; or (ii) provide commodity trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients.[14] When the Commission promulgated regulation 4.14(a)(9), it stated that ''[a] CTA exempt under rule 4.14(a)(9) that wishes to apply for registration or retain its current registration may do so.'' [15] Therefore, CTAs that may avail themselves of the exemption from registration in regulation 4.14(a)(9) may be currently registered with the Commission and may so register in the future.

The comment period for the Proposal ended on January 7, 2014.[16] The Commission received two substantive comments in response to the Proposal [17] and, in consideration of those comments, is adopting the Proposal subject to certain changes, as noted below.

## III. Summary of Comments

In response to the Proposal, the Commission received two substantive comments, one from NFA and one from James W. Lovely, Esq. (''Lovely'').[18] Both comments related to the impact of the Proposal on CTAs. No comments were received in response to the CPO and IB aspects of the Proposal.

### *A. NFA Comment*

NFA supported the Proposal as an appropriate and effective way to require IBs, CPOs, and CTAs engaging in swaps activities that otherwise are not captured by the intersection of NFA Bylaw 1101 or NFA Compliance Rule 2–36 [19] to become and remain NFA members, and comply with the applicable NFA requirements. However, NFA recommended that the Commission exclude § 4.14(a)(9) Exempted CTAs from the Proposal. In support of its position, NFA stated that its existing rules focus primarily on an intermediary's conduct with respect to clients and thus have little applicability to CTAs that do not direct client accounts or otherwise exercise discretion (*i.e.,* § 4.14(a)(9) Exempted CTAs).

### *B. Lovely Comment*

Conversely, Lovely generally stated that the Proposal ''while well-intentioned, is ill-founded in many respects'' and argued that the costs associated with further requiring registered CTAs to become and remain RFA members would be disproportionate to any regulatory benefit.

Lovely discussed those CTAs that register with the Commission even though they may not be required to so register (*e.g.,* because they may avail themselves of a registration exception or exclusion provided under Commission regulation 4.14(a) or Sections 1a(12)(B) or 4m(1) of the CEA, respectively). According to Lovely, these CTAs register for legal comfort in light of the ''practical ambiguities around concepts [related to CTA registration requirements] such as 'solely incidental', 'principal business or profession', 'holding out' and 'tailored advice'' but do not have to become NFA members, so long as such CTAs do not manage or exercise discretion over customer accounts or funds.[20] He argues that these CTAs' voluntary registration benefits the CFTC and that such persons will likely deregister if the Commission adopts the Proposal.[21]

Lovely further stated that the CFTC ''significantly underestimates the cost of NFA [membership]'' for these CTAs who are not currently required to become NFA members. He noted that most of such CTAs ''have only incidental involvement with commodity interests'' and, if required to become NFA members, ''would need to retain external legal counsel or compliance consultants to try to ascertain [which NFA rules] apply to their activities and, if so, how to comply with the same.'' Notwithstanding that Lovely argues that many NFA rules are not applicable to such CTAs,[22] he estimates that ''external

[10] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010).

[11] For example, as noted in the Proposal, currently Commission-registered CTAs, CPOs, and IBs engaging solely in swap-related activities are not captured by the intersection of § 170.15 and NFA Bylaw 1101 and, thus, are not required to be NFA members. As such, these registrants, to the extent that they have not voluntarily become NFA members, are not being supervised in the same manner as Commission registrants engaging in similar activities relating to commodity futures contracts, which registrants are effectively required to be NFA members.

[12] *See* Membership in a Registered Futures Association, 78 FR 67078 (Nov. 8, 2013).

[13] 78 FR 67080 (Nov. 8, 2013).

[14] 17 CFR 4.14(a)(9). This exemption from CTA registration generally pertains to persons only providing advice to the general public, such as in a newsletter, and not to specific clients.

[15] *See* Exemption from Registration as a Commodity Trading Advisor, 65 FR 12938, 12941 (March 10, 2000).

[16] The Proposal inaccurately stated the comment period ended on January 17, 2014. To reflect the accurate date, the **Federal Register** published a correction that the comment period ended on January 7, 2014. *See* 78 FR 67985 (Nov. 13, 2013). Nonetheless, the Commission considered all comments received by January 17, 2014.

[17] *See http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1424.*

[18] NFA Comment Letter and James Lovely, Esq. Comment Letter.

[19] Clause (d) of NFA Compliance Rule 2–36 applies to forex transactions and requires that no NFA member carry a forex account for, accept a forex order or account from, handle a forex transaction for or on behalf of, receive compensation (directly or indirectly) for forex transactions from, or pay compensation (directly or indirectly) for forex transactions to any non-member of NFA, or suspended member, that is required to be registered with the Commission as, among other things, an FCM, IB, CPO, or CTA in connection with its forex activities. NFA Compliance Rule 2–36 is available at: *http://www.nfa.futures.org/nfamanual/NFAManual.aspx?RuleID=RULE%202–36&Section=4.*

[20] Presumably Lovely means that such CTAs would not be captured by the intersection of § 170.15 and NFA Bylaw 1101.

[21] In this regard, Lovely also asserted that if the Commission adopts the Proposal, the First Amendment rights of these CTAs could be jeopardized, and, in some cases, such CTAs may drop their CFTC registration entirely ''in reliance on . . . [their] commercial free speech rights under the U.S. Constitution.''

[22] Lovely provided a non-exhaustive list of what he believes to be inapposite NFA member rules including rules regarding: (1) Account opening, risk disclosure and trading authority; (2) bunched orders and order allocation; (3) suitability or churning security futures products; (4) CTA program and performance disclosure for managed accounts or

legal and compliance assistance . . . could easily cost [such a CTA] $15,000.00 to $20,000.00 per year.''

## IV. Final Rule

The Commission, in consideration of the comments received by it on the Proposal, is adopting the Proposal but excluding § 4.14(a)(9) Exempted CTAs from the Final Rule.[23] The Final Rule will help ensure the integrity of the swaps and futures market and its participants by subjecting all registered IBs, CPOs, and CTAs, except for § 4.14(a)(9) Exempted CTAs, to NFA's developed set of rules and oversight capabilities.[24] As such, the Commission believes that the markets are better served, and the public better protected, by having persons subject to the requirements of the Final Rule become RFA members.[25]

After considering the comments, the Commission is persuaded by Lovely and NFA that NFA's rules have little applicability to § 4.14(a)(9) Exempted CTAs and, thus, there would be little benefit from requiring § 4.14(a)(9) Exempted CTAs to become and remain RFA members.

The Commission, however, is not persuaded that other registered CTAs, regardless of whether such CTAs are required to register with the Commission, should be excluded from the requirements of the Final Rule. Any registered CTA that does not meet the requirements of § 4.14(a)(9) would, by definition, be engaged in either (i) directing client accounts, or (ii) providing commodity trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients. As noted above, and consistent with § 170.15, the Commission believes that RFA supervision of registered CTAs engaging in these activities is beneficial to the markets and the clients of such CTAs.

In addition, the Commission believes that Lovely's cost estimates are very high for retaining advisors in relation to NFA's rules. Assuming a CTA was to contact an attorney familiar with Commission regulations and NFA rules applicable to CTAs, the Commission believes that determining which NFA rules are applicable to such a CTA would be a routine task that would not take a substantial amount of time.[26]

Furthermore, with respect to those CTAs that opt into CFTC registration to avoid making determinations as to their activities in relation to their eligibility for the exceptions or exclusions from the CTA registration requirements noted in Lovely's comments, such persons should review available guidance from the Commission and consult with their advisors and Commission staff, as necessary, to determine if registration is required.[27]

In support of the Final Rule, Section 4p of the CEA authorizes the Commission to ''specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of persons required to be registered with the Commission.'' [28]

The Final Rule also provides a means for assuring that the purpose of Section 17(m) of the CEA,[29] allowing for compulsory RFA membership, is achieved.[30] The Commission believes that the Final Rule is reasonably necessary and desirable to effectuate comprehensive and effective market oversight by NFA in its capacity as an SRO. As the only RFA, NFA serves as the frontline regulator of its members, subject to Commission oversight. Without such mandatory membership in NFA or another RFA, effective implementation of the programs required by Section 17 of the CEA and NFA's self-regulatory programs could be impeded.[31]

In summary, by mandating RFA membership by each registered IB, CPO, and CTA, except § 4.14(a)(9) Exempted CTAs, the Final Rule enables the Commission to further ensure the fitness, and provide for direct NFA oversight, of these Commission registrants.

## V. Administrative Compliance

### *A. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (''PRA'') [32] imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. An agency may not conduct or sponsor, and a registered entity is not required to respond to, a collection of information unless it displays a currently valid control number by the Office of Management and Budget (''OMB'').

In connection with the Proposal, the Commission anticipated that, if adopted, the Final Rule would simply require an amendment to the number of respondents included in OMB Collection 3038–0023.[33] The basis for this preliminary finding was that, at the time of the Proposal, NFA had indicated that certain CPOs, CTAs, and IBs were registered with the Commission, but not NFA members. Therefore, because registration and membership require the filing of Form 7–R, the Commission initially believed these respondents' paperwork burden would have been affected by the Proposal.

As discussed above, the Final Rule does not require IBs, CPOs, or CTAs to

pools; (5) solicitation and execution of customer orders; (6) disaster recovery protocols (other than in connection with CFTC mandated record retention); (7) trading programs, performance and related promotional materials; (8) anti-money laundering; and (9) quarterly reporting of assets under management, trading programs, performance, carrying brokers and the like.

[23] Notwithstanding this exclusion, if a person is a § 4.14(a)(9) Exempted CTA and registered as an IB or CPO, then such person shall still be subject to the requirements of the Final Rule in its capacity as a registered IB or CPO, as the case may be.

[24] The Commission notes that, as a result of the Final Rule, any person not required to register, and not registered, with the CFTC would not subsequently become subject to any NFA-imposed requirement unless such person voluntarily elects to become so registered. Any adverse financial, commercial, or other impact, including the potential chilling effect on free speech, which could result from the Final Rule for such CTAs, could be avoided simply by relying on the proper regulatory exclusion or exemption without having to even incur the cost of filing a notice with the CFTC or NFA.

[25] This is consistent with the Commission's rationale for § 170.15; that there should be essentially complete NFA membership from the universe of commodity professionals. *See supra* at n.10.

[26] As noted above, Lovely himself refers to many of these rules as ''inapposite.'' Such a description belies Lovely's argument that any substantial legal review would be required to determine whether NFA rules would apply to one of the CTAs about which Lovely comments.

Moreover, the Commission believes the costs of compliance review in subsequent years would be significantly less than the initial review costs, because it is likely that only the changes to NFA rules that took place during the prior year would need to be considered.

[27] The Commission notes that it is not of the view that making such a definitive determination is impossible or exceedingly difficult, as Lovely's comment suggests. However, the Commission does recognize that, once this determination has been made, and depending on the determination, a Commission registrant may need time to review and possibly reorganize its business in order to ensure its compliance with NFA's rules or undertake the deregistration process, as the case may be. Therefore, the Commission is providing the extended compliance period described in the **DATES** section above.

[28] 7 U.S.C. 6p. Also, Section 8a(5) of the CEA authorizes the Commission ''to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes'' of the CEA.

[29] 7 U.S.C. 21(m).

[30] *See* Futures Associations: Futures Commission Merchants: Mandatory Membership, 48 FR 26304 (June 7, 1983).

[31] The Commission notes that in addition to the authority discussed herein, as noted previously, CPOs and CTAs are subject to registration with the Commission under Section 4m of the CEA, and IBs are subject to such registration under Section 4d(g) of the CEA. 7 U.S.C. 6m and 6d(g).

[32] 44 U.S.C. 3501 *et seq.*

[33] *See* OMB Control No. 3038–0023, *http://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=3038-0023.*

*register* with the Commission. Rather, the Final Rule only requires that certain of such persons that register with the Commission *become and remain an NFA member.* To indicate NFA membership an applicant needs to ''check a box'' on Form 7–R.[34] Current OMB Collection 3038–0023 captures the burdens associated with the registration process for these persons, including the filing of and updating of Form 7–R for registration purposes. Therefore, to comply with the Final Rule, such registrants that are not NFA members, would be required to ''check-the-box'' on Form 7–R indicating their status as an NFA member.

Accordingly, because the burden associated with updating Form 7–R is currently captured in OMB Collection 3038–0023, and those persons who are directly impacted by the Final Rule are either currently registered with the Commission (*i.e.,* have already filed a Form 7–R) or will be required to file a Form 7–R in connection with their registration with the Commission, no adjustment is necessary to take into account the number of Commission registrants who will have to become NFA members as a result of the Final Rule. Further, the Commission believes the additional burden of ''checking the box'' on Form 7–R to be non-substantive. Therefore, upon further review and for the reasons stated above, the Final Rule does not require amending existing OMB Collection 3038–0023.[35]

*B. Regulatory Flexibility Act*

The Regulatory Flexibility Act [36] requires federal agencies, in promulgating regulations, to consider the impact of those regulations on small entities. In the Proposal, the Commission certified that the Proposal would not have a significant economic impact on a substantial number of small entities.

1. CPOs

The Commission has previously determined that CPOs are not small entities for purposes of the Regulatory Flexibility Act.[37] Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the Final Rule will not have a significant economic impact on a substantial number of small entities with respect to CPOs.

2. IBs and CTAs

The Commission has previously determined to evaluate within the context of a particular rule proposal whether all or some IBs or CTAs should be considered to be small entities and, if so, to analyze the economic impact on them of any such rule.[38]

Since there may be some small entities that are IBs or CTAs and would be required to become NFA members, the Commission has considered whether this rulemaking would have a significant economic impact on these entities.

The Final Rule requires all IBs and CTAs, except § 4.14(a)(9) Exempt CTAs, who register with the Commission to become RFA members. This would require such IBs and CTAs to pay membership dues, ''check a box'' on Form 7–R, and ensure that they are prepared for an NFA audit.[39] As noted in the Proposal, the Commission is of the view that any costs associated with preparing for an audit by the NFA should not be substantially different from, or significantly exceed, the costs associated with preparing for an audit by the Commission, which every registered person would already be responsible to do.[40] Moreover, because the Final Rule only pertains to Commission Registrants, any audit related costs incident to NFA membership would be negligible, and should not have a significant economic impact on IBs or CTAs that may be small entities. The Commission also stated its preliminary belief that NFA membership would impose few additional compliance costs on affected entities, because these entities are already subject to the majority of regulations that NFA enforces, whether or not they are NFA members. The Commission specifically requested comment on any additional compliance costs beyond those an entity would face as a result of it being registered with the Commission.

a. Comments on Costs to CTAs

In response to the Proposal, a comment from Lovely stated that most CTAs that opt into CFTC registration and do not manage or exercise discretion over customer accounts or funds are ''small or one-person operations or may have only incidental involvement with commodity interests.'' Further, Lovely asserts that, although many of NFA's rules are not relevant to such CTAs, the Commission understates the cost of required NFA membership, including that the costs to these CTAs of reviewing and complying with such rules would be approximately $15,000 to $20,000 annually.

As discussed above, the Commission believes that Lovely's compliance cost estimates are very high. Rather, the Commission believes that the costs faced by a CTA would, at most, be approximately $2,950 in the first year and $1,476 in subsequent years.[41] The Commission does not believe that these amounts plus the $750 membership dues required of all NFA members that are CTAs, results in an unreasonable burden on any CTAs (including those that may be small entities under the Regulatory Flexibility Act).[42] Further, as

[34] The Commission has designated NFA to receive Form 7–R submissions on its behalf. The Commission notes that application for NFA membership is incorporated in Form 7–R.

[35] The Commission further believes that many Commission registrants' recordkeeping obligations associated with preparing for an NFA audit are already covered by other OMB control numbers. For example, §§ 4.23 and 4.33 of the Commission's regulations are recordkeeping requirements associated with registered CPOs and CTAs, respectively, which are covered by OMB control number 3038–0005.

[36] 5 U.S.C. 601 *et seq.*

[37] Policy Statement and Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618, 18619 (Apr. 30, 1982).

[38] *See,* with respect to CTAs, 47 FR at 18620 (Apr. 30, 1982); and *see,* with respect to IBs, Introducing Brokers and Associated Persons of Introducing Brokers, Commodity Trading Advisors and Commodity Pool Operators; Registration and Other Regulatory Requirements, 48 FR 35276 (Aug. 3, 1983).

[39] *See* 78 FR 67083 (Nov. 8, 2013). As stated in the booklet titled ''NFA Regulatory Requirements: For FCMs, IBs, CPOs, and CTAs,'' NFA audits have two major objectives: (1) To determine whether the firm is maintaining records in accordance with NFA rules and applicable CFTC regulations; and (2) to ensure that the firm is being operated in a professional manner and that customers are protected against unscrupulous activities and fraudulent or high-pressure sales practices.

[40] As noted above, the Commission believes that many of the recordkeeping obligations associated with preparing for an NFA audit are already required for Commission registrants. Moreover, given the average periodicity for NFA audits, the magnitude of annual audit-related costs is limited.

[41] This estimate is based on the following labor estimates for this determination: for the first year, 6 hours of an attorney; in subsequent years, 3 hours of an attorney, in each case at approximately $492.21/hour. The estimate of the hourly cost is from the Securities Industry and Financial Markets Association's Report on Management and Professional Earnings in the Securities Industry—2013, modified by CFTC staff to account for an 1800-hour work-year and multiplied by 5.35 to account for firm size, employee benefits, and overhead. The Commission believes that the use of this multiplier is appropriate here because the Commission is assuming that persons retain outside advisors to assist in complying with NFA rules. The Commission rounds to two significant digits.

[42] Assuming that IBs would face similar compliance costs as CTAs, the Commission does not believe that these costs result in an unreasonable burden on any IBs (including those that may be small entities under the Regulatory Flexibility Act). Further, as of June 30, 2015, all registered IBs that are not members of NFA are pending withdrawal of their Commission registration. Accordingly, the Commission believes that no currently registered IBs will be impacted by this rule.

discussed above, § 4.14(a)(9) Exempted CTAs (*i.e.,* those CTAs that neither manage nor exercise discretion over customer accounts or funds and that do provide clients advice described in § 4.14(a)(9)(ii)) will not be required to become or remain RFA members pursuant to the Final Rule and, thus, will not face any compliance costs from the Final Rule.

b. Commission Determination

Accordingly, for the reasons stated above, the Commission believes that the Final Rule will not have a significant economic impact on a substantial number of small entities. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the Final Rule being published today by this **Federal Register** release will not have a significant economic impact on a substantial number of small entities.

*C. Considerations of Costs and Benefits*

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing an order. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

1. Background

As discussed above, the Dodd-Frank Act amended the CEA to establish a comprehensive new regulatory framework for swaps markets and, in doing so, required IBs, CPOs, and CTAs acting in relation to swaps to register with the Commission. These newly registered persons, however, are not currently required to become NFA members because, as discussed above, they are not captured by the intersection of § 170.15 and NFA Bylaw 1101.

NFA cannot enforce its rules over Commission registrants who do not become NFA members, including IBs, CPOs, and CTAs active solely in relation to swap transactions, which are not currently required to become NFA members. Thus, the Final Rule requires registered IBs, CPOs, and CTAs, except § 4.14(a)(9) Exempted CTAs, to become NFA members similarly to how § 170.15 presently requires FCMs to become NFA members and how § 170.16 requires the same of SDs and MSPs. In conjunction with §§ 170.15 and 170.16, the Commission is intending to create an oversight regime that ensures more consistent treatment of its registered intermediaries. The Commission believes that the Final Rule is reasonably necessary to ensure the fitness and comprehensive regulation and appropriate oversight of such persons.

In assessing the costs and benefits of the Final Rule, the Commission employs a status quo baseline. The Commission analyzes the cost and benefit to those registered persons that, but for the Final Rule, would not have to become RFA members. As of June 30, 2015, the following numbers of Commission registered IBs, CPOs, and CTAs (registered in the below categories) were not NFA members (''Non-member Registrants''): [43]

| Registration category | Non-member registrants |
|---|---|
| IB only | 21 |
| CPO only | 61 |
| CTA only | 573 |
| IB & CPO | 1 |
| IB & CTA | 2 |
| CTA & CPO | 41 |
| FCM & CPO | 1 |
| Total | 700 |

Of these Non-member Registrants, however, approximately 138 are pending withdrawal of their Commission registration. The Commission is assuming that these Non-member Registrants will withdraw their registration and, thus, will not be impacted by the Final Rule. In addition, only approximately one percent of the Non-member Registrants registered solely as CTAs reported to the Commission in the most recent reporting cycle that they had directed client accounts.[44] As such, the Commission believes that many of the Non-member Registrants registered solely as CTAs will be § 4.14(a)(9) Exempted CTAs and, thus, will not be required to comply with the Final Rule.[45] Accordingly, the Commission estimates that 296 [46] persons registered with the CFTC as a CPO, CTA, or IB will be required to become and remain NFA members as a result of the Final Rule.[47]

Because at this time the Commission cannot reasonably estimate the number of Non-member Registrants that may deregister with the Commission as a result of the Final Rule, the Commission is assuming that no Non-member Registrants will deregister as a result of the Final Rule. The Commission believes that this will lead to an overstatement of the compliance costs relating to the Final Rule.

2. Costs

a. Costs to IBs, CPOs, and CTAs

As discussed above, the process for a Non-member Registrant to become an NFA member amounts to checking a box on the CFTC registration form and updating some contact information. Thus, the Commission believes the cost of filing for membership to be non-substantive.[48]

Affected persons are also subject to certain membership fees. NFA imposes initial membership dues and annual membership dues for IBs, CPOs, and CTAs. Currently, such initial membership dues are $750 for the first year, and the annual dues to maintain membership are $750 per year

The Commission also notes that, pursuant to Section 17(d) of the Act, each CTA or IB that is registered with the Commission, but not an RFA member is required to ''. . . pay to the Commission such reasonable fees and charges [established by the Commission] as may be necessary to defray the costs of additional regulatory duties required to be performed by the Commission because such person is not a member of an [RFA].'' 7 U.S.C. 21(d). The Commission has not yet established any such fees or charges, but noted in the release for § 170.15 that these charges are likely to be greater than the costs attendant to RFA membership. *See* 48 FR at 26311.

[43] *See* NFA's daily directory of CFTC Registrants and Members available at: *http://www.nfa.futures.org/NFA-registration/NFA-directories.HTML.*

[44] The Commission is assuming that all Non-member Registrants registered solely as CTAs have reported to the Commission the amount of assets they have directed, if any.

[45] For purposes of its analysis, the Commission is assuming that approximately half of the 573 Non-member Registrants registered solely as CTAs (286 Non-member Registrants) will be § 4.14(a)(9) Exempted CTAs and will not be required to comply with the Final Rule, and 20 of these 286 Non-member Registrants will be pending withdrawal of their Commission registration.

[46] To arrive at the estimate, the 700 figure was reduced by the sum of (i) 138 (the Non-member Registrants whose withdrawal from Commission registration is pending) and (ii) 266 (the Non-member Registrants that the Commission assumes will be § 4.14(a)(9) Exempted CTAs net of those pending withdrawal, as described above).

[47] For purposes of assessing the costs of this rule, the Commission is assuming that no Non-member Registrant is, absent the Final Rule, required to be an NFA member.

[48] *See* Form 7–R, *http://www.nfa.futures.org/NFA-registration/templates-and-forms/form7-r.HTML.* Applications forms for NFA membership and Associate membership are incorporated in Forms 7–R and 8–R. *See* NFA Membership and Dues, *http://www.nfa.futures.org/NFA-registration/NFA-membership-and-dues.HTML.*

thereafter.[49] Thus, the 296 affected Non-member Registrants, in the aggregate, will incur an initial and ongoing annual registration/membership cost of approximately $222,000.[50]

The Commission agrees with Lovely that the Final Rule will also impose certain compliance costs on affected Non-member Registrants. However, as noted above, the Commission believes that, given the existing requirements imposed on such registrants, the compliance costs of becoming an NFA member and complying with NFA's rules (including preparing for an audit by NFA) will be partially offset by the costs already incurred by these registrants (*i.e.,* the costs associated with complying with Commission regulations and preparing for examinations by the Commission). In that regard, as discussed above, the Commission disagrees with Lovely's cost estimates and estimates that an affected registrant may, at most, face additional compliance costs of approximately $2,950 initially and $1,476 in subsequent years, equating to an industry total of $873,200 in the first year and $436,896 in subsequent years,[51] plus the indirect costs of the periodic audits. The Commission cannot reasonably provide an exact estimate of these costs due to the idiosyncratic nature of the indirect costs incurred.[52]

b. Other Market Costs

In addition to the direct costs to Commission Registrants, the Commission considered other costs to the markets of the Final Rule. In particular, the Commission considered the impact the Final Rule will have on IBs, CPOs, and CTAs (i) election to not register with the Commission and (ii) optional deregistration, in each case, where such persons are not required to be registered with the Commission. Further, the Commission considered that the requirements of the Final Rule may cause fewer persons to elect to become IBs, CPOs, and CTAs because of the added burden of being an RFA member. The Commission is unable to estimate accurately how many IBs, CPOs, and CTAs will deregister with the Commission or elect not to so register in the future, or how many persons will choose to not become such an intermediary, in each case, as a result of the Final Rule. Further, the Commission believes that if a market participant has chosen not to register with the Commission, the costs incurred by that participant for not registering would be less than the costs that would have been incurred to register. Otherwise, the market participant would likely have chosen to register instead. However, the Commission cannot make a more accurate determination of costs beyond this overestimate without knowing more specifics about a particular market participant.

c. Consideration of the Proposal as an Alternative to the Final Rule

The Commission believes the costs in a. and b. above, respectively, are reduced from those that would have resulted had the Proposal been adopted without modification (the Proposal would have required each registered IB, CPO, and CTA, without exception, to become and remain a member of an RFA), because the Commission has excepted § 4.14(a)(9) Exempted CTAs from the requirements of the Final Rule. This exclusion limits the Commission's ability to oversee these persons through delegation to an RFA; however, the Commission has determined that this reduction in the Commission's oversight abilities is reasonable in light of the burden that the Proposal would otherwise impose on § 4.14(a)(9) Exempted CTAs and the markets. The Commission further notes that, as discussed above, § 4.14(a)(9) Exempted CTAs that are not RFA members are still subject to the Commission's rules and regulations.

3. Benefits

The Final Rule enables the Commission to (i) carry out its obligations pursuant to Section 17 of the CEA to delegate certain oversight responsibility for intermediaries, including IBs, CPOs, and CTAs, to an RFA, and (ii) ensure the fitness of its registrants as described under Section 4p of the CEA. The Commission believes that by requiring RFA membership, the Final Rule results in a more efficient deployment of agency resources which would otherwise have to be used to oversee these registrants who would, without the Final Rule, not be overseen by an RFA. Further, the Commission believes that the Final Rule enables NFA to apply its experience as a SRO to oversee and ensure the fitness of all registered IBs, CPOs, and CTAs, except § 4.14(a)(9) Exempt CTAs. The markets and the public will benefit from NFA's developed set of rules and oversight capabilities to ensure the integrity of the swaps market and its participants.

4. Section 15(a) Factors

The Commission requested comment on all aspects of the Section 15(a) factors. Except as discussed above, the Commission did not receive any comments relating to costs and benefits of the Final Rule.

Section 15(a) of the CEA requires the Commission to consider the effects of its actions in light of the following five factors:

a. Protection of Market Participants and the Public

The Final Rule will protect the public by ensuring that registered IBs, CPOs, and CTAs, except § 4.14(a)(9) Exempt CTAs, are subject to the same level of comprehensive NFA oversight.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

The Final Rule ensures that all registered IBs, CPOs, and CTAs, except § 4.14(a)(9) Exempt CTAs, are subject to a similar level of oversight and regulatory responsibility. In so doing, the Commission believes the integrity of markets is enhanced. Furthermore, the Commission also believes that the Final Rule will promote public confidence in the integrity of derivatives markets by ensuring consistent and adequate regulation and oversight of registered IBs, CPOs, and CTAs, except § 4.14(a)(9) Exempt CTAs.

c. Price Discovery

The Commission has not identified an impact on price discovery as a result of the Final Rule.

d. Sound Risk Management

The Commission has not identified an impact on the risk management decisions of market participants as a result of the Final Rule.

e. Other Public Interest Considerations

The Commission has not identified an impact on other public interest considerations as a result of the Final Rule.

**List of Subjects in 17 CFR Part 170**

Authority delegations (Government agencies), Commodity futures, Membership in a Registered Futures

[49] *See* NFA Membership and Dues, *http://www.nfa.futures.org/NFA-registration/NFA-membership-and-dues.HTML.*

[50] To arrive at the monetary estimate, the 296 figure was multiplied by the $750.00 per-person annual membership dues.

[51] To arrive at the monetary estimate, the 296 figure was multiplied by the estimated per-person compliance costs.

[52] The Commission also considered that, in addition to the Non-member Registrants discussed above, the Final Rule will cause future persons registering with the Commission as IBs, CPOs, and CTAs because of their activities in relation to swaps to incur additional costs similar to those described above. The Commission expects that many persons will apply for registration under the Commission's swaps market regime in such capacities, but the Commission is not able to accurately estimate the exact number of new Commission registrants that will do so and, thus, be affected by the Final Rule.

Association, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 170 as set forth below:

## PART 170—REGISTERED FUTURES ASSOCIATIONS

■ 1. The authority citation for part 170 is revised to read as follows:

**Authority:** 7 U.S.C. 6d, 6m, 6p, 6s, 12a, and 21.

■ 2. Add § 170.17 to read as follows:

### § 170.17 Introducing brokers, commodity pool operators, and commodity trading advisors.

Each person registered as an introducing broker, commodity pool operator, or commodity trading advisor must become and remain a member of at least one futures association that is registered under Section 17 of the Act and that provides for the membership therein of introducing brokers, commodity pool operators, or commodity trading advisors, as the case may be, unless no such futures association is so registered; provided, however that a person registered as a commodity trading advisor shall not be required to become or remain a member of such a futures association, solely in respect of its registration as a commodity trading advisor, if such person is eligible for the exemption from registration as such pursuant to § 4.14(a)(9) of this chapter.

Issued in Washington, DC, on September 9, 2015, by the Commission.

**Christopher J. Kirkpatrick,**

*Secretary of the Commission.*

**Note:** The following appendix will not appear in the Code of Federal Regulations.

## Appendix to Membership in a Registered Futures Association—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Bowen and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2015–23046 Filed 9–11–15; 8:45 am]

BILLING CODE 6351–01–P

## DEPARTMENT OF LABOR

### Wage and Hour Division

### 29 CFR Part 552

**RIN 1235–AA05**

## Application of the Fair Labor Standards Act to Domestic Service; Announcement of 30-Day Period of Non-Enforcement

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Policy statement.

**SUMMARY:** The Department of Labor's (Department) Final Rule amending regulations regarding domestic service employment, which extends Fair Labor Standards Act (FLSA) protections to most home care workers, had an effective date of January 1, 2015. The Department has not begun enforcement of the Final Rule both because of its previously announced time-limited non-enforcement policy and because it is a party to a federal lawsuit regarding the amended regulations. The U.S. Court of Appeals for the District of Columbia issued an opinion in that case in favor of the Department on August 21, 2015. The Department will not bring enforcement actions against any employer for violations of FLSA obligations resulting from the amended domestic service regulations for 30 days after the date the Court of Appeals issues a mandate making its opinion effective.

**DATES:** This policy statement was signed on September 9, 2015.

**FOR FURTHER INFORMATION CONTACT:** Mary Ziegler, Assistant Administrator, Office of Policy, U.S. Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S–3502, FP Building, Washington, DC 20210; telephone: (202) 343–5940 (this is not a toll-free number), email: *HomeCare@dol.gov.* Copies of this Policy Statement may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0675 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

**SUPPLEMENTARY INFORMATION:**

### I. 30-Day Non-Enforcement Period After Mandate Issues

The Department's Final Rule amending regulations regarding domestic service employment, 78 FR 60454, which extends FLSA protections to most home care workers, had an effective date of January 1, 2015. The Department has not begun enforcement of the Final Rule both because of its time-limited non-enforcement policy, 79 FR 60974 (October 9, 2014), and because it is a party to a federal lawsuit regarding the amended regulations in which the U.S. District Court for the District of Columbia issued opinions and orders vacating the rule's major provisions. *Home Care Ass'n of Am.* v. *Weil,* 76 F. Supp. 3d 138 (D.D.C. 2014); *Home Care Ass'n of Am.* v. *Weil,* 78 F. Supp. 3d 123 (D.D.C. 2015). On August 21, 2015, the U.S. Court of Appeals for the District of Columbia Circuit reversed the district court's judgment. *Home Care Ass'n of America* v. *Weil,* . . . F.3d . . . , No. 15–5018, 2015 WL 4978980 (D.C. Cir. Aug. 21, 2015). The Court of Appeals opinion will become effective when that court issues a mandate directing the district court to enter a new judgment in favor of the Department. Although it is not yet known on what date the mandate will issue, the Department will not bring enforcement actions against any employer for violations of FLSA obligations resulting from the amended domestic service regulations for 30 days after the date the mandate issues.

This 30-day non-enforcement policy does not replace or affect the timeline of the Department's existing time-limited non-enforcement policy announced in October 2014. 79 FR 60974. Under that policy, through December 31, 2015, the Department will exercise prosecutorial discretion in determining whether to bring enforcement actions, with particular consideration given to the extent to which States and other entities have made good faith efforts to bring their home care programs into compliance with the FLSA since the promulgation of the Final Rule. The Department will also continue to provide intensive technical assistance to the regulated community, as it has since promulgation of the Final Rule.

### II. Regulatory Requirements

This Policy Statement is guidance articulating considerations relevant to the Department's exercise of its enforcement authority under the FLSA. It is therefore exempt from the notice-and-comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b).

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a). The Department has determined that this guidance does not impose any new or revise any existing recordkeeping,

reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Dated: September 9, 2015.

**David Weil,**

*Administrator, Wage and Hour Division.*

[FR Doc. 2015–23092 Filed 9–11–15; 8:45 am]

**BILLING CODE 4510–27–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

**[Docket No. USCG–2015–0841]**

### Drawbridge Operation Regulation; Saugus River, Saugus, Massachusetts

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Saugus RR Bridge, across the Saugus River, mile 2.1, at Saugus, Massachusetts. This deviation is necessary to facilitate essential maintenance repairs. This deviation allows the bridge to remain in the closed position during the maintenance repairs.

**DATES:** This deviation is effective from 12:01 a.m. on September 19, 2015 to 11:59 p.m. on September 20, 2015.

**ADDRESSES:** The docket for this deviation, [USCG–2015–0841] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, contact Mr. Joe Arca, Project Officer, First Coast Guard District, telephone (212) 514–4336, email *joe.m.arca@uscg.mil.* If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:** The Saugus RR Bridge, mile 2.1, across Saugus River has a vertical clearance in the closed position of 7 feet at mean high water and 17 feet at mean low water. The existing bridge operating regulations opens on schedule as required by 33 CFR 117.5.

Saugus River is transited by commercial lobstermen and recreational vessel traffic.

Keolis Commuter Railroad requested this temporary deviation from the normal operating schedule to facilitate essential maintenance repairs.

Under this temporary deviation, the Saugus RR Bridge may remain in the closed position from 12:01 a.m. on September 19, 2015 to 11:59 p.m. on September 20, 2015.

There is no alternate route for vessel traffic; however, vessels that can pass under the closed draws during this closure may do so at any time. The bridge will be able to open in the event of an emergency.

The Coast Guard will inform the users of the waterway through our Local Notice to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: September 1, 2015.

**C.J. Bisignano,**

*Supervisory Bridge Management Specialist, First Coast Guard District.*

[FR Doc. 2015–23067 Filed 9–11–15; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R07–OAR–2015–0299; FRL–9933–84–Region 7]**

### Approval and Promulgation of Air Quality Implementation Plans; State of Kansas Regional Haze State Implementation Plan Revision and 2014 Five-Year Progress Report

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve the Kansas State Implementation Plan (SIP) revision submitted to EPA by the State of Kansas on March 10, 2015, documenting that the State's existing plan is making adequate progress to achieve visibility goals by 2018. The Kansas SIP revision addressed the Regional Haze Rule (RHR) requirements under the Clean Air Act (CAA or Act) to submit a report describing progress in achieving reasonable progress goals (RPGs) to improve visibility in Federally designated areas in nearby states that may be affected by emissions from sources in Kansas. EPA is taking final action to approve Kansas' determination that the existing Regional Haze (RH) SIP is adequate to meet the visibility goals and requires no substantive revision at this time.

**DATES:** This final rule is effective October 14, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2015–0299. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *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 through *www.regulations.gov* or at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Stephen Krabbe, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7991, or by email at *krabbe.stephen@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we'', ''us'', or ''our'' refer to EPA. This section provides additional information by addressing the following:



#### I. Background

On June 10, 2015, (80 FR 32874), EPA published a notice of proposed rulemaking (NPR) for the State of

Kansas. In the NPR, EPA proposed approval of Kansas's progress report SIP, a report on progress made in the first implementation period towards RPGs for Class I areas that are affected by emissions from Kansas sources. This progress report SIP and accompanying cover letter also included a determination that Kansas's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018.

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. See 40 CFR 51.308(g). In addition, the provisions under 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The first progress report SIP is due five years after submittal of the initial regional haze SIP. On October 26, 2009, KDHE submitted its regional haze SIP in accordance with the requirements of 40 CFR 51.308. The progress report SIP revision was submitted by Kansas on March 10, 2015, and EPA finds that it satisfies the requirements of 40 CFR 51.308(g) and (h). No comments were received regarding the NPR.

## II. Summary of SIP Revision

On March 10, 2015, Kansas submitted a SIP revision to describe the progress made towards the RPGs of Class I areas in and outside Kansas that are affected by emissions from Kansas' sources. This progress report SIP also includes a determination of the adequacy of Kansas' existing regional haze SIP to achieve these RPGs.

Kansas has no Class I areas within its borders. Kansas notes in its progress report SIP that Kansas sources were also identified as potentially impacting four Class I areas in three neighboring states: Caney Creek Wilderness Area in Arkansas, Hercules-Glades Wilderness Area in Missouri, Mingo Wilderness Area in Missouri, and Wichita Mountains Wilderness Area in Oklahoma.

The provisions in 40 CFR 51.308(g) require a progress report SIP to address seven elements. EPA finds that Kansas' progress report SIP addressed each element under 40 CFR 51.308(g). The seven elements and EPA's conclusion are briefly summarized in this rulemaking action.

The provisions in 40 CFR 51.308(g) require progress report SIPs to include a description of the status of measures in the approved regional haze SIP; a summary of emissions reductions achieved; an assessment of visibility conditions for each Class I area in the state; an analysis of changes in emissions from sources and activities within the state; an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the state's sources; an assessment of the sufficiency of the approved regional haze SIP; and a review of the state's visibility monitoring strategy. As explained in detail in the NPR, EPA finds that Kansas' progress report SIP addressed each element and has therefore satisfied the requirements under 40 CFR 51.308(g).

In addition, pursuant to 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. One possible action is submission of a negative declaration to EPA that no further substantive revision to the state's existing regional haze SIP is needed. In its progress report SIP, Kansas submitted a negative declaration that it had determined that its existing regional haze SIP requires no further substantive revision to achieve the RPGs for the Class I areas that are affected by emissions from Kansas's sources. As explained in detail in the NPR, EPA concludes Kansas has adequately addressed 40 CFR 51.308(h) because the visibility data trends at the Class I areas impacted by Kansas's sources and the emissions trends of the largest emitters of visibility-impairing pollutants both indicate that the RPGs for 2018 will be met or exceeded. Therefore, EPA concludes Kansas' progress report SIP meets the requirements of 40 CFR 51.308(h).

## III. Final Action

EPA is taking final action to approve Kansas' regional haze five-year progress report and SIP revision, submitted March 10, 2015, as meeting the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and 51.308(h).

## Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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

Dated: August 20, 2015.

**Mark Hague,**

*Acting Regional Administrator, Region 7.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

## 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 R—Kansas

■ 2. In § 52.870, the table in paragraph (e) is amended by adding entry (42) at the end of the table to read as follows:

**§ 52.870 Identification of plan.**

* * * * *

(e)* * *

EPA-APPROVED KANSAS NONREGULATORY PROVISIONS

| Name of nonregulatory SIP provision | Applicable geographic or nonattainment area | State submittal date | EPA approval date | Explanation |
|---|---|---|---|---|
| * * * | * | * | * | * |
| (42) State Implementation Plan (SIP) Revision for the Attainment and Maintenance of National Ambient Air Quality Standards for Regional Haze (2014 Five-Year Progress Report). | Statewide ..... | 3/10/15 | 9/14/15 [*Insert* **Federal Register** *citation*] | |

[FR Doc. 2015–23074 Filed 9–11–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

**[EPA–R06–2015–0070 RCRA; FRL–9933–79–Region 6]**

### Louisiana: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** Louisiana has applied to the Environmental Protection Agency (EPA) for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this direct final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Louisiana's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

**DATES:** This final authorization will become effective on November 13, 2015 unless the EPA receives adverse written comment by October 14, 2015. If the EPA receives such comment, it will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Submit any comments identified by Docket ID No. EPA–R06–RCRA–2015–0070, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

2. *Email: patterson.alima@epa.gov*.

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas Texas 75202–2733.

4. *Hand Delivery or Courier.* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

*Instructions:* Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or email. Direct your comment to Docket No. EPA–R06–RCRA–2015–0070. The Federal 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 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. You can view and copy Louisiana's application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge, Louisiana 70884–2178, phone number (225) 219–3559 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

**FOR FURTHER INFORMATION CONTACT:** Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533) and Email address *patterson.alima@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**A. Why are revisions to State programs necessary?**

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur.

Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

**B. What decisions have we made in this rule?**

We conclude that Louisiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Louisiana final authorization to operate its hazardous waste program with the changes described in the authorization application. Louisiana has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Louisiana including issuing permits, until the State is granted authorization to do so.

**C. What is the effect of today's authorization decision?**

The effect of this decision is that a facility in Louisiana subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Louisiana has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- enforce RCRA requirements and suspend or revoke permits and
- take enforcement actions after notice to and consultation with the State.

This action does not impose additional requirements on the regulated community because the regulations for which Louisiana is being authorized by today's action are already effective under State law, and are not changed by today's action.

**D. Why wasn't there a proposed rule before today's rule?**

The EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

**E. What happens if the EPA receives comments that oppose this action?**

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

**F. For what has Louisiana previously been authorized?**

The State of Louisiana initially received final authorization on February 7, 1985, (50 FR 3348), to implement its base Hazardous Waste Management Program. We granted authorization for changes to their program on November 28, 1989 (54 FR 48889) effective January 29, 1990; August 26, 1991 (56 FR 41958), as corrected October 15, 1991 (56 FR 51762) effective October 25, 1991; November 7, 1994 (59 FR 55368) effective January 23, 1995 (Note: on January 23, 1995 (60 FR 4380), the EPA responded to public adverse comments and affirmed the effective date for the November 7, 1994 final rule. Then on April 11, 1995 (60 FR 18360), the EPA also made administrative corrections for the January 23, 1995 **Federal Register** document); December 23, 1994 (59 FR 66200) effective March 8, 1995; October 17, 1995 (60 FR 53704) effective January 2, 1996; March 28, 1996 (61 FR 13777) effective June 11, 1996; December 29, 1997 (62 FR 67572) effective March 16, 1998; October 23, 1998 (63 FR 56830) effective December 22, 1998; August 25, 1999 (64 FR 46302) effective October 25, 1999; September 2, 1999 (64 FR 48099) effective November 1, 1999; February 28, 2000 (65 FR 10411) effective April 28, 2000; January 2, 2001 (66 FR 23) effective March 5, 2001; December 9, 2003 (68 FR 68526) effective February 9, 2004; June 10, 2005 (70 FR 33852) effective August 9, 2005; November 13, 2006 (71 FR 66116) effective January 12,

2007; August 16, 2007 (72 FR 45905) effective October 15, 2007; May 20, 2009 (74 FR 23645) effective July 20, 2009; June 24, 2011(76 FR 122) effective August 23, 2011; and June 28, 2012 (77 FR 38530) effective August 27, 2012. On October 31, 2014, Louisiana applied for approval of its program revisions for specific rules in RCRA Clusters XXI, XXII and XXIII, in accordance with 40 CFR 271.21(b)(3).

Since 1979 through the Environmental Affairs Act, Act 449 enabled the Office of Environmental Affairs within the Louisiana Department of Natural Resources, as well as, the Environmental Control Commission to conduct an effective program designed to regulate those who generate, transport, treat, store, dispose or recycle hazardous waste. During the 1983 Regular Session of the Louisiana Legislature, Act 97 was adopted, which amended and reenacted La. R. S. 30:1051 *et seq.* as the Environmental Quality Act, renaming the Environmental Affairs Act (Act 1938 of 1979). This Act created Louisiana Department of Environmental Quality (LDEQ), including provisions for new offices within this new Department of Environmental Quality. Act 97 also transferred the duties and responsibilities previously delegated to the Department of Natural Resources, Office of Environmental Affairs, to the new Department. The LDEQ has lead agency jurisdictional authority for administering the Resource Conservation and Recovery Act (RCRA) Subtitle C program in Louisiana. Also, the LDEQ is designated to facilitate communication between the EPA and the State. During the 1999 Regular Session of Louisiana Legislature, Act 303 revised the La. R. S. 30:2011 *et seq.,* allowing LDEQ to reengineer the Department to perform more efficiently and to meet its strategic goals.

### G. What changes are we authorizing with today's action?

On October 31, 2014, Louisiana submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Louisiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant the State of Louisiana Final authorization for the following changes: The State of Louisiana's program revisions consist of regulations which specifically govern Revision Checklists 227, 228, and 229 from RCRA Clusters XXI, XXII, XXIII, respectively, as documented in this **Federal Register**:

| Description of Federal requirement (include checklist #, if relevant) | **Federal Register** date and page (and/or RCRA statutory authority) | Analogous State authority |
|---|---|---|
| 1. Revision of the Land Disposal Treatment Standards for Carbamate Wastes. (Checklist 227). | 76 FR 34147–34157, June 13, 2011. | Environmental Regulatory Code, Louisiana Department of Environmental Quality, ERC Title 33, Part V. Hazardous Waste and Hazardous Materials, 2013 edition. Section 2299 Appendix Table 2, Treatment Standards for Hazardous Waste, and Table 7, Universal Treatment Standards, effective September 20, 2013. |
| 2. Hazardous Waste Technical Corrections and Clarifications Rule. (Checklist 228). | 77 FR 22229–22232 April 13, 2012. | Environmental Regulatory Code, Louisiana Department of Environmental Quality, ERC Title 33, Part V. Hazardous Waste and Hazardous Materials, 2010 edition and the March 2012 Supplement. Sections 4901.C.Table 2, Hazardous Wastes from Specific Sources, and 4139.B.2, effective March 20, 2012. |
| 3. Conditional Exclusions for Solvent Contaminated Wipes. (Checklist 229). | 78 FR 46448–46485 July 31, 2013 | Environmental Regulatory Code, Louisiana Department of Environmental Quality, ERC Title 33, Part V. Hazardous Waste and Hazardous Materials, 2013 edition and the July 2014 Supplement. Sections 109 No Free Liquids, 109.Solvent Contaminated wipe, 109.Wipe, 105.D.1.w, and 105.D.2.q, effective July 20, 2014. |

### H. Where are the revised State rules different from the Federal Rules?

In this authorization of the State of Louisiana program revisions for the RCRA Cluster XXI, XXII, and XXIII rules, there are no provisions that are more stringent or broader in scope.

### I. Who handles permits after the authorization takes effect?

Louisiana will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Louisiana is not yet authorized.

### J. How does today's action affect Indian Country in Louisiana?

Louisiana is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

### K. What is codification and is the EPA codifying Louisiana's Hazardous Waste Program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart T for this authorization of Louisiana's program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this **Federal Register** notice.

### L. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action (RCRA State Authorization) from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. It's main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and impose no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

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 document 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 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). This action nevertheless will be effective November 13, 2015.

### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 21, 2015.

**Ron Curry,**

*Regional Administrator, Region 6.*

[FR Doc. 2015–23073 Filed 9–11–15; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 577

**[Docket No. NHTSA–2015–0048]**

**RIN 2127–AL60**

## Defect and Noncompliance Notification

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This final rule amends NHTSA's regulation requiring motor vehicle manufacturers and replacement equipment manufacturers to notify owners and purchasers of a defect or noncompliance in vehicles or equipment that they produced. The amendments in this final rule will clarify that a manufacturer of replacement equipment providing a defect or noncompliance notification pursuant to this regulation can inform the purchaser of the replacement equipment of the manufacturer's intent to remedy the defect or noncompliance by refunding the purchase price of the replacement equipment. NHTSA is amending this regulation so that the regulation conforms to changes in the defect and noncompliance remedy provisions in the National Traffic and Motor Vehicle Safety Act (Safety Act) contained in the Moving Ahead for Progress in the 21st Century Act (MAP–21).

**DATES:** *Effective date:* This final rule is effective November 13, 2015.

*Petitions for reconsideration:* Petitions for reconsideration of this final rule must be received not later than October 29, 2015.

**ADDRESSES:** Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Ground Floor, Docket Room W12–140, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Thomas Healy, Office of Chief Counsel, NHTSA, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. Healy's telephone number is (202) 366–2992. His fax number is (202) 493–3820.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Safety Act requires manufacturers of motor vehicles or items of replacement equipment to notify NHTSA and owners and purchasers of the vehicles or equipment if the manufacturer determines that a motor vehicle or item of motor vehicle equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard and to remedy the defect or noncompliance without charge. 49 U.S.C. 30118(c), 30120. Manufacturers must provide notification pursuant to the procedures set forth in section 30119 of the Safety Act. Section 30119 sets forth the contents of the notification, which includes a clear description of the defect or noncompliance, the timing of the notification, means of providing notification and when a second notification is required. 49 U.S.C. 30119.

Section 30120 of the Safety Act provides a list of permissible remedies from which manufacturers must choose when determining how to remedy at defect. Section 30120 contains different remedy provisions for manufacturers of motor vehicles and manufacturers of replacement equipment. Section 30120 allows manufacturers of motor vehicles to remedy a defect or noncompliance ''by repairing the vehicle; . . . by replacing the vehicle with an identical or reasonably equivalent vehicle; or . . . by refunding the purchase price, less a reasonable allowance for depreciation.'' 49 U.S.C. 30120(a)(1)(A). Prior to MAP–21, Section 30120 allowed manufacturers of replacement equipment to remedy a defect or noncompliance by ''repairing the equipment or replacing the equipment with identical or reasonable equivalent equipment.'' 49 U.S.C. 30120(a)(1)(B) (2011). MAP–21 amended section 30120 by expanding the list of permissible remedies available to replacement equipment manufacturers to include refunding the purchase price of the equipment.[1]

The conduct of a recall notification campaign, including how and when owners, dealers, and distributors are notified, is addressed by regulation in 49 CFR part 577, *Defect and Noncompliance Notification.* Section 577.5 specifies the required content and structure of the owner notifications. Section 577.6 specifies the required content and structure of the notification if the owner notification is sent pursuant to an order by the NHTSA Administrator. Section 577.5 and 577.6 both specify that that the owner notification must include a statement notifying the owner of the vehicle or replacement equipment how the manufacturer intends to remedy the defect or noncompliance.

This final rule amends §§ 577.5 and 577.6 of 49 CFR part 577 so that the requirements for the statement notifying owners or purchasers of replacement equipment how the manufacturer intends to remedy a defect or noncompliance reflect the MAP–21 amendment allowing manufacturers of replacement equipment to remedy a defect or noncompliance by refunding the purchase price.

## II. Public Comment

NHTSA did not issue an NPRM prior to this final rule. While the Administrative Procedure Act (APA) requires that agencies publish a general NPRM in the **Federal Register** prior to issuing a final rule, an agency is not required to publish an NPRM if the agency is able to make and makes a good cause finding that notice and public comment is ''impracticable, unnecessary, or contrary to the public interest.'' [2]

NHTSA finds that notice and public comment prior to issuing this final rule is unnecessary. The DC Circuit has held that the notice and public comment requirements of APA are unnecessary when the ''rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.'' [3] The amendments in this final rule do not create any new rights or obligations not already present in 49 U.S.C. 30120. The amendments in this final rule update the notification requirements in 49 CFR 577.5 and 577.6 to reflect that the option to refund the purchase price of the replacement equipment is available to manufacturers as a remedy for a defect or noncompliance. Furthermore, these changes were made by statutory amendment. Therefore, the amendments contained in this final rule do not involve the exercise of discretion on the part of the agency. Because this final rule does not create any rights or obligations not already present in 49 U.S.C. 30120 or involve the exercise of discretion by the agency, the impacts of this rule are insignificant and inconsequential to industry and the public making notice and public comment unnecessary.

## III. Regulatory Notices and Analyses

### *A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures*

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the DOT's regulatory policies and procedures. This final rule was not reviewed by the Office of Management and Budget (OMB) under E.O. 12866, ''Regulatory Planning and Review.'' It is not considered to be significant under E.O. 12866 or the Department's regulatory policies and procedures.

This regulation amends 49 CFR part 577 to include refund of the purchase price of replacement equipment as a remedy available to replacement equipment manufacturers remedying a defect or noncompliance. This final rule does not require replacement equipment manufacturers to take any actions that they are not otherwise already required to take. Because there are not any costs or savings associated with this rulemaking, we have not prepared a separate economic analysis for this rulemaking.

### *B. Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* NHTSA has evaluated the effects of this action on small entities. I hereby certify that this rule would not have a significant impact on a substantial number of small entities. The final rule affects manufacturers of motor vehicle replacement equipment some of which qualify as small businesses. However, this final rule does not significantly affect these entities because it does not require any additional actions on the part of equipment manufacturers not already required by 49 CFR part 577.

### *C. Executive Order 13132*

NHTSA has examined this rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule would not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the

[1] Public Law 112–141, 126 Stat. 771 (2012), Section 31311.

[2] 5 U.S.C. 553.

[3] *Mack Trucks, Inc.* v. *E.P.A.* 682 F.3d 87, 92 (D.C. Cir. 2012) (quoting *Util. Solid Waste Activities Grp.* v. *E.P.A.*, 236 F.3d 749, 754 (D.C. Cir. 2001).

distribution of power and responsibilities among the various levels of government.'' This final rule also will not preempt any state law.

*D. National Environmental Policy Act*

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

*E. Paperwork Reduction Act*

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. The information collection requirements for 49 CFR part 577, *Defect and Noncompliance Notification,* are covered by OMB control number 2127–0004. The amendments in this final rule have no impact on the burden associated with this information collection.

*F. National Technology Transfer and Advancement Act*

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' The amendments in this final rule consist of minor revisions to the required content of letters that manufacturers of replacement equipment for motor vehicles must sent to purchasers and owners to notify them of a defect or noncompliance and do not involve any voluntary consensus standards.

*G. Civil Justice Reform*

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly 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. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this final rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

*H. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This final rule would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

*I. Executive Order 13211*

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

*J. Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

**List of Subjects in 49 CFR Part 577**

Imports, Motor vehicle safety, Motor vehicles, Tires, Reporting and recordkeeping requirements.

In consideration of the foregoing, NHTSA amends 49 CFR part 577 as follows:

## PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION

■ 1. The authority citation for part 577 continues to read as follows:

**Authority:** 49 U.S.C. 30102, 30103, 30116–30121, 30166; delegation of authority at 49 CFR 1.95 and 49 CFR 501.8.

■ 2. Section 577.5 is amended by revising paragraphs (g)(1)(i) and (vi) to read as follows:

**§ 577.5 Notification pursuant to a manufacturer's decision.**

* * * * *

(g) * * *

(1) * * *

(i) A statement that he will cause such defect to be remedied without charge, and whether such remedy will be by repair, replacement, or refund of the purchase price (in the case of remedy of a vehicle, less depreciation).

* * * * *

(vi) In the case of a remedy of a vehicle by refund of purchase price, the method or basis for the manufacturer's assessment of depreciation.

* * * * *

■ 3. Section 577.6 is amended by revising paragraph (b)(9)(i)(B) to read as follows:

**§ 577.6 Notification pursuant to Administrator's decision.**

* * * * *

(b) * * *

(9) * * *

(i) * * *

(B) A statement of the method of remedy. If the manufacturer has not yet determined the method of remedy, he will select either repair, replacement with an equivalent vehicle or item of replacement equipment, or refund of the purchase price (in the case of remedy of a vehicle, less depreciation); and

* * * * *

Issued in Washington, DC, on September 2, 2015 under authority delegated in 49 CFR part 1.95.

**Mark R. Rosekind,**

*Administrator.*

[FR Doc. 2015–22922 Filed 9–11–15; 8:45 am]

BILLING CODE 4910–59–P

# Proposed Rules

Federal Register
Vol. 80, No. 177
Monday, September 14, 2015

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

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

**[Docket Number EERE–2014–BT–STD–0031]**

**RIN 1904–AD20**

## Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnaces

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

**ACTION:** Notice of data availability.

**SUMMARY:** The U.S. Department of Energy (DOE) has completed a provisional analysis of the potential economic impacts and energy savings that could result from promulgating amended energy conservation standards for residential non-weatherized gas furnaces (NWGFs) that include two product classes defined by input capacity and has published the data on its Web page. DOE encourages stakeholders to provide any additional data or information that may improve the analysis.

**DATES:** DOE will accept comments, data, and information regarding this NODA no later than October 14, 2015. See section IV for details.

**ADDRESSES:** Any comments submitted must identify the NODA for Energy Conservation Standards for Residential Furnaces, and provide docket number EERE–2014–BT–STD–0031 and/or regulatory information number (RIN) number 1904–AD20. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: ResFurnaces2014STD0031@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message. Submit electronic comments in Word Perfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form on encryption.

3. *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section IV of this document (Submission of Comments).

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

A link for access to the docket Web page can be found at: *https://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=62.* The *www.regulations.gov* Web page contains instructions on how to access all documents in the docket.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *residential_furnaces_and_boilers@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) 586–9507 or (202) 287–6307. Email: *Johanna.Hariharan@hq.doe.gov.*

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

**SUPPLEMENTARY INFORMATION:**

### Table of Contents



## I. Background

On March 10, 2015, DOE published in the **Federal Register** a notice of proposed rulemaking (NOPR) and public meeting to amend energy conservation standards for residential non-weatherized gas furnaces (NWGF) and mobile home gas furnaces (MHGF). 80 FR 13119. The proposed standards, which are expressed as minimum annual fuel utilization efficiencies (AFUE), are shown in Table I.1. These proposed standards, if adopted, would apply to all products listed in Table I.1 and manufactured in, or imported into, the United States on or after the date 5 years after the publication of the final rule for this rulemaking.

TABLE I.1—PROPOSED AFUE ENERGY CONSERVATION STANDARDS FOR NON-WEATHERIZED GAS FURNACES AND MOBILE HOME GAS FURNACES (TSL 3)

| Product class | AFUE % |
|---|---|
| Non-Weatherized Gas-Fired Furnaces | 92 |
| Mobile Home Gas-Fired Furnaces | 92 |

A number of stakeholders objected to a national standard at 92 percent AFUE, which would effectively only be able to be met by using condensing technology. The objections raised by stakeholders covered a wide range of issues, but the negative impacts of the proposed

standards on some furnace consumers were highlighted by many stakeholders.

A letter dated June 8, 2015, signed by 121 members of the U.S. House of Representatives, expressed concern that a nationwide energy efficiency standard that effectively precludes a consumer from choosing to install a non-condensing furnace would result in many homeowners either abandoning the use of natural gas to heat their homes or paying substantially more for the installation of a furnace that meets the new standard. It stated that many families will be faced with the difficult choice of having to replace their non-condensing furnace with either a condensing furnace with higher installation costs or electric heat and accompanying higher monthly energy bills. (United States House of Representatives, No. 67 at p. 1) Comments from the Pennsylvania Chambers of Commerce, Business, and Industry, Meeks, Payne, Jr., Bishop, Jr., and Carrier make similar statements. (Pennsylvania Chambers of Commerce, Business, and Industry, No. 82 at p. 1; Meeks, No. 140 at p. 1; Payne, Jr., No. 75 at p. 1; Bishop, Jr., No. 76 at p. 1)

The American Gas Association (AGA), Goodman, and American Energy Alliance (AEA *et al.*) stated that even assuming DOE's analysis is correct, many consumers could incur costs under the proposed standard. They stated that, according to DOE's analysis, 20 percent of households nationwide would face higher life-cycle costs under the proposed standard, and in the replacement market, one-quarter of all households replacing their natural gas furnaces would see a life-cycle cost increase. (AGA, No. 118 at p. 27; AEA *et al.,* No. 69 at p. 1; Goodman, No. 135 at p. 2) AGA, Goodman, and Southern Gas Association (SGA) added that consumers in the South and low-income families would be disproportionately impacted. (AGA, No. 118 at p. 27; Goodman, No. 135 at p. 2; SGA, No. 145 at p. 1)

The Air-Conditioning, Heating, and Refrigeration Institute (AHRI), Carrier, Rheem, and Ingersoll Rand expressed concern that the proposed standards will result in 10–20 percent of homes switching from gas furnaces to electric heat pumps because venting of a condensing gas furnace is difficult to impossible. (AHRI, No. 159 at p. 3; Carrier, No. 116 at p. 2; Rheem, No. 142 at p. 3; Ingersoll Rand, No. 156 at p. 2) AGA expressed a similar concern, and asserted that the resulting adverse energy and environmental impacts of this fuel switching are very substantial. (AGA, No. 118 at p. 28)

Several stakeholders, who expressed general support for the proposed standards and suggested more stringent standards could be justified, provided a recommendation for reducing negative impacts on some furnace consumers while maintaining the overall economic and environmental benefits of the standards. The American Council for an Energy-Efficient Economy (ACEEE) recommended that DOE establish a separate product class for small furnaces (tentatively those with an input capacity of 50,000 Btu/hour or less) and leave the standard level for these units at 80-percent AFUE, while adopting a higher standard level of 95-percent AFUE for larger furnaces. (ACEEE, No. 113 at p. 1) The Alliance to Save Energy made a similar recommendation, but referred to an input capacity of no more than 50,000 to 65,000 Btu/hour for smaller furnaces. (Alliance to Save Energy, No. 115 at p. 1) The Natural Resources Defense Council (NRDC) urged DOE to adopt an 80-percent AFUE standard level for furnaces below a specified maximum capacity threshold, and set the capacity threshold low enough that the national energy, economic, and environmental benefits are largely preserved while allowing consumers in small and moderately-sized, well insulated and weatherized homes in moderate and warm climates to have a non-condensing option. (NRDC, No. 134 at p. 2) AGLR stated that DOE should establish a separate product class for small furnaces with an input capacity of less than 45,000 Btu/hour, citing section 305(f) of EPCA as authority for DOE to establish separate product classes based on product capacity. (AGLR, No. 112 at pp. 15–16)

ACEEE also stated that creating two product classes based on furnace size would reduce the number of households that would experience net costs under the proposed standard (many of whom are in the south). ACEEE stated that many of the consumers who would experience net costs will have small furnaces and recommended that DOE specifically examine this issue and estimate the economics of separate standard levels as a function of furnace input capacity. ACEEE noted that a size threshold provides another option for some households with very high installation costs—if they weatherize their home and get the needed capacity below 50,000 Btu/h, they can avoid the extra installation cost of a condensing furnace. ACEEE added that a size threshold would not present the potential enforcement challenges associated with regional standards. (ACEEE, No. 113 at p. 3)

Although DOE believes that the standards proposed in the March 2015 NOPR meet the statutory criteria for amended standards, given the concerns and suggestions described above, DOE undertook an analysis of the consumer economics and national impacts of establishing separate standard levels for large and small residential furnaces. In so doing, it examined the effect of alternative size thresholds for a small furnace. Because the issues raised by stakeholders primarily concern NWGFs, DOE only considered that product in its analysis and did not examine mobile home gas furnaces. The analysis is described in section II of this NODA; section III provides the results of the analysis.

DOE notes that this NODA does not propose any energy conservation standards for residential furnaces. DOE may revise the analyses presented in today's NODA based on any new or updated information or data it obtains during the course of the rulemaking. DOE encourages stakeholders to provide any additional data or information that may improve the analysis.

## II. Summary of the Analyses Performed by DOE

DOE conducted an analysis of the consumer impacts (life-cycle cost and payback period) and national impacts (national energy savings and net present value of national benefits) of potential standard levels for the considered NWGF product classes. The tools used in preparing these analyses and their respective results are available at: *https://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=62.* Each individual spreadsheet includes an introduction that provides an overview of the contents of the spreadsheet. These spreadsheets present the various inputs and outputs to the analysis and, where necessary, instructions. Brief descriptions of the analyses and of the supporting spreadsheet tools are provided below.

If DOE were to consider adopting energy conservation standards for residential furnaces that set separate levels based on input capacity, it would do so in a future supplemental NOPR (SNOPR). DOE would also publish a technical support document (TSD) containing a detailed written account of the analyses performed in support of the SNOPR, which will include updates to the analyses made available in this NODA.

The analysis conducted for this NODA used the same analytical

framework as the March 2015 NOPR.[1] Key aspects of the present analysis and DOE's updates to the NOPR analysis are described in the sections below.

*A. Introduction*

The analysis conducted for this NODA estimated impacts for the potential standard level combinations shown in Table II.1. The key aspect of this analysis is that only large furnaces would need to use condensing technology to meet the standard. Thus, households installing a small furnace would not need to incur the costs associated with installing a condensing furnace.

TABLE II.1—POTENTIAL STANDARD LEVEL COMBINATIONS ANALYZED FOR LARGE AND SMALL FURNACES

| Furnance size | Annual fuel utilization efficiency (%) | | | |
|---|---|---|---|---|
| Large | 90 | 92 | 95 | 98 |
| Small | 80 | 80 | 80 | 80 |

This NODA analysis used the same sample of residential furnace consumers as the March 2015 NOPR. Each sample household was assigned a furnace size (in terms of input capacity) based on a number of features, as discussed in section II.C. The share of households that would install a small furnace depends on how ''small furnace'' is defined in terms of input capacity. For this analysis, DOE considered the following small furnace definitions: ≤45 kBtu/hour, ≤50 kBtu/hour, ≤55 kBtu/hour, ≤60 kBtu/hour, and ≤65 kBtu/hour. In each case, large furnaces would be defined as all sizes above the given thresholds. The share of households that would install a furnace meeting a small furnace standard rises as the size cutoff in the small furnace definition increases, as illustrated in Table II.2.[2]

TABLE II.2—SHARE OF SAMPLE HOUSEHOLDS BY FURNACE SIZE

[percent]

| Furnace size | Small furnace definition | | | | |
|---|---|---|---|---|---|
| | ≤45 kBtu/hour | ≤50 kBtu/hour | ≤55 kBtu/hour | ≤60 kBtu/hour | ≤65 kBtu/hour |
| Large | 92 | 86 | 85 | 68 | 62 |
| Small | 8 | 14 | 15 | 32 | 38 |
| Total | 100 | 100 | 100 | 100 | 100 |

*B. Engineering Analysis*

The engineering analysis establishes the relationship between the manufacturer production cost (MPC) and energy efficiency for residential furnaces. This relationship between MPC and energy efficiency serves as the basis for calculations performed in the other analysis tools to estimate the costs and benefits to individual consumers, manufacturers, and the nation. For each NWGF efficiency level that was analyzed, the MPC was estimated for four furnace capacities (60 kBtu/hour, 80 kBtu/hour, 100 kBtu/hour, and 120 kBtu/hour). For the NODA analysis, DOE updated the MPCs from the NOPR to incorporate the most recent available data for material,[3] component, labor, and overhead costs, and also updated the MPCs to 2014$.

*C. Life-Cycle Cost and Payback Period Analyses*

The life-cycle cost (LCC) and payback period (PBP) analyses determine the economic impact of potential standards on individual consumers who purchase a furnace in the expected compliance year (assumed to be 2021 for this analysis). The LCC is the total cost of purchasing, installing and operating a residential furnace over the course of its lifetime. DOE determines the LCC by considering: (1) The total installed cost to the consumer (which consists of manufacturer selling price, distribution channel markups, sales taxes, and installation costs); (2) the annual energy consumption (natural gas or LPG and electricity) of residential furnaces as they are used in the field; (3) the operating cost of residential furnaces (*i.e.,* energy cost and maintenance and repair cost); (4) equipment lifetime; and (5) a discount rate that reflects the consumer cost of capital and puts the LCC in present-value terms. The PBP represents the number of years needed to recover the increase in purchase price of higher-efficiency residential furnaces through savings in the operating cost.

For each considered standards case, DOE measures the change in LCC relative to a no-new-standards case, which reflects the market in the absence of amended energy conservation standards, including market trends for equipment that exceeds the current energy conservation standards.

In the March 2015 NOPR and in today's NODA, DOE developed nationally-representative household samples for residential furnaces from the 2009 Residential Energy Consumption Survey (RECS).[4] DOE analyzed the net effect of potential amended residential furnace standards on consumers by calculating the LCC savings and PBP for each household by efficiency level.

DOE performed the LCC and PBP analyses using a spreadsheet model

[1] Please see the March 2015 NOPR and the accompanying TSD for details, which are available at *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=62*.

[2] The shares in Table II.2 reflect the likelihood that some consumers would down-size a new furnace to meet the ''small furnace'' definition. See section II.C for discussion.

[3] DOE uses 5-year averages for metal materials and current prices for all other materials.

[4] U.S. Department of Energy: Energy Information Administration, Residential Energy Consumption Survey: 2009 RECS Survey Data (2013), available at: *http://www.eia.gov/consumption/residential/data/2009/* (last accessed July 29, 2015).

combined with Crystal Ball [5] to account for uncertainty and variability among the input variables. Each Monte Carlo simulation consists of 10,000 LCC and PBP calculations using input values that are either sampled from probability distributions and household samples or characterized with single point values. The analytical results include a distribution of 10,000 data points showing the range of LCC savings for a given efficiency level relative to the no-new-standards case efficiency distribution. In performing an iteration of the Monte Carlo simulation for a given consumer, product efficiency is chosen based on its probability. If the chosen product efficiency is greater than or equal to the efficiency of the standard level under consideration, the LCC and PBP calculation reveals that a consumer is not impacted by the standard level. By accounting for consumers who already purchase more-efficient products, DOE avoids overstating the potential benefits from increasing product efficiency.

1. Furnace Size Assignment

For the March 2015 NOPR, DOE assigned an input capacity for the existing furnace of each housing unit based on an algorithm that correlates the heating square footage and the outdoor design temperature for heating (*i.e.,* the temperature that is exceeded by the 30-year minimum average temperature 1 percent of the time) with the distribution of input capacity of furnaces.[6] DOE assumed that, for the new furnace installation, the input capacity would remain the same. DOE's analysis accounted for the typical over-sizing of furnace capacity (*i.e.,* the furnace is larger than it needs to be to fulfill the building heating load).

If there is a separate standard for small furnaces, DOE expects that some consumers who would otherwise install a typically-oversized furnace would choose to down-size in order to be able to purchase a non-condensing furnace. For the NODA analysis, DOE identified those sample households that might down-size at the considered small furnace definitions. DOE first determined if a household would install a non-condensing furnace with an input capacity greater than the small furnace size limit without amended standards. In the standards case, DOE assumed that a fraction of such consumers would down-size to the input capacity limit for small furnaces.

2. Energy Prices

For this NODA, DOE updated current energy prices and also the projection of future energy prices. Current average and marginal monthly energy prices are based on the latest data (2013 energy prices) from EIA (Form 861 data [7] to calculate commercial electricity prices, Natural Gas Navigator [8] to calculate commercial natural gas prices, and State Energy Data System [9] to calculate LPG prices). The update to 2013 energy prices had a very small impact on the LCC and PBP results.[10] Future energy prices are based on the projection of average annual percent change in national-average residential natural gas and electricity prices in the *Annual Energy Outlook 2015* (*AEO 2015*).

3. Other Updates

For this NODA, DOE updated the efficiency distribution in the no-new-standards case to reflect AHRI shipments data from 2010 to 2014.[11] The update resulted in decreased fraction of consumers being impacted by an efficiency standard requiring efficiencies of 90-percent AFUE and above.[12] DOE also made minor updates to the markups, product price trend, and the building shell efficiency and climate indexes used to adjust energy use. These are described in the LCC spreadsheet.

*D. National Impact Analysis*

The national impacts analysis (NIA) estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from potential new standards. DOE calculated NES and NPV as the difference between a case without amended standards and each standards case.

DOE calculated the annual energy consumption for each case using the appropriate per-unit annual energy use data multiplied by the projected residential furnaces shipments for each year. To estimate impacts of separate standards for small and large furnaces, DOE needed to disaggregate NWGF shipments by input capacity. To do so, DOE assumed that the shares of each size category in NWGF shipments are the same as the shares estimated for the household sample. The shares were assumed to remain constant over time.

Cumulative energy savings are the sum of the annual NES determined for the lifetime of furnaces shipped during a 30-year period assumed to start in the expected compliance year. Energy savings include the full-fuel cycle energy savings (*i.e.,* the energy needed to extract, process, and deliver primary fuel sources such as coal and natural gas, and the conversion and distribution losses of generating electricity from those fuel sources).

To develop the national NPV of consumer benefits from potential energy conservation standards, DOE calculated projected annual operating costs (energy costs and repair and maintenance costs) and annual installation costs for the no-new-standards case and the standards cases. DOE calculated annual energy expenditures from annual energy consumption using forecasted energy prices in each year. DOE calculated annual product expenditures by multiplying the price per unit times the projected shipments in each year.

The aggregate difference each year between operating cost savings and increased installation costs is the net savings or net costs. DOE multiplies the net savings in future years by a discount factor to determine their present value. DOE estimates the NPV of consumer benefits using both a 3-percent and a 7-percent real discount rate, in accordance with guidance provided by the Office of Management and Budget (OMB) to Federal agencies on the development of regulatory analysis.[13]

[5] Crystal Ball is a commercial software program developed by Oracle and used to conduct stochastic analysis using Monte Carlo simulation. A Monte Carlo simulation uses random sampling over many iterations of the simulation to obtain a probability distribution of results. Certain key inputs to the analysis are defined as probability distributions rather than single-point values.

[6] The distribution of input capacity is based on shipments data by input capacity bins for the year 2000 provided by AHRI (AHRI (formerly GAMA). Furnace and Boiler Shipments data provided to DOE for Furnace and Boiler ANOPR. January 23, 2002). AHRI data was further disaggregated into 5-kBtu/h bins using the reduced models dataset from the NOPR analysis. Appendix 7B of the NOPR TSD provides details about furnace sizing method.

[7] Energy Information Administration (EIA), Survey form EIA–861—Annual Electric Power Industry Report (Available at: *http://www.eia.gov/electricity/data/eia861/index.html*) (Last accessed July 15, 2015).

[8] Energy Information Administration (EIA), Natural Gas Navigator (Available at: *http://tonto.eia.doe.gov/dnav/ng/ng_pri_sum_dcu_nus_m.htm*) (Last accessed July 15, 2015).

[9] Energy Information Administration (EIA), State Energy Data System (SEDS) (Available at: *http://www.eia.gov/state/seds/*) (Last accessed July 15, 2015).

[10] For the NOPR, 2012 energy prices from the same sources were used.

[11] Air-Conditioning, Heating, and Refrigeration Institute. Personal communication. May 12, 2015. *http://www.regulations.gov/#!documentDetail;D=EERE-2014-BT-STD-0031-0052.*

[12] For the NOPR, the AHRI shipments data was not available and DOE instead relied on shipments data from the ENERGY STAR program to derive its estimates. Based on the AHRI shipments data, DOE's estimate of the condensing furnace market share in 2021 increased from 47-percent in the NOPR to 53-percent in the NODA.

[13] Office of Management and Budget, OMB Circular A–4, section E, Identifying and Measuring Benefits and Costs (2003), *available at http://www.whitehouse.gov/omb/memoranda/m03-21.html.*

For the NODA analysis, DOE updated energy price trends and several other inputs with data from *AEO 2015,* as described in the NIA spreadsheet.

## III. Results of the Analysis

### *A. Economic Impacts on Consumers*

As mentioned in section II.C, for each considered standards case, DOE measures the change in LCC relative to a no-new-standards case. For example, in the case of a separate standard of 90-percent AFUE for large furnaces and 80-percent AFUE for small furnaces, the analysis reflects the likelihood that some consumers would purchase a furnace at or above those efficiency levels without standards, and thus would not be affected by the standards. The average LCC savings in Table III.1 only include those consumers who would be affected at a given standard level.

Table III.2 shows the percentage of consumers that would experience a net cost under each considered standards case, and Table III.3 shows the percentage of consumers in the South that would experience a net cost.[14] For these consumers, the LCC would increase under the standard compared to the furnace they would purchase in no-new-standards case. As expected, the percentage of consumers that would experience a net cost declines as the definition of small furnace expands to include more furnaces.

TABLE III.1—AVERAGE LCC SAVINGS FOR ALTERNATIVE FURNACE STANDARD LEVEL COMBINATIONS

[2014$]

| Minimum AFUE (%) | | Average LCC savings (2014$) * | | | | |
|---|---|---|---|---|---|---|
| Large | Small | Small furnace definition (kBtu/hour) | | | | |
| | | ≤45 | ≤50 | ≤55 | ≤60 | ≤65 |
| 90 | 80 | $383 | $400 | $400 | $492 | $484 |
| 92 | 80 | 463 | 478 | 479 | 553 | 525 |
| 95 | 80 | 439 | 447 | 449 | 479 | 437 |
| 98 | 80 | 365 | 372 | 374 | 388 | 347 |

* The average LCC savings only include those consumers who would be affected at a given standard level.

TABLE III.2—SHARE OF ALL CONSUMERS EXPERIENCING A NET COST FOR ALTERNATIVE FURNACE STANDARD LEVEL COMBINATIONS

| Minimum AFUE (%) | | % of consumers experiencing a net cost | | | | |
|---|---|---|---|---|---|---|
| Large | Small | Small furnace definition (kBtu/hour) | | | | |
| | | ≤45 | ≤50 | ≤55 | ≤60 | ≤65 |
| 90 | 80 | 19 | 15 | 13 | 11 | 7 |
| 92 | 80 | 17 | 13 | 12 | 10 | 6 |
| 95 | 80 | 21 | 17 | 15 | 12 | 9 |
| 98 | 80 | 35 | 34 | 33 | 26 | 23 |

TABLE III.3—SHARE OF CONSUMERS IN THE SOUTH EXPERIENCING A NET COST FOR ALTERNATIVE FURNACE STANDARD LEVEL COMBINATIONS

| Minimum AFUE (%) | | % of consumers in the south experiencing a net cost | | | | |
|---|---|---|---|---|---|---|
| Large | Small | Small furnace definition (kBtu/hour) | | | | |
| | | ≤45 | ≤50 | ≤55 | ≤60 | ≤65 |
| 90 | 80 | 27 | 20 | 19 | 13 | 7 |
| 92 | 80 | 25 | 18 | 17 | 11 | 7 |
| 95 | 80 | 28 | 22 | 21 | 14 | 10 |
| 98 | 80 | 35 | 31 | 30 | 20 | 14 |

Table III.4 compares the key consumer economic impacts of a single standard for all furnaces to a separate standard for large and small furnaces.[15] Under a separate standard for large and small furnaces, the average LCC savings increase somewhat but the share of consumers with a net cost declines considerably. The impacts of a separate standard for large and small furnaces would vary depending on the small furnace definition. For example, if the definition was ≤60 kBtu/hour instead of ≤55 kBtu/hour, the difference between the single standard for all furnaces and separate standards for large and small furnaces would be greater than shown.

[14] The analysis used the same definition of the South region as the March 2015 NOPR.

[15] The results for a single standard for all furnaces differ slightly from the results in the March 2015 NOPR because of the input revisions discussed in section II. DOE believes that showing a direct comparison with the NOPR results would not serve the purpose of the NODA analysis.

TABLE III.4—COMPARISON OF CONSUMER IMPACTS OF SINGLE STANDARD VS. SEPARATE STANDARD FOR LARGE AND SMALL FURNACES *

| Single standard for all furnaces | | | Separate standard for large and small furnaces | | |
|---|---|---|---|---|---|
| AFUE (%) | Avg. LCC savings (2014$) | Share of consumers with net cost (%) | AFUE (%) large/small | Avg. LCC savings (2014$) | Share of consumers with net cost (%) |
| 90 | $347 | 20 | 90/80 | $400 | 13 |
| 92 | 425 | 18 | 92/80 | 479 | 12 |
| 95 | 420 | 22 | 95/80 | 449 | 15 |
| 98 | 343 | 41 | 98/80 | 374 | 33 |

* Using small furnace definition of ≤55 kBtu/hour.

Table III.5 and Table III.6 show a similar comparison for consumers in the south and low-income consumers, with similar results.[16]

TABLE III.5—COMPARISON OF IMPACTS FOR CONSUMERS IN THE SOUTH OF SINGLE STANDARD VS. SEPARATE STANDARD FOR LARGE AND SMALL FURNACES *

| Single standard for all furnaces | | | Separate standard for large and small furnaces | | |
|---|---|---|---|---|---|
| AFUE (%) | Avg. LCC savings (2014$) | Share of consumers with net cost (%) | AFUE (%) large/small | Avg. LCC savings (2014$) | Share of consumers with net cost (%) |
| 90 | $291 | 31 | 90/80 | $335 | 19 |
| 92 | 357 | 28 | 92/80 | 405 | 17 |
| 95 | 357 | 33 | 95/80 | 379 | 21 |
| 98 | 319 | 44 | 98/80 | 368 | 30 |

* Using small furnace definition of ≤55 kBtu/hour.

TABLE III.6—COMPARISON OF IMPACTS FOR LOW-INCOME CONSUMERS OF SINGLE STANDARD VS. SEPARATE STANDARD FOR LARGE AND SMALL FURNACES *

| Single standard for all furnaces | | | Separate standard for large and small furnaces | | |
|---|---|---|---|---|---|
| AFUE (%) | Avg. LCC savings (2014$) | Share of consumers with net cost (%) | AFUE (%) large/small | Avg. LCC savings (2014$) | Share of consumers with net cost (%) |
| 90 | $210 | 22 | 90/80 | $274 | 12 |
| 92 | 301 | 20 | 92/80 | 379 | 11 |
| 95 | 363 | 24 | 95/80 | 423 | 13 |
| 98 | 356 | 44 | 98/80 | 447 | 31 |

* Using small furnace definition of ≤55 kBtu/hour.

In the NOPR analysis, DOE estimated that some consumers faced with significant costs to install a condensing furnace would instead choose to switch to electric heating with a heat pump or electric furnace. If there were a separate, lower standard level for small furnaces, fewer consumers would be faced with installing a condensing furnace, and there would be less switching. Table III.7 shows this outcome.

TABLE III.7—COMPARISON OF FUEL SWITCHING IMPACTS OF SINGLE STANDARD VS. SEPARATE STANDARD FOR LARGE AND SMALL FURNACES *

| Single standard for all furnaces | | | Separate standard for large and small furnaces | | |
|---|---|---|---|---|---|
| AFUE (%) | Switch to heat pump (% of consumers) | Switch to electric furnace (% of consumers) | AFUE (%) large/small | Switch to heat pump (% of consumers) | Switch to electric furnace (% of consumers) |
| 90 | 6.7 | 3.0 | 90/80 | 2.9 | 1.8 |
| 92 | 6.9 | 3.1 | 92/80 | 3.0 | 1.9 |
| 95 | 8.3 | 3.5 | 95/80 | 3.9 | 2.3 |
| 98 | 11.7 | 4.2 | 98/80 | 6.5 | 2.8 |

* Using small furnace definition of ≤55 kBtu/hour.

[16] The results in Table III.6 overstate the percentage of low-income households that would actually be negatively impacted by proposed higher-efficiency furnace standards. Close to 60 percent of low-income households in RECS 2009 are either renters or residents of public housing. In these cases, the furnace would be purchased by the property owner, and the cost of a higher-efficiency furnace might be passed on over time in the rent (or perhaps not all in the case of public housing). DOE's current analysis assumes that in cases where the property owner does not pay for energy, the cost of a higher-efficiency furnace is passed on immediately, which would tend to overstate any negative impact.

*B. National Impacts*

The estimated national energy savings (full-fuel-cycle) of the considered combinations of minimum AFUE for large and small furnaces are shown in Table III.8.

Table III.9 and Table III.10 show the national NPV of benefits for alternative furnace standard level combinations at 7-percent and 3-percent discount rates, respectively. The national energy savings decrease as the small furnace definition expands.

TABLE III.8—NATIONAL ENERGY SAVINGS FOR ALTERNATIVE FURNACE STANDARD LEVEL COMBINATIONS

[Quads]

| Minimum AFUE (%) | | Small furnace definition (kBtu/hour) | | | | |
|---|---|---|---|---|---|---|
| Large | Small | ≤45 | ≤50 | ≤55 | ≤60 | ≤65 |
| 92 | 80 | 2.9 | 2.9 | 2.9 | 2.3 | 1.8 |
| 95 | 80 | 4.2 | 4.2 | 4.1 | 3.4 | 2.8 |
| 98 | 80 | 5.8 | 5.7 | 5.7 | 4.9 | 4.2 |

TABLE III.9—NATIONAL NET PRESENT VALUE OF BENEFITS FOR ALTERNATIVE FURNACE STANDARD LEVEL COMBINATIONS AT 7-PERCENT DISCOUNT RATE

[Billion 2014$]

| Minimum AFUE (%) | | Small furnace definition (kBtu/hour) | | | | |
|---|---|---|---|---|---|---|
| Large | Small | ≤45 | ≤50 | ≤55 | ≤60 | ≤65 |
| 92 | 80 | 3.1 | 3.5 | 3.5 | 3.0 | 2.4 |
| 95 | 80 | 4.2 | 4.6 | 4.6 | 4.2 | 3.6 |
| 98 | 80 | 3.8 | 4.4 | 4.4 | 4.6 | 4.0 |

TABLE III.10—NATIONAL NET PRESENT VALUE OF BENEFITS FOR ALTERNATIVE FURNACE STANDARD LEVEL COMBINATIONS AT 3-PERCENT DISCOUNT RATE

[Billion 2014$]

| Minimum AFUE (%) | | Small furnace definition (kBtu/hour) | | | | |
|---|---|---|---|---|---|---|
| Large | Small | ≤45 | ≤50 | ≤55 | ≤60 | ≤65 |
| 92 | 80 | 14.7 | 14.8 | 14.8 | 11.8 | 9.1 |
| 95 | 80 | 20.2 | 20.1 | 20.0 | 16.9 | 13.9 |
| 98 | 80 | 23.9 | 24.0 | 23.9 | 21.3 | 18.4 |

Table III.11 compares the national energy savings and NPV of a single standard for all furnaces vs. a separate standard for large and small furnaces. The national energy savings are higher in the case of a separate standard for large and small furnaces mainly because there is less switching from gas to electric heating.[17] The NPV is higher in the case of a separate standard for large and small furnaces mainly because the LCC savings are higher. The impacts of a separate standard for large and small furnaces would vary depending on the small furnace definition.

TABLE III.11—COMPARISON OF NATIONAL IMPACTS OF SINGLE STANDARD VS. SEPARATE STANDARD FOR LARGE AND SMALL FURNACES *

| Single standard for all furnaces | | | Separate standard for large and small furnaces | | |
|---|---|---|---|---|---|
| AFUE (%) | National energy savings (quads) | National net present value, 7% (billion 2014$) | AFUE (%) large/small | National energy savings (quads) | National net present value, 7% (billion 2014$) |
| 92 | 2.6 | 2.2 | 92/80 | 2.9 | 3.5 |
| 95 | 3.9 | 3.3 | 95/80 | 4.1 | 4.6 |
| 98 | 5.4 | 2.6 | 98/80 | 5.7 | 4.4 |

* Using small furnace definition of ≤55 kBtu/hour.

[17] In terms of FFC energy, switching from gas to electricity increases energy use considerably because of the losses in thermal electricity generation.

## IV. Submission of Comments

DOE will accept comments, data, and information regarding this analysis before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this document. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via *www.regulations.gov.* The *www.regulations.gov* Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

*Submitting comments via email, hand delivery/courier, or mail.* Comments and documents submitted via email, hand delivery/courier, or mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

*Confidential Business Information.* Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person that would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

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

**Kathleen B. Hogan,**

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

[FR Doc. 2015–23021 Filed 9–11–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–3628; Directorate Identifier 2015–NM–025–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede Airworthiness Directive (AD) 2012–12–04, which applies to certain The Boeing Company Model 737–300, –400, and –500 series airplanes. AD 2012–12–04 currently requires repetitive external detailed inspections and nondestructive inspections to detect cracks in the fuselage skin along the chem-mill steps at stringers S–1 and S–2R, between station (STA) 400 and STA 460, and repair if necessary. Since we issued AD 2012–12–04, we have determined that, for certain airplanes, the skin pockets adjacent to the Air Traffic Control (ATC) antenna are susceptible to widespread fatigue damage. This proposed AD would require a preventive modification of the fuselage skin at crown stringers S–1 and S–2R. This proposed AD would reduce inspection thresholds and repetitive intervals for certain airplanes. We are proposing this AD to detect and correct fatigue cracking of the fuselage skin panels at the chem-mill steps, which could result in sudden fracture and failure of the fuselage skin panels,

and consequent rapid decompression of the airplane.

**DATES:** We must receive comments on this proposed AD by October 29, 2015.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3628.

**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–2015–3628; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6447; fax: 425–917–6590; email: *wayne.lockett@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3628; Directorate Identifier 2015–NM–025–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

**Discussion**

On May 31, 2012, we issued AD 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012), for certain The Boeing Company Model 737–300, –400, and –500 series airplanes. AD 2012–12–04 requires repetitive external detailed inspections and nondestructive inspections to detect cracks in the fuselage skin along the chem-mill steps at stringers S–1 and S–2R, between station (STA) 400 and STA 460, and repair if necessary. AD 2012–12–04 resulted from reports of crack findings of the fuselage skin at the chem-mill steps. We issued AD 2012–12–04 to detect and correct fatigue cracking of the fuselage skin panels at the chem-mill steps, which could result in sudden fracture and failure of the fuselage skin panels, and consequent rapid decompression of the airplane.

**Widespread Fatigue Damage**

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as widespread fatigue damage (WFD). As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

**Actions Since AD 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012), Was Issued**

The preamble to AD 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012), specified that we considered the requirements ''interim action.'' AD 2012–12–04 explained that we might consider further rulemaking if final action is later identified. We now

have determined that it is necessary to initiate further rulemaking to require modification of the fuselage skin at crown stringers S–1 and S–2R, and to reduce inspection thresholds and repetitive intervals for certain airplanes.

**Related Service Information Under 1 CFR Part 51**

We reviewed Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015. The service information describes procedures for repetitive external detailed inspections and non-destructive inspections to detect cracks in the fuselage skin along the chem-mill steps at stringers S–1 and S–2R, between STA 400 and STA 460, and repair of any cracking. The service information also describes procedures for a modification of the chem-milled steps at the locations identified, including related investigative actions and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

**FAA's Determination**

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

**Proposed AD Requirements**

Although this proposed AD does not explicitly restate the requirements of AD 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012), this proposed AD would retain all of the requirements. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in this proposed AD. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between This Proposed AD and the Service Bulletin.'' For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3628.

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary action, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

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

**Explanation of Compliance Time**

The compliance time for the modification specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is modified before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

**Difference Between This Proposed AD and the Service Bulletin**

Although Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposed AD would require repairing those conditions in one of the following ways:

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

**Costs of Compliance**

We estimate that this proposed AD affects 186 airplanes of U.S. registry.

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

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Retained inspections from AD 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012). | Between 7 and 15 work-hours × $85 per hour, depending on airplane configuration = between $595 and $1,275 per inspection cycle. | $0 | Between $595 and $1,275 per inspection cycle. | Between $110,670 and $237,150 per inspection cycle. |
| New modification | 236 work-hours × $85 per hour = $20,060. | (1) | $20,060 | $3,731,160. |

[1] We currently have no specific cost estimates associated with the parts necessary for the proposed modification. We cannot determine the cost of the materials because the modification parts must be sized at the time the modification is installed, taking into account any existing repairs in the area.

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

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or

on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012), and adding the following new AD:

**The Boeing Company:** Docket No. FAA–2015–3628; Directorate Identifier 2015–NM–025–AD.

**(a) Comments Due Date**

The FAA must receive comments on this AD action by October 29, 2015.

**(b) Affected ADs**

This AD replaces AD 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012).

**(c) Applicability**

This AD applies to The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by reports of cracks found on the fuselage skin at the chem-mill steps, and the determination that, for certain airplanes, the skin pockets adjacent to the Air Traffic Control (ATC) antenna are susceptible to widespread fatigue damage. We are issuing this AD to detect and correct fatigue cracking of the fuselage skin panels at the chem-mill steps, which could result in sudden fracture and failure of the fuselage skin panels, and consequent rapid decompression of the airplane.

**(f) Compliance**

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

**(g) Inspections**

At the applicable time specified in tables 1, 2, 3, and 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, except as required by paragraphs (j)(1) and (j)(2) of this AD: Do the actions specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, except as required by paragraph (j)(3) of this AD. Repeat the applicable inspections thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015.

(1) Do an external detailed inspection for cracking of the fuselage skin chem-mill steps.

(2) Do an external non-destructive (medium frequency eddy current, magneto optical imaging, C-Scan, or ultrasonic phased array) inspection for cracking of the fuselage skin chem-mill steps.

**(h) Preventive Modification or Repair**

If any cracking is found during any inspection required by paragraph (g) of this AD, do the applicable actions specified in paragraph (h)(1) or (h)(2) of this AD.

(1) Repair before further flight in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015.

(2) At the applicable time specified in tables 1, 2, 3, and 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, except as required by paragraphs (j)(1) and (j)(2) of this AD: Do a preventive modification of the fuselage skin at crown stringers S–1 and S–2R, including all applicable related investigative actions in accordance with Part 9 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015. Do all applicable related investigative actions concurrently with the modification.

**(i) Post-Repair Inspections/Post-Modification Inspections**

The post-repair/post-modification inspections specified in tables 4 and 6 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, are not required by this AD.

**Note 1 to paragraph (h) of this AD:** The post-repair/post-modification inspections specified in tables 4 and 6 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, may be used in support of compliance with section 121.1109(c)(2) or 129.109(c)(2) of the Federal Aviation Regulations (14 CFR 121.1109(c)(2) or 14 CFR 129.109(c)(2)). The corresponding actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, are not required by this AD.

**(j) Exceptions to Service Bulletin Specifications**

(1) Where Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, specifies a compliance time ''after the Revision 3 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where the Condition column of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, specifies a condition based on when an airplane has or has not been inspected, this AD bases the condition on whether an airplane has or has not been inspected on the effective date of this AD.

(3) Where Boeing Alert Service Bulletin 737–53A1293, Revision 3, dated January 23, 2015, specifies to contact Boeing for repair instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

**(k) Credit for Previous Actions**

(1) This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before July 23, 2012 (the effective date of AD 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012)), using Boeing Alert Service Bulletin 737–53A1293, Revision 1, dated July 7, 2010, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–53A1293, Revision 2, dated August 10, 2011, which was incorporated by reference in AD 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012).

**(l) Alternative Methods of Compliance (AMOCs)**

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

(2) Before using any approved AMOC, notify your appropriate principal inspector,

or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(4) AMOCs approved for AD 2012–12–04, Amendment 39–17083 (77 FR 36134, June 18, 2012), are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

**(m) Related Information**

(1) For more information about this AD, contact Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6447; fax: 425–917–6590; email: *wayne.lockett@faa.gov.*

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

Issued in Renton, Washington, on September 1, 2015.

**Michael Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–22724 Filed 9–11–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2015–3361; Airspace Docket No. 15–AEA–4]**

**RIN 2120–AA66**

## Proposed Amendment of Air Traffic Service (ATS) Routes; Northeast United States

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify jet routes J–6, J–97, and J–222, and VOR Federal airways V–196, and V–489, in the northeastern United States due to the planned decommissioning of the Plattsburgh, NY, VORTAC facility.

**DATES:** Comments must be received on or before October 29, 2015.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2015–3361 and Airspace Docket No. 15–AEA–4 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the air traffic service route structure in the northeast United States to maintain the efficient flow of air traffic.

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2015–3361 and Airspace Docket No. 15–AEA–4) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2015–3361 and Airspace Docket No. 15–AEA–4.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA, 30337.

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

Rulemaking Distribution System, which describes the application procedure.

**Availability and Summary of Documents for Incorporation by Reference**

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

**The Proposal**

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify the descriptions of jet routes J–6, J–97 and J–222; and VOR Federal airways V–196 and V–489, due to the planned decommissioning of the Plattsburgh, NY, VORTAC. The proposed route changes are outlined below.

J6 Jet route J–6 extends from Salinas, CA, across the United States to Albany, NY, then terminates at Plattsburgh, NY. The FAA proposes to terminate the route at Albany, eliminating the segment between Albany and Plattsburgh.

J–97 Jet route J–97 extends between the SLATN fix and Plattsburgh, NY. The FAA proposes to terminate the route at Boston, MA, eliminating the segment between Boston and Plattsburgh.

J–222 Jet route J–222 extends between Robbinsville, NJ, and Plattsburgh, NY. The FAA proposes to terminate the route at Cambridge, NY, eliminating the segment between Cambridge and Plattsburgh.

V–196 VOR Federal airway V–196 extends from Utica, NY, to Saranac Lake, NY to Plattsburgh, NY. The FAA proposes to terminate the route at the intersection of the Saranac Lake, NY 058°(T) and the Burlington, VT 296°(T) radials, eliminating the segment between that intersection and Plattsburgh.

V–489 VOR Federal airway V–489 extends between the intersection of the Sparta, NJ 300°(T) and the Huguenot, NY 196°(T) radials and Plattsburgh, NY. The FAA proposes to terminate the route at Glens Falls, NY, eliminating the segment between Glens Falls and Plattsburgh.

Except for VOR Federal airway V–196, all radials in the route descriptions below are stated in True degrees. Both True and Magnetic degrees are used to describe the intersecting radials in V–196 since this intersection would be added to the airway description.

Jet routes are published in paragraph 2004, and VOR Federal airways are published in paragraph 6010(a), respectively, of FAA Order 7400.9Y dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The jet routes and VOR Federal airways listed in this document would be subsequently published in the Order.

**Regulatory Notices and Analyses**

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

**Environmental Review**

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

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

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

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

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

**§ 71.1 [Amended]**

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

*Paragraph 2004 Jet Routes*

* * * * *

**J–6 [Amended]**

From Salinas, CA, via INT Salinas 145° and Avenal, CA, 292° radials; Avenal; INT Avenal 119° and Palmdale, CA, 310° radials; Palmdale; Hector, CA; Needles, CA; Drake, AZ; Zuni, AZ; Albuquerque, NM; Tucumcari, NM; Panhandle, TX; Will Rogers, OK; Little Rock, AR; Bowling Green, KY; Charleston, WV; INT Charleston 076° and Martinsburg, WV, 243° radials; Martinsburg; Lancaster, PA; Broadway, NJ; Sparta, NJ; to Albany, NY.

**J–97 [Amended]**

From lat. 39°07′00″ N., long. 67°00′00″ W. via Nantucket, MA; to Boston, MA.

**J–222 [Amended]**

From Robbinsville, NJ; INT Robbinsville 039° and Kennedy, NY, 253° radials; Kennedy; INT Kennedy 022° and Cambridge, NY, 179° radials; to Cambridge.

* * * * *

*Paragraph 6010(a) Domestic VOR Federal Airways*

**V–196 [Amended]**

From Utica, NY, Saranac Lake, NY; to INT Saranac Lake 058°(T)/072°(M) and Burlington, VT 296°(T)311°(M) radials.

**V–489 [Amended]**

From INT Sparta, NJ, 300° and Huguenot, NY, 196° radials; Huguenot; INT Huguenot 008° and Albany, NY, 209° radials; Albany; to Glens Falls, NY.

Issued in Washington, DC, on September 3, 2015.

**Gary A. Norek,**

*Manager, Airspace Policy and Regulations Group.*

[FR Doc. 2015–22876 Filed 9–11–15; 8:45 am]

**BILLING CODE 4910–13–P**

## SOCIAL SECURITY ADMINISTRATION

## 20 CFR Part 404 and 416

**[Docket No. SSA–2014–0081]**

**RIN 0960–AH74**

## Vocational Factors of Age, Education, and Work Experience in the Adult Disability Determination Process

**AGENCY:** Social Security Administration.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** We are soliciting public input about how we should consider the vocational factors of age, education, and work experience in adult disability claims under titles II and XVI of the Social Security Act (Act). There have been significant changes in technology

use and workforce demographics since we first adopted our vocational factor regulations in 1978. We are requesting public comments, along with any supporting data, to assist in our efforts to streamline, simplify, and ensure the ongoing relevance of our disability determination programs.

**DATES:** To be sure that we consider your comments, we must receive them no later than November 13, 2015.

**ADDRESSES:** You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2014–0081, so that we may associate your comments with the correct regulation.

*Caution:* You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. Internet: We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the Search function to find docket number SSA–2014–0081. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. Fax: Fax comments to (410) 966–2830.

3. Mail: Address your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 3100 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

**FOR FURTHER INFORMATION CONTACT:** Mary Quatroche, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–4794. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

The Act defines ''disability'' for titles II and XVI as the ''inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.'' [1] The Act also states that ''[a]n individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), ''work which exists in the national economy'' means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.[2]

We use a five-step sequential evaluation process to determine whether an adult is disabled under the Act.[3] If we can make a determination or decision whether a claimant is disabled or not disabled at a step, we do not go on to the next step.[4] If we cannot make a determination or decision at a step, we continue to the next step in the sequential evaluation process.[5]

The vocational factors of age, education, and work experience are relevant at step 5 when we consider a claimant's capacity to adjust to other work. Specifically, at step 5 we consider whether a claimant's impairment(s) prevents him or her from doing any other work that exists in significant numbers in the national economy, considering his or her residual functional capacity (RFC) [6] and the vocational factors of age,[7] education,[8] and work experience.[9] If we find that the claimant does not have the capacity to adjust to other work that exists in significant numbers in the national economy, we find the claimant disabled. If we find that the claimant has the capacity to adjust to other work, we find the claimant not disabled. We do not consider an individual's ability to obtain work.[10]

To help make our step 5 determination, we use both the medical-vocational profiles (the profiles) [11] and the medical-vocational guidelines (the guidelines) when appropriate.[12] The profiles and the guidelines are based on several assumptions:

- We consider aging to be a limiting factor in a person's ability to adjust to other work.
- We consider higher levels of education and certain types of recent education to enhance a person's ability to adjust to other work.
- We consider that an individual who has done skilled or semi-skilled work may have acquired skills and abilities from that past work. Those acquired skills and abilities may be transferable to other work. Under our rules, unskilled work does not convey transferable skills to an individual.

**What is the purpose of this ANPRM?**

We are soliciting public comments along with supporting research and data about how vocational factors such as age, education, and work experience affect an individual's ability to adjust to other work that exists in the national economy. In addition to seeking public input on the specific questions below, we are also asking for public assistance to help identify research and data to assist us.

**What will we consider when we decide whether to propose revisions?**

We will consider the public comments in addition to other input, research, and data that we obtain through other methods. This ANPRM is one component of the our larger effort to collect information about how we consider the vocational factors of age, education, and work experience when we determine whether an individual can adjust to other work. We commissioned several studies and are examining how the vocational factors influence an individual's ability to adjust to doing new work. For your consideration while preparing your comments to this ANPRM, these studies are included in the References section of

[1] 42 U.S.C. 423(d)(1)(A) and 1382c(a)(3)(A); see also 20 CFR 404.1505(a) and 416.905(a).

[2] 42 U.S.C. 423(d)(2)(A) and 1382c(a)(3)(B).

[3] 20 CFR 404.1520(a)(4) and 416.920(a)(4).

[4] Id.

[5] Id.

[6] The RFC is the individual's maximum remaining ability to do sustained work activities in an ordinary work setting on a regular and continuing basis. See 20 CFR 404.1545 and 416.945.

[7] See 20 CFR 404.1520(a)(4)(v), 404.1563, 416.920(a)(4)(v), and 416.963.

[8] See 20 CFR 404.1520(a)(4)(v), 404.1564, 416.920(2)(4)(v), and 416.964.

[9] See 20 CFR 404.1520(a)(4)(v), 404.1565, 416.920(a)(4)(v), and 416.965.

[10] See 20 CFR 404.1566(c) and 416.966(c).

[11] See 20 CFR 404.1562 and 416.962 and POMS DI 25010.001.

[12] See 20 CFR part 404 Subpart P Appendix 2.

this notice, and are included in the docket folder for this rule at *http://www.regulations.gov*. In addition, we are undertaking outreach efforts to engage federal and private stakeholders, including the scientific community. We will consider the results of these information-gathering efforts collectively when we evaluate how to consider the vocational factors in determining whether an individual can adjust to other work.

**What should you comment about?**

When we determine whether an individual can adjust to other work, we consider an individual's functional capacities and limitations, the occupational base in the national economy, and the vocational factors of age, education, and work experience. We have ongoing activities related to each of these considerations. Although complementary, our activities related to functional limitations and the occupational base are independent and are occurring on separate timeframes from our effort on the vocational factors. Accordingly, we are narrowing the scope of this ANPRM to solicit public comments on only the vocational factors. We are not soliciting public comments on how we assess an individual's functional limitations. We are also not soliciting public comments in this notice on sources of occupational data we use at step 5, such as the Dictionary of Occupational Titles, because we are working with the Bureau of Labor Statistics (BLS) to test the collection of updated occupational information that we intend to use to develop a new occupational information system.[13]

Specifically, given today's work environment and advances in technology and medicine, we are seeking public input, research, and data about the following:

1. Is the factor of age predictive in determining an individual's ability to work or to adjust to other work? If it is predictive, what are the vocationally significant age milestones we should consider? If it is not predictive, what data support that assertion?

2. When determining if age affects an individual's ability to work or to adjust to other work, what other factors or combination of factors should we consider?

3. Does an individual's educational level affect an individual's ability to do work or to adjust to other work? If so, how? What data support the conclusion that an individual's educational level does or does not affect an individual's ability to do work or to adjust to other work? How does literacy affect an individual's ability to do work or adjust to other work?

4. Does the skill level of an individual's past work affect his or her ability to adjust to other work? If so, how? What data support the conclusion that the skill level of an individual's past work does or does not affect an individual's ability to do work or to adjust to other work? How does the skill level of an individual's past work considered along with an individual's educational level affect this adjustment?

5. Are there other vocational factors or combinations of vocational factors that we should consider when determining an individual's ability to do work or to adjust to other work?

**Will we respond to your comments?**

We will consider all relevant public comments we receive about this notice, but we will not respond directly to them. If we decide to propose specific revisions to the vocational factors we consider when we determine an individual's ability to do work or to adjust to other work, we will publish a notice of proposed rulemaking in the **Federal Register,** and you will have a chance to comment on any revisions we propose.

**References**

Library of Congress, ''Vocational Factors in the Social Security Disability Decision Process: A Review of the Literature'' (December 1998).

American Institutes for Research, ''The Impact of Age, Education, and Work Experience on Determining Eligibility for Social Security Disability Insurance: A Synthesis of Recent Literature'' (2000).

American Institutes of Research, ''Investigation of Non-Medical Factors Used in SSA's Medical-Vocational Process: A Research Review of Age, Education, and Skills as Related to SSA's Disability Determination Process'' (August 2002).

Mathematica Center for Studying Disability Policy, ''Vocational Factors in the Social Security Disability Determination Process: A Literature Review'' (July 2014) (available at: *http://www.mathematica-mpr.com/~/media/publications/pdfs/disability/drc_wp_2014–07_voc_factors_determinations.pdf*)

Social Security Administration, Office of Research, Evaluation, and Statistics, ''Evidence Synthesis: The Use of Vocational Factors in the Disability Determination Process'' (September 2014).

[13] You can find more information on this effort on the BLS Web site at *http://www.bls.gov/ors/*, and on our Web site at *http://www.ssa.gov/disabilityresearch/occupational_info_systems.html*.

**List of Subjects**

*20 CFR Part 404*

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

*20 CFR Part 416*

Administrative practice and procedure, Reporting and recordkeeping requirements, Social security.

Dated: July 30, 2015.

**Carolyn W. Colvin,**

*Acting Commissioner of Social Security.*

[FR Doc. 2015–22839 Filed 9–11–15; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### 33 CFR Part 334

### Gulf of Mexico, Apalachicola Bay, East Bay, St. Andrew Bay and St. Andrew Sound at Tyndall Air Force Base, Florida; Restricted Areas

**AGENCY:** U.S. Army Corps of Engineers, Department of Defense.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is proposing to amend its regulations by revising an existing restricted area regulation and establishing a new restricted area along portions of the Tyndall Air Force Base (AFB) facility shoreline that will be activated on a temporary basis. The duration of temporary restricted area activations will be limited to those periods where it is warranted or required by specific and credible security threats and will be inactive at all other times. The restricted area will be partitioned using 23 pairs of coordinates to facilitate quick geographic recognition. Tyndall AFB is surrounded on three sides by water with approximately 129 miles of unprotected coastline. This includes several areas where the lack of security or lack of restriction on access to these areas leaves Tyndall AFB personnel and resources vulnerable to unauthorized activities. This amendment is necessary to implement an enhanced threat security plan for Tyndall AFB which will allow temporary activation of one or more portions of the restricted area as necessary to provide the appropriate level of security required to address the specific and credible threat triggering

the need for activation. This proposal is an amended version of the proposal published in the **Federal Register** on May 9, 2013 (78 FR 27126).

**DATES:** Written comments must be submitted on or before October 14, 2015.

**ADDRESSES:** You may submit comments, identified by docket number COE–2013–0003, by any of the following methods:

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

*Email: david.b.olson@usace.army.mil.* Include the docket number, COE–2013–0003, in the subject line of the message.

*Mail:* U.S. Army Corps of Engineers, Attn: CECW–CO (David B. Olson), 441 G Street NW., Washington, DC 20314–1000.

*Hand Delivery/Courier:* Due to security requirements, we cannot receive comments by hand delivery or courier.

*Instructions:* Direct your comments to docket number COE–2013–0003. All comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through regulations.gov or email. The regulations.gov Web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through 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, we recommend 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 we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* For access to the docket to read background documents or comments received, go to *www.regulations.gov.* All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as 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.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922 or Mr. Edward Sarfert, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division, Pensacola Regulatory Office at 850–439–9533.

**SUPPLEMENTARY INFORMATION:**

## Executive Summary

External reviews of security at Tyndall AFB identified the lack of jurisdiction to respond to threats from the waterways as a major weakness. Tyndall AFB does not currently have the authority to restrict access to the shoreline of Tyndall AFB if needed to respond to a security threat. The purpose of this regulatory action is to establish a restricted area in the waters surrounding portions of Tyndall AFB that would only be activated on a temporary basis in response to specific and credible security threats. Additionally this amendment provides an administrative correction to the existing regulation at 33 CFR 334.660.

The Corps authority to establish the restricted area is Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3).

## Background

Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is proposing to revise the regulations at 33 CFR part 334 by establishing a restricted area in the waters surrounding Tyndall AFB. This amendment will allow the Installation Commander, Tyndall AFB to temporarily restrict the passage of persons, watercraft, and vessels in waters contiguous to this facility when a specific and credible security threat is identified, providing greater security for personnel and equipment during those periods. The administrative correction at 33 CFR 334.660(b)(3) will clarify who is responsible for enforcing the provisions of § 334.660.

This proposed rule replaces the proposed rule that was originally published in the May 9, 2013, issue of the **Federal Register** (78 FR 27126). The Corps received many comments on that proposed rule, and after those comments were fully considered, Tyndall AFB made substantial changes to its request for a new restricted area. Those changes are incorporated into this proposed rule.

## Procedural Requirements

a. *Review Under Executive Order 12866.* The proposed rule is issued with respect to a military function of the Department of Defense and the provisions of Executive Order 12866 do not apply.

b. *Review Under the Regulatory Flexibility Act.* This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (*i.e.,* small businesses and small governments). Tyndall AFB has approximately 129 miles of unprotected shoreline, including several areas where the lack of security or restriction on access leaves Tyndall AFB personnel and resources vulnerable to unauthorized activities. Therefore, the proposed restricted area regulation is necessary to implement an enhanced threat security plan for Tyndall AFB which will allow for the temporary activation of one or more portions of the restricted area as necessary to provide the appropriate level of security required to address the specific and credible threat triggering the need for the activation. The temporary restrictions in the proposed rule are also necessary to protect the public from potentially hazardous conditions that may develop as a result of military use of the area. When the restricted area is activated, small entities can continue to use the navigable waters surrounding Tyndall AFB that are outside of the restricted area. After considering the economic impacts of this proposed restricted area regulation on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. We are interested in the potential impacts of the proposed regulation on small entities and welcome comments on issues related to such impacts.

c. *Review Under the National Environmental Policy Act.* Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact on the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered.

d. *Unfunded Mandates Act.* This regulation does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104–4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this regulation.

**List of Subjects in 33 CFR Part 334**

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

## PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for part 334 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Revise § 334.660(b)(3) to read as follows:

**§ 334.660 Gulf of Mexico and Apalachicola Bay south of Apalachicola, Fla., Drone Recovery Area, Tyndall Air Force Base, Fla.**

* * * * *

(b) * * *

(3) The federal regulations in this section shall be enforced by the Installation Commander, Tyndall Air Force Base, Florida, and such other agencies as he/she may designate.

■ 3. Add § 334.665 to read as follows:

**§ 334.665 East Bay, St. Andrew Bay and St. Andrew Sound, enhanced threat restricted area, Tyndall Air Force Base, Florida.**

(a) *The area.* (1) The coordinates provided herein are approximations obtained using a commercial mapping program which utilizes Simple Cylindrical projection with a WGS84 datum for its imagery base and imagery dated February 15 and May 3, 2014.

(2) Each portion of the temporary restricted area described in paragraphs (a)(4)(i) through (xxiii) of this section shall encompass all navigable waters of the United States as defined at 33 CFR part 329 within the area described and includes all contiguous inland navigable waters which lie within the land boundaries of Tyndall AFB.

(3) Because of the dynamic nature of these geographic features near barrier islands, the coordinate points provided may not reflect the current situation regarding the location of a point at the mean high water line or 500 feet waterward of the mean high water line. Even if the landform has shifted through erosion or accretion, the intent of the area description will be enforced from the existing point at the mean high water line that is closest to the shoreline point provided herein out to a point located 500 feet waterward of the mean high water line.

(4) The restricted area will be partitioned using 23 pairs of coordinates to facilitate quick geographic recognition. The first point in each pair of coordinates is located on the shoreline, and the second point is a point 500 feet waterward of the shoreline. From the first point in each pair of coordinates, a line meanders irregularly following the shoreline and connects to the first point in the next pair of coordinates. From the second point in each pair of coordinates, a line beginning 500 feet waterward of the shoreline meanders irregularly following the shoreline at a distance of 500 feet waterward of the shoreline and connects to the second point in the next pair of coordinates. The restricted area shall encompass all navigable waters of the United States as defined at 33 CFR part 329 within the area bounded by lines connecting each of the following pairs of coordinates:

(i) *Farmdale Bayou:* 30°1.156′ N., 85°26.915′ W. to 30°1.238′ N., 85°26.915′ W.

(ii) *Baker Bayou:* 30°1.325′ N., 85°29.008′ W. to 30°1.402′ N., 85°28.977′ W.

(iii) *Blind Alligator Bayou:* 30°2.094′ N., 85°29.933′ W. to 30°2.151′ N., 85°29.864′ W.

(iv) *Little Oyster Bay Point:* 30°3.071′ N., 85°30.629′ W. to 30°3.133′ N., 85°30.568′ W.

(v) *Goose Point South:* 30°3.764′ N., 85°31.874′ W. to 30°3.719′ N., 85°31.795′ W.

(vi) *Goose Point North:* 30°4.599′ N., 85°31.577′ W. to 30° 4.650′ N., 85°31.503′ W.

(vii) *Little Cedar Lake:* 30°4.974′ N., 85°33.476′ W. to 30° 5.024′ N., 85°33.401′ W.

(viii) *Chatters on Bayou:* 30°5.729′ N., 85°34.632′ W. to 30°5.811′ N., 85°34.625′ W.

(ix) *Fred Bayou:* 30° 5.992′ N., 85°35.296′ W. to 30°6.071′ N., 85°35.325′ W.

(x) *Pearl Bayou:* 30°6.039′ N., 85°36.651′ W. to 30°6.043′ N., 85°36.557′ W.

(xi) *Military Point:* 30°7.394′ N., 85°37.153′ W. to 30°7.459′ N., 85°37.096′ W.

(xii) *Freshwater Bayou:* 30°7.425′ N., 85°38.655′ W. to 30°7.473′ N., 85°38.578′ W.

(xiii) *Smack Bayou:* 30°7.826′ N., 85°39.654′ W. to 30°7.838′ N., 85°39.560′ W.

(xiv) *Redfish Point:* 30°8.521′ N., 85°40.147′ W. to 30°8.598′ N., 85°40.113′ W.

(xv) *Davis Point:* 30°7.348′ N., 85°41.224′ W. to 30°7.364′ N., 85°41.317′ W.

(xvi) *Tyndall Marina:* 30°5.827′ N., 85°39.125′ W. to 30°5.762′ N., 85°39.184′ W.

(xvii) *Heritage Bayou:* 30°3.683′ N., 85°35.823′ W. to 30°3.743′ N., 85°35.887′ W.

(xviii) *NCO Beach North:* 30°4.209′ N., 85°37.430′ W. to 30°4.272′ N., 85°37.368′ W. The restricted Area will end on the west side of the land bridge that extends into Shell Island. The Restricted Area resumes on the east side of the land bridge that extends into St. Andrew Sound.

(xix) *St. Andrew Sound west:* 30°1.327′ N., 85°33.756′ W. to 30°1.377′ N., 85°33.681′ W.

(xx) *St. Andrew Sound northwest:* 30° 1.921′ N., 85° 33.244′ W to 30°1.869′ N., 85°33.317′ W.

(xxi) *St. Andrew Sound northeast:* 30°0.514′ N., 85°31.558′ W to 30°0.452′ N., 85°31.619′ W.

(xxii) *Wild Goose Lagoon:* 29°59.395′ N., 85°30.178′ W. to 29°59.319′ N., 85°30.216′ W.

(xxiii) *Crooked Island North:* 29°59.003′ N., 85°30.396′ W. to 29°59.082′ N., 85°30.371′ W.

(b) *The regulations.* (1) Unless one or more portions of the restricted area identified in (a)(4)(i) through (xxiii) of this section is activated, all persons, vessels and other craft are permitted access to all of the navigable waters described in paragraph (a) of this section.

(2) During times when the restricted area defined in paragraphs (a)(4)(i) through (xxiii) of this section is not active, U.S. Air Force boat patrols may operate in the waters adjacent to Tyndall AFB's shoreline to observe the shoreline in order to identify any threats to the installation or personnel. U.S. Air

Force personnel will not have any authority to enforce federal, local or state laws on the water.

(3) Due to the nature of security threats, restricted area activation may occur with little advance notice. Activation will be based on local or national intelligence information related to threats against military installations and/or resources common to Tyndall AFB in concert with evaluations conducted by the Tyndall AFB Threat Working Group and upon direction of the Installation Commander, Tyndall AFB. The Installation Commander activates only those portions of the restricted area identified in paragraphs (a)(4)(i) through (xxiii) of this section necessary to provide the level of security required in response to the specific and credible threat(s) triggering the activation. The duration of activation for any portion(s) of the restricted area defined in paragraph (a) of this section, singularly or in combination, will be limited to those periods where it is warranted or required by security threats. Activated portions of the restricted area will be reevaluated every 48 hours to determine if the threat(s) triggering the activation or related threats warrant continued activation. The activated portion(s) of the restricted area expire if no reevaluation occurs or if the Installation Commander determines that activation is no longer warranted.

(4) Public notification of a temporary restricted area activation will be made via marine VHF broadcasts (channels 13 and 16), local notices to mariners, local news media through Air Force Public Affairs notifications and by on-scene installation personnel. On-scene installation personnel will notify boaters in the restricted area of the restriction and tell them that if they refuse to leave the area they will be trespassing and could be subject to prosecution.

(5) During times when the Installation Commander activates any portion(s) of the temporary restricted area defined in paragraph (a) of this section all entry, transit, drifting, anchoring or attaching any object to the submerged sea-bottom within the activated portion(s) of the restricted area is not allowed without the written permission of the Installation Commander, Tyndall AFB, Florida or his/her authorized representative. Previously affixed mooring balls established to support watercraft during intense weather conditions (*i.e.,* tropical storms, hurricanes, etc.) may remain within the activated portion(s) of the restricted area, however watercraft should not be anchored to the mooring balls without the permission of the Installation Commander, Tyndall AFB, Florida or his/her authorized representative.

(c) *Enforcement.* The regulations in this section shall be enforced by the Installation Commander, Tyndall AFB and/or such persons or agencies as he/she may designate.

Dated: September 4, 2015.

**Edward E. Belk, Jr.,**

*Chief, Operations and Regulatory Division, Directorate of Civil Works.*

[FR Doc. 2015–23030 Filed 9–11–15; 8:45 am]

**BILLING CODE 3710–58–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R08–OAR–2015–0493; FRL–9933–90–Region 8]**

### Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to Common Provisions and Regulation Number 3; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing approval of State Implementation Plan (SIP) revisions submitted by the State of Colorado on March 31, 2010, May 16, 2012, and May 13, 2013. The revisions are to Colorado Air Quality Control Commission (Commission) Regulation Number 3, Parts A, B, and D and Common Provisions Regulation. The revisions include administrative changes to permitting requirements for stationary sources, updates to the fine particulate matter less than 2.5 microns in diameter ($PM_{2.5}$) implementation rules related to the federal New Source Review (NSR) Program, changes to address previous revisions to Air Pollutant Emission Notice (APEN) regulations that EPA disapproved or provided comments on, revisions to definitions, and minor editorial changes. Also in this action, EPA is proposing to correct a final rule pertaining to Colorado's SIP published on April 24, 2014. In our April 24, 2014 action, regulatory text and corresponding ''incorporation by reference'' (IBR) materials were inadvertently excluded for (1) greenhouse gas permitting revisions to the Common Provisions Regulation, and (2) minor editorial changes to the Common Provisions Regulation and Parts A, B, and D of Regulation Number 3 (adopted October 10, 2010). This action is being taken under section 110 of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before October 14, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2015–0493, by one of the following methods:

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

*Instructions:* Direct your comments to Docket ID No. EPA–R08–OAR–2015–0493. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. 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 comments, go to section I, General Information, of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *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 Air 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:** Jaslyn Dobrahner, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6252, *dobrahner.jaslyn@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*What should I consider as I prepare my comments 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 comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register**, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and
- Make sure to submit your comments by the comment period deadline identified.

## II. Background

A. On March 31, 2010 the State of Colorado submitted a SIP revision containing amendments to the Common Provisions Regulation sections I.A., I.B., I.C., I.D., I.E., I.F., I.G., II.B., II.C., II.E., II.H. and II.J. The amendments update the definition of ''negligibly reactive volatile organic compound,'' add clarification to the definition of ''volatile organic compound,'' and make minor editorial changes. The Commission adopted the amendments on December 17, 2009 (effective January 30, 2010).

B. On May 16, 2012 the State submitted a SIP revision containing amendments to Regulation Number 3, Parts A, B and D. The amendments modify the permitting requirements for stationary sources in Colorado by: (1) Incorporating into state regulations changes to the federal NSR Program related to the $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS); (2) revising state regulations to address past rule revisions that were disapproved or commented on by EPA; (3) deferring permitting requirements for biogenic sources of carbon dioxide emissions to ensure consistency with federal greenhouse gas permitting requirements; and (4) making miscellaneous revisions and minor editorial changes. The Commission adopted the amendments on October 20, 2011 (effective December 15, 2011).

C. On May 13, 2013 Colorado submitted a SIP revision containing amendments to Regulation Number 3, Parts A, B and D. The amendments make administrative revisions to the permitting requirements for stationary sources in Colorado and make minor editorial changes. The Commission adopted the amendments on December 20, 2012 (effective February 15, 2013).

D. On April 24, 2014 EPA published a final rule (79 FR 22772) in the **Federal Register** approving Colorado's May 25, 2011 SIP revisions to the Common Provisions Regulation related to greenhouse gas and minor editorial changes to the Common Provisions Regulation and Regulation Number 3 Parts A, B and D (adopted October 10, 2010). This action includes regulatory text and IBR material intended to be a part of EPA's April 24, 2014 final rule but inadvertently excluded.

## III. EPA's Review of the State of Colorado's March 31, 2010; May 16, 2012; and May 13, 2013 Submittals, and Regulatory Text/IBR Correction

We evaluated Colorado's March 31, 2010, May 16, 2012 and May 13, 2013 submittals regarding revisions to the State's Common Provisions Regulation and Regulation Number 3, Parts A, B and D. We propose to approve some of the revisions and not act on others.

*A. March 31, 2010 SIP Submittal*

The State's March 31, 2010 SIP submittal contained amendments to the Common Provisions Regulation and includes the following types of amendments to the State's air quality rules: Adding compounds to the definition of ''negligibly reactive volatile compounds'' (NRVOC) and clarifying NRVOC and volatile organic compound (VOC) testing methodologies within the definition of ''volatile organic compound.'' In addition, the State subsequently requested [1] a revision to the definition of ''incinerator.'' The revisions also make minor editorial changes.

EPA's policy is that compounds of carbon with a negligible level of reactivity need not be regulated to reduce ozone (42 FR 35314). EPA determines whether a given carbon compound has ''negligible'' reactivity by comparing the compound's reactivity to the reactivity of ethane. EPA lists these compounds in its regulations at 40 CFR 51.100(s), and excludes them from the definition of a ''VOC.'' The chemicals on this list are often called ''negligibly reactive.'' EPA may periodically revise the list of negligibly reactive volatile compounds or NRVOCs to add or delete compounds from the list. In its March

[1] Refer to docket #EPA–R08–OAR–2015–0493 for documentation.

31, 2010 submission, the State adds the following compounds: ''(1)1, 1, 1, 2, 2, 3, 4, 5, 5, 5, -decafluoro-3-methoxy-4-trifluoromethyl-pentane'' [2]; ''Propylene carbonate''; and ''Dimethyl carbonate,'' as well as the common names or chemical structure: ''n-$C_3F_7OCH_3$, HFE–7000''; ''HFE–7500''; ''HFC 227ea''; ''$HCOOCH_3$''; and ''HFE–7300'' to the list of NRVOCs. Subsequent to the March 31, 2010 submission, the State also requested [3] to add ''1, 1, 1, 2, 2, 3, 3, -heptafluoro-3-methoxy-propane''; ''3-ethoxy-1, 1, 1, 2, 3, 4, 4, 5, 5, 6, 6, 6-dodecafluoro-2(trifluoromethyl)hexane''; ''1, 1, 1, 2, 3, 3, 3-heptafluoropropane''; and ''Methyl formate'' to the list of NRVOCs [4] in section I.G. EPA is proposing to approve these additions to the State's Common Provisions Regulation list of NRVOCs per our earlier actions (72 FR 2193; 74 FR 3437; 78 FR 9823) updating EPA's listing of organic compounds determined to have negligible photochemical reactivity at 40 CFR 51.100(s)(1).

The March 31, 2010 revision to the Common Provisions Regulation also revises the definition of ''VOC'' to include test methods specified in the State's SIP, a Title V Permit, 40 CFR part 51, subpart I or appendix S, and 40 CFR part 52. In accordance with 40 CFR 51.100(s)(2) and (4), EPA proposes to approve revisions to the definition of ''VOC'' in section I.G. of the Common Provisions Regulation.

In addition to modifying the definitions of NRVOC and VOC, the State also subsequently requested revisions to the definition of ''incinerator'' in section I.G. The revisions exclude from the definition of ''incinerator'' devices commonly called Air Curtain Destructors used to burn 100% wood waste, clean lumber, or yard waste generated as a result of projects to reduce the risk of wildfire and not operated at a commercial or industrial facility. The revisions also state that any air curtain destructor (also called air curtain incinerator in the federal rule) subject to 40 CFR part 60 incinerator requirements are also considered incinerators under the State's revised Common Provisions Regulation definition of ''incinerator'' per EPA's final rule (70 FR 74870) for New Source Performance Standards (NSPS) for new and existing ''other'' solid waste incineration units. We propose to approve these revisions.

The March 2010 submittal also makes minor editorial revisions to the Common Provisions Regulation. We are proposing to approve the minor editorial revisions in sections I.A., I.B., I.C., I.D., I.E., I.F., I.G., II.B., II.C., II.E.2. and II.H as shown in Table 1. We are not acting on the minor editorial revisions in II.J. as they are either already in the approved SIP or in sections that EPA previously disapproved (Table 2). Also, we note that the March 31, 2010 submittal is missing a quotation mark in Section I.B. and contains the incorrect abbreviation for ''microgram'' in Section I.F. The State is aware of these errors and will make the necessary corrections in a future submittal.[5]

Finally, the March 31, 2010 submission contains text not currently in the Common Provisions section of the SIP yet also not identified by the State as a revision. This text includes the addition of ''Tertiary Butyl Acetate (2-Butanone)'' to the list of NRVOCs in section I.G. as well as the last sentence in the definition of ''VOC'' regarding tertiary butyl acetate as a VOC for the purposes of photochemical dispersion monitoring. On November 29, 2004 (69 FR 69298), EPA revised its definition of VOC to exclude tertiary butyl acetate for purposes of VOC emissions limitations or VOC content requirements; however, tertiary butyl acetate continues to be a VOC for purposes of all recordkeeping, emissions reporting, and inventory purposes as reflected in 40 CFR 51.100(s)(1) and (s)(5). Therefore, EPA is not including these State additions with our proposed approval of IBR material.

*B. May 16, 2012 SIP Submittal*

The State's May 16, 2012 SIP submittal includes the following types of amendments to Regulation Number 3, Parts A, B and D: Revisions to State permitting requirements for stationary sources to incorporate changes to the federal NSR Program related to $PM_{2.5}$; revisions to address past rule revisions that were disapproved or commented on by EPA; and deferral of the permitting requirements for biogenic sources of carbon dioxide emissions to ensure consistency with federal greenhouse gas permitting requirements. The revisions also make several miscellaneous changes along with minor editorial changes.

The May 16, 2012 submittal incorporates into Regulation Number 3, Parts A, B and D changes to the federal NSR Program related to the $PM_{2.5}$ NAAQS. Specifically, the State revised the definition of ''criteria pollutants'' to address $PM_{2.5}$ precursors in Part A (I.B.17.) and revised the definition of ''significant'' to address $PM_{2.5}$ in Part D (II.A.42.). We are proposing to approve both of these revisions to definitions to address $PM_{2.5}$. In addition, the State incorporated portions of 40 CFR 51.165(a)(9)(i)–(iv) into the State's Requirements Applicable to Nonattainment Areas for Major Sources in Part D of Regulation Number 3 (V.A.3.). This section describes the emissions offsets and emissions offset ratios required prior to the date of commencement of operations. We are proposing to approve this revision. We are also proposing to approve the State's revision to the Table of Significance Levels for nonattainment areas in section VI.D.2. of Part D to address $PM_{2.5}$. Finally, the State added $PM_{2.5}$ increments to their ambient air increments in section X.A.1. of Part D and added $PM_{2.5}$ increments to their Class I variances maximum allowable increases in section XIII.D. of Part D. These revisions align with 40 CFR 52.21(b)(58)(c) and 52.21(p)(5), respectively, and we therefore propose to approve these revisions.

The State also revised the definition of ''Subject to Regulation'' in Part A of Regulation Number 3 in their May 16, 2012 submittal. In section I.B.44.b.(i) the State added language to instruct how to compute greenhouse gas emissions to exclude carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms. This addition is consistent with EPA's biogenic deferral regulation found at 40 CFR 52.21(b)(49)(a)(ii); therefore, we are proposing to approve the revision.

The May 16, 2012 submission also makes revisions to Regulation Number 3, Part B based on EPA's comments on previous actions (76 FR 6331; 79 FR 8632). These revisions include reverting back to previously approved SIP exemption language for stationary internal combustion engines that have uncontrolled actual emissions of less than five tons per year for construction permit requirements (II.D.1.c.) [6] and clarifying exemptions associated with oil and gas produced wastewater

[2] In 78 FR 9823, EPA amended its definition of VOC at 40 CFR 51.100(s) to make for clarity technical corrections to the current list of exempt compounds at 40 CFR 51.100(s)(1) by removing the erroneous ''(1)'' notation in ''(1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300)'' so that it reads ''1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300).''

[3] Refer to docket #EPA–R08–OAR–2015–0493 for documentation.

[4] Refer to docket #EPA–R08–OAR–2015–0493 for documentation.

[5] Refer to docket #EPA–R08–OAR–2015–0493 for documentation.

[6] EPA inadvertently approved a previous version in 79 FR 8632.

impoundments (II.D.1.m). We are proposing to approve these revisions.

Within section VI.B.3. of Part D of the May 16, 2012 submittal, the State revised the $PM_{10}$ surrogate policy for $PM_{2.5}$ based on EPA's previous conclusions that $PM_{2.5}$ implementation issues had been resolved to a degree sufficient for all federal Prevention of Significant Deterioration (PSD) permit reviews to begin direct $PM_{2.5}$ based assessments as of July 15, 2008. In a letter[7] dated January 13, 2011 the State clarified their position on the use of $PM_{10}$ as a surrogate for $PM_{2.5}$ ''. . . (CDPHE) now commits to implement $PM_{2.5}$ standards consistent with EPA's latest interpretation of federal case law relevant to the use of the $PM_{10}$ Surrogate Policy . . .'' We are proposing to approve this revision, and in doing so, note that as announced in our May 2008 rulemaking to implement preconstruction review provisions for the 1997 $PM_{2.5}$ NAAQS in both attainment and nonattainment areas (73 FR 28321), the 1997 $PM_{10}$ Surrogate Policy ended on May 16, 2011 and can no longer be used for any pending or future State PSD permits.

Also regarding the May 16, 2012 submittal, we are proposing to take no action on several of the State's revisions related to $PM_{2.5}$ implementation in Part D of Regulation Number 3, including section II.A.26.d. describing net emissions increases for $PM_{2.5}$, the introductory paragraph of VI.A.2. and VI.A.2.c. that provide impact levels for $PM_{2.5}$, and VI.B.3.a.(iii) $PM_{2.5}$ monitoring exemption of 4 micrograms/cubic meter over a 24-hour average. We are proposing to not act on these revisions in part due to the January 22, 2013 United States Court of Appeals for the District of Columbia Circuit vacatur of the significant impact levels for $PM_{2.5}$ for attainment areas. Since we are proposing to not take action on the $PM_{2.5}$ monitoring exemption level found at VI.B.3.a.(iii), we also propose to not take action on VI.B.3.d. In absence of a revision to include a $PM_{2.5}$ monitoring exemption level in VI.B.3.a.(iii), $PM_{2.5}$ would be removed from the list of pollutants with monitoring exemption levels contained in VI.B.3.a., therefore exempting $PM_{2.5}$ from monitoring levels completely if we approved VI.B.3.d.

We are also proposing to take no action on several revisions contained in the May 16, 2012 submittal to Definitions in Part D of Regulation Number 3 to address $PM_{2.5}$ in the Baseline Area (II.A.5.a.), Major Source Baseline Date (II.A.23.), Minor Source Baseline Date (II.A.25.) and Regulated NSR Pollutant (II.A.38.) definitions because we already approved these revisions in our September 23, 2013 (78 FR 58186) action. In section II.A.23.c. of Part D, the State also revised the major source baseline date for $PM_{2.5}$ to October 20, 2011. This date is incorrect; the correct major source baseline date for $PM_{2.5}$ is October 20, 2010. In the May 13, 2013 submittal, also part of this action, the State revises the date back to October 20, 2010. The May 13, 2013 submittal supersedes the May 16, 2012 submittal; however, since the current approved SIP already contains the correct date, we are proposing to take no action on either revision.

Additionally, the May 16, 2012 submission addresses EPA's final action on October 3, 2011 (76 FR 61054) partially approving and partially disapproving Colorado's SIP revisions in Regulation Number 3, Part A to Air Pollutant Emission Notice (APEN) and permitting exemptions submitted to EPA in September 1997, June 2003, July 2005, August 2006, and August 2007. In the October 3, 2011 action, EPA partially disapproved APEN exemptions for open burning,[8] mobile sources, stationary internal combustion engines, emergency generators, deaerator/vacuum pump exhaust, and air curtain destructors. In today's action, we are proposing to approve revisions to the open burning APEN requirements (II.D.1.q.) in Regulation Number 3, Part A changing the reference regulation from ''9,'' which is not part of Colorado's SIP, to ''1,'' which is part of Colorado's SIP and clarifying the mobile source APEN (II.D.1.ppp.). Additionally, we are proposing to approve revisions made to the surface water impoundment APEN exemption (II.D.1.uuu.) to include gas production wastewater in addition to oil production wastewater. We are proposing no action on the State's removal of APENs related to stationary internal combustion engines (II.D.1.sss.), emergency power generators (II.D.1.ttt.), deaerator/vacuum pump exhaust (II.D.1.xxx.), and air curtain destructors (II.D.1.ffff.) as these provisions were not approved into the SIP. Finally, we are proposing no action on revisions to identify sections I.B.31.c,[9] and I.B.31.d. as ''State-only Requirements'' since these are also not part of the SIP.

Finally, the May 16, 2012 submission contains miscellaneous revisions to Parts A, B and D of Regulation Number 3. In Part A, the State clarified the significance level for VOC and $NO_X$ for APEN reporting purposes (II.C.2.b.(ii)). In Part B, section III.G.1., the State changed the timing an applicant must provide notice to the State upon commencement of operation of a source from 30 days prior to startup to 15 days following startup. This revision aligns with 40 CFR 60.7(a)(3) Standards of Performance for New Stationary Sources, Notification and Record Keeping. In Part D, revisions include a correction[10] to move the creditable emissions documentation from II.A.26.d. to II.A.26.c.(iii), remove ''total suspended particulate matter'' and add $NO_X$ as a precursor to ozone for consistency with federal significant monitoring concentrations requirements in VI.B.3.a.(iii) and VI.B.3.c., respectively. We propose to approve these revisions in addition to minor editorial changes found throughout Parts A, B and D of Regulation Number 3 with exceptions noted in Table 2 because the revisions the State is requesting are already in the SIP.

*C. May 13, 2013 SIP Submittal*

The State's May 13, 2013 SIP submittal contains amendments to Regulation Number 3 Parts A, B and D and includes administrative revisions to permitting requirements for stationary sources in Colorado and minor editorial changes. The State also updated where materials incorporated by reference are available for public inspection by adding an online web address and deleting reference to the State Publications Depository and Distribution Center in section I.A.

Revisions to section VI.B.5. in Part A of the May 13, 2013 submittal allow the State to issue construction permits prior to receipt of permit processing fees and provide for the option to revoke the permit or assess late fees if such fees are not paid within 90 days of the written request for fees. The purpose of the revisions are to allow applicants to commence construction during the invoicing and payment process; the revisions will not negatively impact permit applicants who pay their permit processing fees on time. A revision to section III.C.1.a. in Part B of the May 13, 2013 submittal clarifies the inclusion of sources in attainment/maintenance areas in the determination of sources

[7] Refer to *January 2011 letter from state_Colorado's Position on the Use of $PM_{10}$ as a Surrogate for $PM_{2.5}$, Relevant to Both the $PM_{2.5}$ Implementation Rules and Interstate Transport* in docket #EPA–R08–OAR–2015–0493 for documentation.

[8] EPA inadvertently approved a previous version in 79 FR 8632.

[9] EPA inadvertently approved a previous version in 79 FR 8632.

[10] Refer to docket #EPA–R08–OAR–2015–0493 for documentation.

subject to public comment. Finally, revisions to Part D of the May 13, 2013 submittal include deleting language EPA previously disapproved (79 FR 8632) in the introductory text for Major Modifications in section II.A.22.[11] and Representative Actual Annual Emissions sections II.A.40.5 and II.A.40.5(a) as well as deleting the associated II.A.40.5(b).[12]

EPA is proposing to approve the revisions in the May 13, 2013 submittal to Parts A, B and D of Regulation Number 3 as well as the minor editorial changes contained throughout, except for sections II.A.22., II.A.40.5 (introductory paragraph), and II.A.40.5(a) in Part D because these are not in the current SIP and the other exceptions noted in Table 2. We are not acting on some of the provisions as listed in Table 2, because they are State-only provisions or because they are not applicable to the current SIP.

*Proposed Correction*

In our final rule published in the **Federal Register** on April 24, 2014 (79 FR 22772) we inadvertently did not include regulatory text and corresponding IBR materials for our approvals to (1) greenhouse gas permitting revisions to Common Provisions Regulation, and (2) minor editorial changes to the Common Provisions Regulation and Parts A, B and D of Regulation Number 3 (adopted October 10, 2010). EPA is proposing to correct this error with today's action. The IBR material for our April 24, 2014 action is contained within this docket.

## IV. What action is EPA taking?

For the reasons expressed above, EPA is proposing to approve revisions to sections I.A., I.B., I.C., I.D., I.E., I.F., I.G., II.B., II.C., II.E.2. and II.H of the State's Common Provisions Regulation from the March 31, 2010 submittal as shown in Table 1 below. We also propose to approve revisions to Parts A, B and D of the State's Regulation Number 3 from the May 16, 2012 and May 13, 2013 submittals (Table 1), except for those revisions we are not taking action on as represented in Table 2 below. Finally, EPA proposes to correct regulatory text and IBR published in the **Federal Register** on April 24, 2014 (79 FR 22772).

A comprehensive summary of the revisions in Colorado's Common Provisions Regulation and Regulation Number 3 Parts A, B and D organized by EPA's proposed rule action, reason for proposed ''no action'' and submittal date are provided in Table 1 and Table 2 below.

TABLE 1—LIST OF COLORADO REVISIONS THAT EPA IS PROPOSING TO APPROVE

| Revised Sections in March 31, 2010; May 16, 2012; and May 13, 2013 Submissions Proposed for Approval |
|---|
| *March 31, 2010 submittal*—Common Provisions Regulation: |
| I.A., I.B., I.C., I.D., I.E., I.F., I.G., II.B., II.C., II.E.2., II.H. |
| *May 16, 2012 submittal*—Regulation Number 3, Part A: |
| I.B.17., I.B.28.c., I.B.44.b.(i), I.B.44.e.(ii)(B), II.C.2.b.(ii), II.D.1.q., II.D.1.ppp., II.D.1.uuu., II.D.1.dddd. |
| *May 13, 2013 submittal*—Regulation Number 3, Part A: |
| I.A., I.B.7., I.B.28., I.B.43., II.D.1., II.D.1.dddd., V.I.2., VI.B.5., Appendix B. |
| *May 16, 2012 submittal*—Regulation Number 3, Part B: |
| II.D.1.c., II.D.1.m., III.G.1. |
| *May 13, 2013 submittal*—Regulation Number 3, Part B: |
| III.C.1.a. |
| *May 16, 2012 submittal*—Regulation Number 3, Part D: |
| II.A.24.f., II.A.26.c., II.A.26.e.–II.A.26.k. (re-numbering), II.A.42., III.B., V.A., V.A.3., V.A.4., VI.A.2.a., VI.A.4., VI.B.3.a.(ii) and (iv)–(ix), VI.B.3.a.(iii) in reference to removal of total suspended particulate matter monitoring exemption, VI.B.3.c., VI.B.3.e., VI.D.2., X.A.1., X.A.2., XIII.B., XIII.D. |
| *May 13, 2013 submittal*—Regulation Number 3, Part D: |
| I.B.2., I.B.4., I.C., II.A.4.c., II.A.17., II.A.22.d.(ix)(B), II.A.40.5.(b)., V.A.3.b., V.A.6., VI.B.3.d., VI.B.3.e. |

TABLE 2—LIST OF COLORADO REVISIONS THAT EPA IS PROPOSING TO TAKE NO ACTION ON

[Revised sections in March 31, 2010; May 16, 2012; and May 13, 2013 submissions proposed for no action]

| Revised Section | Reason for Proposed ''No Action'' | | | | |
|---|---|---|---|---|---|
| | Revision in State-only section of SIP | Revision in current section of SIP | Revision in disapproved section of SIP | Revision superseded by revision in February 20, 2015 State submittal (will be reconciled in future rulemaking) | Revision to be made in future State submittal |
| *March 31, 2010 submittal*—Common Provisions Regulation: | | | | | |
| II.J. | | X | X | | |
| *May 16, 2012 submittal*—Regulation Number 3, Part A: | | | | | |
| I.B.31.c. | X | | | | |
| I.B.31.d. | X | | | | |
| II.D.1.sss. | | | X | | |
| II.D.1.ttt. | | | X | | |

[11] EPA inadvertently approved this language in 79 FR 22772.

[12] Refer to docket #EPA–R08–OAR–2015–0493 for additional documentation.

TABLE 2—LIST OF COLORADO REVISIONS THAT EPA IS PROPOSING TO TAKE NO ACTION ON—Continued

[Revised sections in March 31, 2010; May 16, 2012; and May 13, 2013 submissions proposed for no action]

| Revised Section | Reason for Proposed "No Action" | | | | |
|---|---|---|---|---|---|
| | Revision in State-only section of SIP | Revision in current section of SIP | Revision in disapproved section of SIP | Revision superseded by revision in February 20, 2015 State submittal (will be reconciled in future rulemaking) | Revision to be made in future State submittal |
| II.D.1.xxx. | | | X | | |
| II.D.1.ffff. | | | X | | |
| *May 13, 2013 submittal*—Regulation Number 3, Part A: | | | | | |
| I.B.31.d. | X | | | | |
| *May 16, 2012 submittal*—Regulation Number 3, Part D: | | | | | |
| II.A.5.a. | | X | | | |
| II.A.5.b. | | X | | | |
| II.A.23. | | X | | | |
| II.A.25. | | X | | | |
| II.A.26.d. revision to $PM_{2.5}$ net emission increase | | | | | X |
| II.A.38. | | X | | | |
| VI.A.2. introductory paragraph | | | | | X |
| VI.A.2.c. | | | | X | |
| VI.B.3.a.(iii) in reference to $PM_{2.5}$ monitoring exemption | | | | X | |
| VI.B.3.d. | | | | X | |
| *May 13, 2013 submittal*—Regulation Number 3, Part D: | | | | | |
| II.A.1.a. | | | X | | |
| II.A.1.c. | | | X | | |
| II.A.1.e. | | | X | | |
| II.A.20.b. | | | X | | |
| II.A.22. | | | X | | |
| II.A.23.c. | | X | | | |
| II.A.26.a.(i) | | | X | | |
| II.A.26.f.iii. | | | X | | |
| II.A.38.g. | | | X | | |
| II.A.40.5. introductory paragraph | | | X | | |
| II.A.40.5.(a) | | | X | | |
| VI.A.1.c. | | | X | | |

## V. Incorporation by Reference

In this rulemaking, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Colorado Air Quality Control Commission regulations discussed in section III, *EPA's Review of the State of Colorado's March 31, 2010; May 16, 2012; and May 13, 2013 Submittals, and Regulatory Text/IBR Correction* of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

## VI. Statutory and Executive Orders Review

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

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

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 52**

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

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

Dated: September 1, 2015.

**Debra H. Thomas,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 2015–23075 Filed 9–11–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

**[Regional Docket No. II–2012–01; FRL–9933–81–Region 2]**

### Petition for Objection to State Operating Permit; NY; Seneca Energy II, LLC

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final action.

**SUMMARY:** Pursuant to Clean Air Act (CAA) Section 505(b)(2) and 40 CFR 70.8(d), the Environmental Protection Agency (EPA) Administrator signed an Order, dated June 29, 2015, granting in part and denying in part a petition filed by Gary A. Abraham on behalf of Finger Lakes Zero Waste Coalition, Inc. (dated December 22, 2012) asking the EPA to object to the Title V operating permit (Permit No. 8–3244–00040/00002) issued by the New York State Department of Environmental Conservation (DEC) to Seneca Energy II, LLC (Seneca) relating to the Ontario County Landfill Gas-to-Energy Facility (Facility) in western New York. Sections 307(b) and 505(b)(2) of the CAA provide that the petitioner may ask for judicial review by the United States Court of Appeals for the appropriate circuit of those portions of the Order that deny objections raised in the petition.

**DATES:** Any such petition for review of this Order must be received by November 13, 2015 pursuant to section 307(b) of the CAA.

**ADDRESSES:** You may review copies of the final Order, the petitions, and other supporting information during normal business hours at EPA Region 2, 290 Broadway, New York, New York. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. Additionally, the final Order is available electronically at: *http://www.epa.gov/region7/air/title5/petitiondb/petitions/seneca_response2012.pdf*.

**FOR FURTHER INFORMATION CONTACT:** Steven Riva, Chief, Permitting Section, Air Programs Branch, Clean Air and Sustainability Division, EPA, Region 2, 290 Broadway, 25th Floor, New York, New York 10007, telephone (212) 637–4074, email address: *Riva.Steven@epa.gov,* or the above EPA Region 2 address.

**SUPPLEMENTARY INFORMATION:** The CAA affords the EPA a 45-day period to review, and object to, as appropriate, a title V operating permit proposed by a state permitting authority. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator, within 60 days after the expiration of this review period, to object to a Title V operating permit if the EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or that the grounds for the objection or other issues arose after this period. The claims are described in detail in Section IV of the Order. In summary, the issues raised are that: (1) The Title V permit does not consider the Ontario County Landfill (Landfill) and the Facility a single source even though they together meet the 3-factor source determination test; and (2) the Facility's Title V permit is a ''sham permit.'' The EPA's rationale for partially granting and partially denying the claims raised in the petition are described in the Order.

Dated: August 26, 2015.

**Catherine McCabe,**

*Deputy Regional Administrator.*

[FR Doc. 2015–23076 Filed 9–11–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9933–86–OAR]**

### 40 CFR Part 97

### Allocations of Cross-State Air Pollution Rule Allowances From New Unit Set-Asides for 2015 Control Periods

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of data availability (NODA).

**SUMMARY:** The Environmental Protection Agency (EPA) is providing notice of the availability of preliminary lists of units eligible for allocations of emission allowances under the Cross-State Air Pollution Rule (CSAPR). Under the CSAPR federal implementation plans (FIPs), portions of each covered state's annual emissions budgets for each of the four CSAPR emissions trading programs are reserved for allocation to electricity generating units that commenced commercial operation on or after January 1, 2010 (new units) and certain other units not otherwise obtaining allowance allocations under the FIPs. The quantities of allowances allocated to eligible units from each new unit set-aside (NUSA) under the FIPs are calculated in an annual one- or two-round allocation process. EPA previously completed the first round of NUSA allowance allocations for the 2015 control periods for all four CSAPR trading programs and is now making available preliminary lists of units eligible for allocations in the second round of the NUSA allocation process for the CSAPR $NO_X$ Ozone Season Trading Program. EPA has posted a spreadsheet containing the preliminary lists on EPA's Web site. EPA will consider timely objections to the lists of eligible units contained in the spreadsheet and will promulgate a document responding to any such objections no later than November 15, 2015, the deadline for recording the second-round allocations of CSAPR $NO_X$ Ozone Season allowances in sources' Allowance Management System accounts. This notice of availability may concern CSAPR-affected units in the following states: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky,

Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

**DATES:** Objections to the information referenced in this notice of availability must be received on or before October 14, 2015.

**ADDRESSES:** Submit your objections via email to *CSAPR_NUSA@epa.gov.* Include ''2015 NUSA allocations'' in the email subject line and include your name, title, affiliation, address, phone number, and email address in the body of the email.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning this action should be addressed to Robert Miller at (202) 343–9077 or *miller.robertl@epa.gov* or Kenon Smith at (202) 343–9164 or *smith.kenon@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Under the CSAPR FIPs, the mechanisms by which initial allocations of emission allowances are determined differ for ''existing'' and ''new'' units. For ''existing'' units—that is, units commencing commercial operation before January 1, 2010—the specific amounts of CSAPR FIP allowance allocations for all control periods have been established through rulemaking. EPA has announced the availability of spreadsheets showing the CSAPR FIP allowance allocations to existing units in previous notices of availability.[1]

''New'' units—that is, units commencing commercial operation on or after January 1, 2010—as well as certain older units that would not otherwise obtain FIP allowance allocations do not have pre-established allowance allocations. Instead, the CSAPR FIPs reserve a portion of each state's total annual emissions budget for each CSAPR emissions trading program as a new unit set-aside (NUSA)[2] and establish an annual process for allocating NUSA allowances to eligible units. States with Indian country within their borders have separate Indian country NUSAs. The annual process for allocating allowances from the NUSAs and Indian country NUSAs to eligible units is set forth in the CSAPR regulations at 40 CFR 97.411(b) and 97.412 ($NO_X$ Annual Trading Program), 97.511(b) and 97.512 ($NO_X$ Ozone Season Trading Program), 97.611(b) and 97.612 ($SO_2$ Group 1 Trading Program), and 97.711(b) and 97.712 ($SO_2$ Group 2 Trading Program). Each NUSA allowance allocation process involves up to two rounds of allocations to new units followed by the allocation to existing units of any allowances not allocated to new units. EPA provides public notice at certain points in the process.

EPA has already completed the first round of allocations of 2015 NUSA allowances for all four CSAPR trading programs, as announced in notices of availability previously published in the **Federal Register**.[3] The first-round NUSA allocation process was discussed in those previous notices of availability.

In the case of second-round allocations of NUSA allowances, the annual allocations for the CSAPR $NO_X$ Ozone Season Trading Program occur before the annual allocations for the other three CSAPR trading programs because of differences in the emissions reporting and compliance deadlines for the various programs. This notice of availability concerns the second round of NUSA allowance allocations for the CSAPR $NO_X$ Ozone Season Trading Program for the 2015 control period.[4]

The units eligible to receive second-round NUSA allocations for the CSAPR $NO_X$ Ozone Season Trading Program are defined in §§ 97.511(a)(1)(iii) and 97.512(a)(9)(i). Generally, eligible units include any CSAPR-affected unit that commenced commercial operation between May 1 of the year before the control period in question and August 31 of the year of the control period in question. In the case of the 2015 control period, an eligible unit therefore must have commenced commercial operation between May 1, 2014 and August 31, 2015 (inclusive).

The total quantity of allowances to be allocated through the 2015 NUSA allowance allocation process for each state and emissions trading program—in the two rounds of the allocation process combined—is generally the state's 2015 emissions budget less the sum of (1) the total of the 2015 CSAPR FIP allowance allocations to existing units and (2) the amount of the 2015 Indian country NUSA, if any.[5] The amounts of CSAPR $NO_X$ Ozone Season NUSA allowances may be increased in certain circumstances as set forth in § 97.512(a)(2).

Second-round NUSA allocations for a given state, trading program, and control period are made only if the NUSA contains allowances after completion of the first-round allocations.

The amounts of second-round CSAPR $NO_X$ Ozone Season allowance allocations to eligible new units from each NUSA are calculated according to the procedures set forth in § 97.512(a)(9), (10) and (12). Generally, the procedures call for each eligible unit to receive a second-round 2015 NUSA allocation equal to the positive difference, if any, between its emissions during the 2015 $NO_X$ ozone season (*i.e.,* May 1, 2015 through September 30, 2015) as reported under 40 CFR part 75 and any first-round allocation the unit received, unless the total of such allocations to all eligible units would exceed the amount of allowances in the NUSA, in which case the allocations are reduced on a pro-rata basis.

Any allowances remaining in the CSAPR $NO_X$ Ozone Season NUSA for a given state and control period after the second round of NUSA allocations to new units will be allocated to the existing units in the state according to the procedures set forth in § 97.512(a)(10) and (12).

EPA notes that an allocation or lack of allocation of allowances to a given EGU does not constitute a determination that CSAPR does or does not apply to the EGU. EPA also notes that allocations are subject to potential correction if a unit to which NUSA allowances have been allocated for a given control period is not actually an affected unit as of the start of that control period.[6]

The preliminary lists of units eligible for second-round 2015 NUSA allocations of CSAPR $NO_X$ Ozone Season allowances are set forth in an Excel spreadsheet titled ''CSAPR_NUSA_2015_NOx_OS_2nd_Round_Prelim_Data'' available on EPA's Web site at *http://www.epa.gov/crossstaterule/actions.html.* The spreadsheet contains a separate worksheet for each state covered by that program showing each unit preliminarily identified as eligible for a second-round NUSA allocation.

[1] The latest spreadsheet of CSAPR FIP allowance allocations to existing units, updated in 2014 to reflect changes to CSAPR's implementation schedule but with allocation amounts unchanged since June 2012, is available at *http://www.epa.gov/crossstaterule/actions.html. See* Availability of Data on Allocations of Cross-State Air Pollution Rule Allowances to Existing Electricity Generating Units, 79 FR 71674 (December 3, 2014).

[2] The NUSA amounts range from two percent to eight percent of the respective state budgets. The variation in percentages reflects differences among states in the quantities of emission allowances projected to be required by known new units at the time the budgets were set or amended.

[3] 80 FR 30988 (June 1, 2015); 80 FR 44882 (July 28, 2015).

[4] At this time, EPA is not aware of any unit eligible for a second-round allocation from any Indian country NUSA.

[5] The quantities of allowances to be allocated through the NUSA allowance allocation process may differ slightly from the NUSA amounts set forth in §§ 97.410(a), 97.510(a), 97.610(a), and 97.710(a) because of rounding in the spreadsheet of CSAPR FIP allowance allocations to existing units.

[6] *See* 40 CFR 97.511(c).

Each state worksheet also contains a summary showing (1) the quantity of allowances initially available in that state's 2015 NUSA, (2) the sum of the 2015 NUSA allowance allocations that were made in the first-round to new units in that state (if any), and (3) the quantity of allowances in the 2015 NUSA available for distribution in second-round allocations to new units (or ultimately for allocation to existing units).

Objections should be strictly limited to whether EPA has correctly identified the new units eligible for second-round 2015 NUSA allocations of CSAPR $NO_X$ Ozone Season allowances according to the criteria described above and should be emailed to the address identified in **ADDRESSES**. Objections must include: (1) Precise identification of the specific data the commenter believes are inaccurate, (2) new proposed data upon which the commenter believes EPA should rely instead, and (3) the reasons why EPA should rely on the commenter's proposed data and not the data referenced in this notice of availability.

**Authority:** 40 CFR 97.511(b).

**Reid P. Harvey,**

*Director, Clean Air Markets Division.*

[FR Doc. 2015–22943 Filed 9–11–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 131

**[EPA–HQ–OW–2015–0174; FRL–9932–03–OW]**

**RIN 2040–AF56**

## Revision of Certain Federal Water Quality Criteria Applicable to Washington

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to revise the current federal Clean Water Act (CWA) human health criteria applicable to waters under the state of Washington's jurisdiction to ensure that the criteria are set at levels that will adequately protect Washington residents, including tribes with treaty-protected rights, from exposure to toxic pollutants. EPA promulgated Washington's existing criteria for the protection of human health in 1992 as part of the National Toxics Rule (NTR), (amended in 1999 for Polychlorinated Biphenyls (PCBs)) using the Agency's recommended criteria values at the time. EPA derived those criteria using a fish consumption rate (FCR) of 6.5 grams per day (g/day) based on national surveys. However, the best available data now demonstrate that fish consumers in Washington, including tribes with treaty-protected rights, consume much more fish than 6.5 g/day. There are also new data and scientific information available to update the toxicity and exposure parameters used to calculate human health criteria. Therefore, EPA proposes to revise the federal human health criteria applicable to waters under Washington's jurisdiction to take into account the best available science, including local and regional information, as well as applicable EPA policies, guidance, and legal requirements, to protect human health.

**DATES:** Comments must be received on or before November 13, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OW–2015–0174, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Erica Fleisig, Office of Water, Standards and Health Protection Division (4305T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 566–1057; email address: *fleisig.erica@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This proposed rule is organized as follows:



## I. General Information

*Does this action apply to me?*

Entities such as industries, stormwater management districts, or publicly owned treatment works (POTWs) that discharge pollutants to waters of the United States under the state of Washington's jurisdiction could be indirectly affected by this rulemaking, because federal water quality standards (WQS) promulgated by EPA would be applicable to CWA regulatory programs, such as National Pollutant Discharge Elimination System (NPDES) permitting. Citizens concerned with water quality in Washington could also be interested in this rulemaking. Categories and entities that could potentially be affected include the following:

| Category | Examples of potentially affected entities |
|---|---|
| Industry ..... | Industries discharging pollutants to waters of the United States in Washington. |
| Municipalities | Publicly owned treatment works or other facilities discharging pollutants to waters of the United States in Washington. |
| Stormwater Management Districts. | Entities responsible for managing stormwater runoff in the state of Washington. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that could be indirectly affected by this action. Any parties or entities who depend upon or contribute to the water quality of Washington's waters could be affected by this proposed rule. To determine whether your facility or activities could be affected by this action, you should carefully examine this proposed rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

## II. Background

### *A. Statutory and Regulatory Background*

CWA section 101(a)(2) establishes as a national goal ''water quality which provides for the protection and propagation of fish, shellfish, and wildlife, and recreation in and on the water, wherever attainable.'' These are commonly referred to as the ''fishable/swimmable'' goals of the CWA. EPA interprets ''fishable'' uses to include, at a minimum, designated uses providing for the protection of aquatic communities and human health related to consumption of fish and shellfish.[1]

CWA section 303(c) (33 U.S.C. 1313(c)) directs states to adopt WQS for their waters subject to the CWA. CWA section 303(c)(2)(A) and EPA's implementing regulations at 40 CFR part 131 require, among other things, that a state's WQS specify appropriate designated uses of the waters, and water quality criteria that protect those uses. EPA's regulations at 40 CFR 131.11(a)(1) provide that such criteria ''must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use.'' In addition, 40 CFR 131.10(b) provides that ''[i]n designating uses of a water body and the appropriate criteria for those uses, the state shall take into consideration the water quality standards of downstream waters and ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.''

States are required to review applicable WQS at least once every three years and, if appropriate, revise or adopt new standards (CWA section 303(c)(1)). Any new or revised WQS must be submitted to EPA for review and approval or disapproval (CWA section 303(c)(2)(A) and (c)(3)). CWA section 303(c)(4)(B) authorizes the Administrator to determine, even in the absence of a state submission, that a new or revised standard is needed to meet CWA requirements.

Under CWA section 304(a), EPA periodically publishes criteria recommendations for states to consider when adopting water quality criteria for particular pollutants to meet the CWA section 101(a)(2) goals. In 2015, EPA updated its 304(a) recommended criteria for human health for 94 pollutants.[2] Where EPA has published recommended criteria, states should consider adopting water quality criteria based on EPA's CWA section 304(a) criteria, section 304(a) criteria modified to reflect site-specific conditions, or other scientifically defensible methods (40 CFR 131.11(b)(1)). Ultimately, however, criteria must protect the designated use and be based on sound scientific rationale (40 CFR 131.11(a)(1)). CWA section 303(c)(2)(B) requires states to adopt numeric criteria for all toxic pollutants listed pursuant to CWA section 307(a)(1) for which EPA has published 304(a) criteria, as necessary to support the states' designated uses.

In 1992, EPA promulgated the NTR at 40 CFR 131.36, establishing chemical-specific, numeric criteria for 85 priority toxic pollutants for 14 states and territories (states), including Washington, that were not in compliance with the requirements of CWA section 303(c)(2)(B). When states covered by the NTR subsequently adopted their own criteria for toxic pollutants that EPA approved as consistent with the CWA and EPA's implementing regulations, EPA amended the NTR to remove those states. Half of the original 14 states and territories remain covered for one or more criteria in the NTR. Washington has not yet adopted its own criteria for the protection of human health and, therefore, the Federal human health criteria that EPA promulgated in the NTR remain applicable to waters throughout the state.[3]

### *B. General Recommended Approach for Deriving Human Health Criteria*

Human health criteria are designed to minimize the risk of adverse cancer and non-cancer effects occurring from lifetime exposure to pollutants through the ingestion of drinking water and consumption of fish/shellfish obtained from inland and nearshore waters. EPA's practice is to establish a human health 304(a) criterion for both drinking water and consumption of fish/shellfish from inland and nearshore waters combined and a separate human health criterion based on ingestion of fish/shellfish from inland and nearshore waters alone. This latter criterion applies in cases where the designated uses of a waterbody include supporting fish/shellfish for human consumption but not drinking water supply sources (*e.g.,* in non-potable estuarine waters).

The criteria are based on two types of biological endpoints: (1) Carcinogenicity and (2) systemic toxicity (*i.e.,* all adverse effects other than cancer). EPA takes an integrated approach and considers both cancer and non-cancer effects when deriving human health criteria. Where sufficient data are available, EPA derives criteria using both carcinogenic and non-carcinogenic toxicity endpoints and recommends the lower value. Human health criteria for carcinogenic effects are calculated using the following input parameters: Cancer slope factor, cancer risk level, body weight, drinking water intake rate, fish consumption rate, and a bioaccumulation factor(s). Human health criteria for non-carcinogenic and nonlinear carcinogenic effects are calculated using a reference dose in place of a cancer slope factor and cancer risk level, as well as a relative source contribution (RSC), which is intended to ensure that an individual's total exposure from all sources does not exceed the criteria. Each of these inputs is discussed in more detail below and in

[1] USEPA. 2000. Memorandum #WQSP–00–03. U.S. Environmental Protection Agency, Office of Water, Washington, DC *http://water.epa.gov/scitech/swguidance/standards/upload/2000_10_31_standards_shellfish.pdf.*

[2] Final Updated Ambient Water Quality Criteria for the Protection of Human Health, (80 FR 36986, June 29, 2015). See also: USEPA. 2015. Final 2015 Updated National Recommended Human Health Criteria. U.S. Environmental Protection Agency, Office of Water, Washington, DC. *http://water.epa.gov/scitech/swguidance/standards/criteria/current/hhfinal.cfm.*

[3] Washington adopted criteria for the protection of aquatic life from toxic pollutants at WAC 173–201A–240. On January 12, 2015, Washington proposed statewide human health criteria and new and revised implementation provisions. In July 2015, Governor Inslee directed Washington to reconsider its proposed human health criteria and implementation tool revisions. See *http://www.ecy.wa.gov/programs/wq/ruledev/wac173201A/1203ov.html.*

EPA's 2000 Human Health Methodology.[4]

a. Cancer Risk Level

EPA's 304(a) national recommended human health criteria generally assume that carcinogenicity is a ''non-threshold phenomenon,'' which means that there are no ''safe'' or ''no-effect'' levels because even extremely small doses are assumed to cause a finite increase in the incidence of cancer. Therefore, EPA calculates 304(a) human health criteria for carcinogenic effects as pollutant concentrations corresponding to lifetime increases in the risk of developing cancer.[5] EPA calculates its 304(a) human health criteria values at a $10^{-6}$ (one in one million) cancer risk level and recommends cancer risk levels of $10^{-6}$ or $10^{-5}$ (one in one hundred thousand) for the general population.[6] EPA notes that states and authorized tribes can also choose a more stringent risk level, such as $10^{-7}$ (one in ten million), when deriving human health criteria.

If the pollutant is not considered to have the potential for causing cancer in humans (*i.e.,* systemic toxicants), EPA assumes that the pollutant has a threshold below which a physiological mechanism exists within living organisms to avoid or overcome the adverse effects of the pollutant.

b. Cancer Slope Factor and Reference Dose

A dose-response assessment is required to understand the quantitative relationships between the amount of exposure to a pollutant and the onset of human health effects. EPA evaluates dose-response relationships derived from animal toxicity and human epidemiological studies to derive dose-response metrics for regulatory purposes. To evaluate carcinogenic effects, the dose-response metric used to characterize a chemical's human cancer-causing potential is referred to as a cancer slope factor (CSF). For non-carcinogenic effects, EPA uses the reference dose (RfD) to calculate human health criteria. Doses that are below the RfD are less likely to be associated with health risks. EPA's Integrated Risk Information System (IRIS)[7] was the primary source of toxicity values (*i.e.,* RfD and CSF) for EPA's 2015 updated 304(a) human health criteria.[8] For some pollutants, however, more recent peer-reviewed and publicly available toxicological data were available from other EPA program offices (*e.g.,* Office of Pesticide Programs, Office of Water, Office of Solid Waste and Emergency Response), other national and international programs, and state programs.

c. Exposure Assumptions

Per EPA's latest 304(a) national human health criteria, EPA uses a default drinking water intake rate of 2.4 liters per day (L/day) and default rate of 22 g/day for consumption of fish and shellfish from inland and nearshore waters, multiplied by pollutant-specific bioaccumulation factors (BAFs) to account for the amount of the pollutant in the edible portions of the ingested species. EPA's methodology for deriving human health criteria emphasizes using, when possible, measured or estimated BAFs, which account for chemical accumulation in aquatic organisms from all potential exposure routes.[9] In the 2015 national 304(a) human health criteria update, EPA primarily used field-measured BAFs and laboratory-measured bioconcentration factors (BCFs) available from peer-reviewed, publicly available databases to develop national BAFs for three trophic levels of fish.[10] If this information was not available, EPA selected octanol-water partition coefficients ($K_{ow}$ values) from peer-reviewed sources for use in calculating national BAFs.

EPA's national default drinking water intake rate of 2.4 L/day represents the per capita estimate of combined direct and indirect community water ingestion at the 90th percentile for adults ages 21 and older.[11] EPA's national FCR of 22 g/day represents the 90th percentile consumption rate of fish and shellfish from inland and nearshore waters for the U.S. adult population 21 years of age and older, based on National Health and Nutrient Examination Survey (NHANES) data from 2003 to 2010.[12] [13] EPA calculates human health criteria using a default body weight of 80 kilograms (kg), the average weight of a U.S. adult age 21 and older, based on NHANES data from 1999 to 2006.

Although EPA uses these values to calculate national 304(a) recommended criteria, EPA's methodology notes a preference for the use of local data to calculate human health criteria (*e.g.,* locally derived FCRs, drinking water intake rates and body weights, and waterbody-specific bioaccumulation rates) over national default values, to better represent local conditions.[14] EPA also generally recommends, where sufficient data are available, selecting a FCR that reflects consumption that is not suppressed by fish availability or concerns about the safety of available fish.[15] Deriving criteria using an unsuppressed FCR furthers the restoration goals of the CWA, and ensures protection of human health as pollutant levels decrease, fish habitats

[4] USEPA. 2000. Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–822–B–00–004. *http://www.epa.gov/waterscience/criteria/humanhealth/method/complete.pdf.*

[5] As noted above, EPA recommends the criteria derived for non-carcinogenic effects if it is more protective (lower) than that derived for carcinogenic effects.

[6] EPA's 2000 Human Health Methodology also states: ''Criteria based on a $10^{-5}$ risk level are acceptable for the general population as long as states and authorized tribes ensure that the risk to more highly exposed subgroups (sport fishers or subsistence fishers) does not exceed the $10^{-4}$ level.'' Since EPA is proposing criteria to protect the target general population in Washington (tribes with reserved rights in Washington waters), the applicable EPA-recommended cancer risk levels are those for the general population. See section IV for additional discussion.

[7] USEPA. Integrated Risk Information System (IRIS). U.S. Environmental Protection Agency, Office of Research and Development, Washington, DC. *www.epa.gov/iris.*

[8] Final Updated Ambient Water Quality Criteria for the Protection of Human Health, (80 FR 36986, June 29, 2015). See also: USEPA. 2015. Final 2015 Updated National Recommended Human Health Criteria. U.S. Environmental Protection Agency, Office of Water, Washington, DC. *http://water.epa.gov/scitech/swguidance/standards/criteria/current/hhfinal.cfm.*

[9] USEPA. 2000. Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–822–B–00–004. *http://www.epa.gov/waterscience/criteria/humanhealth/method/complete.pdf.*

[10] Final Updated Ambient Water Quality Criteria for the Protection of Human Health, (80 FR 36986, June 29, 2015). See also: USEPA. 2015. Final 2015 Updated National Recommended Human Health Criteria. U.S. Environmental Protection Agency, Office of Water, Washington, DC. *http://water.epa.gov/scitech/swguidance/standards/criteria/current/hhfinal.cfm.*

[11] USEPA. 2011. EPA Exposure Factors Handbook. 2011 edition (EPA 600/R–090/052F). *http://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=236252.*

[12] USEPA. 2014. Estimated Fish Consumption Rates for the U.S. Population and Selected Subpopulations (NHANES 2003–2010). United States Environmental Protection Agency, Washington, DC, USA. EPA 820–R–14–002.

[13] EPA's national FCR is based on the total rate of consumption of fish and shellfish from inland and nearshore waters (including fish and shellfish from local, commercial, aquaculture, interstate, and international sources). This is consistent with a principle that each state does its share to protect people who consume fish and shellfish that originate from multiple jurisdictions. USEPA. January 2013. *Human Health Ambient Water Quality Criteria and Fish Consumption Rates: Frequently Asked Questions. http://water.epa.gov/scitech/swguidance/standards/criteria/health/methodology/upload/hhfaqs.pdf.*

[14] USEPA. 2000. Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–822–B–00–004. *http://www.epa.gov/waterscience/criteria/humanhealth/method/complete.pdf.*

[15] USEPA. January 2013. *Human Health Ambient Water Quality Criteria and Fish Consumption Rates: Frequently Asked Questions. http://water.epa.gov/scitech/swguidance/standards/criteria/health/methodology/upload/hhfaqs.pdf.*

are restored, and fish availability increases. While EPA encourages doing so in general, where tribal treaty or other reserved fishing rights apply, selecting a FCR that reflects unsuppressed fish consumption could be necessary in order to satisfy such rights. If sufficient data regarding unsuppressed fish consumption levels are unavailable, consultation with tribes is important in deciding which fish consumption data should be used. See section IV.C.a.

d. Relative Source Contribution

When deriving human health criteria for non-carcinogens and nonlinear carcinogens, EPA recommends including a RSC factor to account for sources of exposure other than drinking water and fish and shellfish from inland and nearshore waters, so that the pollutant effect threshold (*i.e.,* RfD) is not apportioned to drinking water and fish consumption alone. These other exposures include exposure to a particular pollutant from ocean fish consumption (which is not included in EPA's default national FCR), non-fish food consumption (*e.g.,* fruits, vegetables, grains, meats, poultry), dermal exposure, and respiratory exposure. EPA's guidance includes a procedure for determining an appropriate RSC for a given pollutant ranging in value from 0.2 to 0.8.

## III. Necessity Determination for Washington

### *A. Existing Criteria Are Not Protective of Designated Uses of Waters in the State of Washington*

In the NTR, 40 CFR 131.36(d)(14), EPA stated that the federal human health criteria applied to all waters assigned to Washington's use classifications identified at WAC 173–201–045, including fish and shellfish, fish, water supply (domestic), and recreation. As currently defined in Washington's WQS (WAC 173–201A–600 and WAC 173–201A–610), the uses subject to federal human health criteria in Washington include the following: Fresh waters—Harvesting (fish harvesting), Domestic Water (domestic water supply), and Recreational Uses; Marine waters—Shellfish Harvesting (shellfish—clam, oyster, and mussel—harvesting), Harvesting (salmonid and other fish harvesting, and crustacean and other shellfish—crabs, shrimp, scallops, etc.—harvesting), and Recreational Uses.

Per EPA's regulations at § 131.11(a), water quality criteria must contain sufficient parameters or constituents to protect the designated use, and for waters with multiple use designations, the criteria must support the most sensitive use. In determining whether WQS comply with the CWA and EPA's regulations, when setting criteria to support the most sensitive use in Washington, it is necessary to consider other applicable laws, including federal treaties.[16] In Washington, many tribes hold reserved rights to take fish for subsistence, ceremonial, religious, and commercial purposes, including treaty-reserved rights to fish at all usual and accustomed fishing grounds and stations in waters under state jurisdiction, which cover the majority of waters in the state. Such rights include not only a right to take those fish, but necessarily include an attendant right to not be exposed to unacceptable health risks by consuming those fish.

In 1992, EPA selected input values based on available national data to derive protective human health criteria in the NTR. To ensure protection of human health in waters where fish and shellfish are caught and consumed, EPA used data available at the time on the average per-capita consumption rate of fish from inland and nearshore waters for the U.S. population. This average rate was 6.5 g/day.

Surveys of local residents in the Pacific Northwest, including tribes and recreational anglers, reflect high consumption levels of fish and shellfish—much higher than the 6.5 g/day rate that EPA used in 1992 to derive Washington's human health criteria in the NTR. Since that time, data have become available that better represent regional and local fish consumption in Washington, including:

- *A Fish Consumption Survey of the Umatilla, Nez Perce, Yakama, and Warm Springs Tribes of the Columbia River Basin* (Columbia River Inter-Tribal Fish Commission (CRITFC), 1994).
- *A Fish Consumption Survey of the Tulalip and Squaxin Island Tribes of the Puget Sound Region* (Toy et al., 1996).
- *Fish Consumption Survey of the Suquamish Indian Tribe of the Port Madison Indian Reservations, Puget Sound Region* (Suquamish Tribe, 2000).
- *Asian and Pacific Islander Seafood Consumption Study* (Sechena et al., 1999).

The average FCRs[17] from these surveys range from 63 to 214 g/day, far in excess of 6.5 g/day. The 90th percentile FCRs from these surveys range from 113 to 489 g/day, also far in excess of EPA's current national FCR of 22 g/day, which represents the 90th percentile national FCR (see section II.B.c). The 6.5 g/day FCR that EPA used to derive the current human health criteria applicable to Washington does not account for these more recent local data, nor suppression in fish consumption (as discussed earlier).[18] In addition, the 6.5 g/day FCR does not account for EPA's 2000 recommendation to use an upper percentile of fish consumption data for the target general population (as with EPA's current national FCR of 22 g/day) rather than an average. EPA considered the fish consumption data cited above, in conjunction with Washington's current designated uses as informed by tribal reserved rights in Washington (as discussed in section IV.A), and determined that the federal human health criteria in the NTR as applied to Washington no longer protect the relevant designated uses of Washington's waters.

### *B. CWA 303(c)(4)(B) Determination of Necessity*

Because Washington's existing human health criteria, as promulgated by EPA in the NTR, are no longer protective of the applicable designated uses per the CWA and EPA's regulations at 40 CFR 131.11, EPA determines under CWA section 303(c)(4)(B) that new or revised WQS for the protection of human health are necessary to meet the requirements of the CWA for Washington. EPA, therefore, proposes the revised human health criteria for Washington in this rule in accordance with this 303(c)(4)(B) determination. EPA's determination is not itself a final action, nor part of a final action, at this time. After consideration of comments on the

[16] In addition to treaties, executive orders and federal statutes, such as land claim settlement acts, could also apply.

[17] Cited FCRs are based on total fish consumption regardless of source.

[18] Historical or heritage FCRs could be of relevance to establishing unsuppressed FCRs for Washington tribes. Extensively researched historical average FCRs for the Columbia River Basin Tribes range from 401 to 995 g/day (Craig and Hacker (1940) & Hewes (1947); Swindell (1942); Marshall (1977); Walker (1967)). More limited average historic FCRs for Washington Tribes range from 454 to 746 g/day (Hewes 1973). In *United States* v. *Washington* (1974), the court accepted a heritage FCR of 620 g/day. A number of factors could cause these FCRs to be underestimates (Schalk 1986), including the fact that, with the exception of Craig and Hacker (1940), they only include consumption of salmon. Upper percentile values are not reported in these historical studies but would be higher than the reported average values. The highest estimated current FCRs in Washington come from the Suquamish Tribal survey (Suquamish 2000), with a reported FCR as high as 1,600 g/day (Table C5). The 95th percentile Suquamish FCR is 767 g/day (Ecology 2013). Recent publications by Harper and Walker (2015) comprehensively summarize and further support these heritage and contemporary fish consumption rates.

proposed rule, EPA will take final agency action on this rulemaking. It is at that time that any change to the water quality standards applicable to Washington would occur.

## IV. Derivation of Human Health Criteria for Washington

### *A. Tribal Reserved Fishing Rights and Washington's Designated Uses*

A majority of waters under Washington's jurisdiction are covered by reserved rights, including tribal treaty-reserved rights (see section III.A). Many areas where reserved rights are exercised cannot be directly protected or regulated by the tribal governments and, therefore, the responsibility falls to the state and federal governments to ensure their protection.[19] In order to effectuate and harmonize these reserved rights, including treaty rights, with the CWA, EPA determined that such rights appropriately must be considered when determining which criteria are necessary to adequately protect Washington's fish and shellfish harvesting designated uses (see sections IV.C.a and IV.C.b).

Protecting Washington's fish and shellfish harvesting designated uses, which include consumption of such fish and shellfish, necessitates protecting the population exercising those uses. Where a population exercising such uses has a legal right to do so, the criteria protecting such uses must be consistent with such right. Thus, EPA proposes to consider the tribal population exercising their reserved fishing rights in Washington as the target general population for the purposes of deriving protective criteria that allow the tribes to harvest and consume fish consistent with their reserved rights.

Although treaties do not cover all waters in Washington, they cover the vast majority of the state's waters. Additionally, where treaty and non-treaty reserved rights apply on waters downstream of waters without reserved fishing rights, upstream WQS must provide for the attainment and maintenance of downstream WQS in accordance with EPA's regulations at 40 CFR 131.10(b). For any remaining waters in Washington where reserved rights do not apply and that are not upstream of waters with such rights or waters in Oregon (see section IV.C.a), it would be administratively burdensome and difficult to implement separate criteria because it would create a patchwork of protection among these areas leading to potential difficulties in administering the WQS, NPDES permitting, and other programs. In addition, delineating the precise boundaries could itself be complicated. Therefore, EPA proposes to apply these criteria to all waters under Washington's jurisdiction.

### *B. Scope of EPA's Proposal*

In 1992, EPA did not establish human health criteria in the NTR for some priority toxic pollutants for reasons articulated in the preamble to the final rule at 57 FR 60848, December 22, 1992. EPA had no 304(a) recommendations for those pollutants at the time. EPA now has 304(a) recommendations for 99 priority toxic pollutants listed pursuant to CWA section 307(a)(1) (85 for which EPA established criteria in the NTR, plus 14 additional pollutants). Therefore, EPA proposes to derive Washington-specific criteria for all 99 priority toxic pollutants in this rule. For those priority pollutants for which EPA does not have 304(a) national recommended criteria, and are thus not included in this proposed rule, EPA expects that Washington will continue to apply their existing narrative toxics criterion in the state's WQS at WAC 173–201A–260(2)(a).

This rule proposes to change the criteria that EPA promulgated for Washington in the NTR and establish new human health criteria for the 14 additional chemicals for which EPA now has 304(a) recommended criteria: Copper, Selenium, Zinc, 1,2-Dichloropropane, 1,2-Trans-Dichloroethylene, 2-Chlorophenol, 2,4-Dimethylphenol, Acenaphthene, Butylbenzyl Phthalate, 2-Chloronaphthalene, N-Nitrosodi-n-Propylamine, 1,1,1-Trichloroethane, 3-Methyl-4-Chlorophenol, and 1,2,4-Trichlorobenzene. Since 1992, EPA replaced its recommended human health criteria for mercury with a fish tissue-based human health criterion for methylmercury. EPA proposes to replace the criteria for mercury that EPA promulgated for Washington in the NTR with a methylmercury fish tissue criterion, adjusted for the FCR that EPA proposes to use to derive human health criteria in Washington.[20] This proposed rule would not change or supersede any criteria that EPA previously promulgated for other states in the NTR, nor does it change any other elements of the NTR such as EPA's original basis for promulgation. EPA proposes to remove Washington from the NTR at 40 CFR 131.36 and incorporate the Washington-specific criteria proposed in this rule into proposed 40 CFR 131.45 so there is a single comprehensive rule for Washington.

This proposed rule would apply to waters under the state of Washington's jurisdiction, and not to waters within Indian Country[21], unless otherwise specified in federal law. Some waters located within Indian Country already have CWA-effective human health criteria, while others do not.[22] Several tribes are working with EPA to either revise their existing CWA-effective WQS, or obtain treatment in a similar manner as a state (TAS) status in order to adopt their own WQS in the near future. EPA will continue to work closely with tribes in Washington to ensure that they adopt human health criteria that are scientifically supported and protective of designated uses, in accordance with the CWA and EPA's regulations.

### *C. Washington-Specific Human Health Criteria Inputs*

#### a. Fish Consumption Rate

EPA proposes to derive human health criteria for Washington using a FCR of 175 g/day as this FCR accounts for local data (consistent with EPA's methodology), reflects input received during consultation with tribes, and appropriately addresses protection of Oregon's downstream WQS, per EPA's regulations at 40 CFR 131.10(b).

EPA considered the input received during consultation with tribes when selecting which fish consumption data would be used to estimate a FCR for calculating human health criteria to protect the designated uses. A FCR of 175 g/day approximates the 95th percentile consumption rate of surveyed tribal members from the CRITFC study.[23] Although EPA's national default FCR only includes consumption of fish from inland and nearshore waters, 175 g/day in this case includes anadromous fish, which is appropriate given that anadromous species reside in

[19] Note that for formal and informal reservation lands, eligible tribes can obtain treatment in a similar manner as a state (TAS) status and set their own WQS under the CWA, including human health criteria.

[20] USEPA. 2001. Water Quality Criterion for the Protection of Human Health: Methylmercury. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–823–R–01–001. *http://water.epa.gov/scitech/swguidance/standards/criteria/health/upload/2009_01_15_criteria_methylmercury_mercury-criterion.pdf.*

[21] *See* 18 U.S.C. 1151 for definition of Indian Country.

[22] Indian Country waters with CWA-effective WQS are (a) those Indian Country waters where EPA explicitly found that a tribe has jurisdiction to adopt WQS under the CWA, and where the tribe adopted standards in accordance with EPA regulations, and (b) where EPA promulgated federal WQS.

[23] *Fish Consumption Survey of the Umatilla, Nez Perce, Yakama, and Warm Springs Tribes of the Columbia River Basin* (Columbia River Inter-Tribal Fish Commission (CRITFC), 1994)

Washington's nearshore waters, especially Puget Sound, and accumulate pollutants discharged to these waters.[24] A FCR of 175 g/day, therefore, accounts for local fish consumption data. Additionally, Oregon, much of which is downstream from Washington, used this FCR to derive statewide human health criteria, which EPA approved in 2011. Use of this FCR to derive Washington's criteria should thus help provide for the attainment and maintenance of downstream WQS in Oregon.

After consideration of the full range of available local fish consumption data and after consultation with Washington tribes and Columbia River Basin tribes in Oregon and Idaho, EPA determined that a FCR of 175 g/day very likely does not reflect unsuppressed consumption rates of tribes within the state (see section II.B.c). EPA considered this fact as well as tribal input in selecting a cancer risk level of $10^{-6}$ to account for this uncertainty and ensure that EPA's proposed criteria protect Washington's fishing uses, including the tribes' reserved fishing rights. See discussion in section IV.C.b.

b. Cancer Risk Level

Based on Washington's longstanding use of a cancer risk level of $10^{-6}$, along with EPA's consideration of tribal reserved rights, EPA guidance, and downstream protection, EPA proposes to derive human health criteria for carcinogens in Washington using a $10^{-6}$ cancer risk level.

To derive final human health criteria for each state in the NTR, EPA selected a cancer risk level based on each state's policy or practice regarding what risk level should be used when regulating carcinogens in surface waters. In its official comments on EPA's proposed NTR, Washington asked EPA to promulgate human health criteria using a cancer risk level of $10^{-6}$, stating, ''The State of Washington supports adoption of a risk level of one in one million for carcinogens. If EPA decides to promulgate a risk level below one in one million, the rule should specifically address the issue of multiple contaminants so as to better control overall site risks.'' (57 FR 60848, December 22, 1992). Accordingly, in the NTR, EPA used a cancer risk level of $10^{-6}$ (one in one million) to derive human health criteria for Washington. Subsequently, Washington adopted and EPA approved a provision in the state's WQS that reads: ''Risk-based criteria for carcinogenic substances shall be selected such that the upper-bound excess cancer risk is less than or equal to one in a million'' (WAC 173–201A–240(6)). This provision has been in effect in Washington's WQS since 1993.

In order to effectuate reserved fishing rights, including the rights that federal treaties afford to tribes in Washington, EPA proposes to derive criteria that will protect the tribe's reserved fishing rights in Washington, treating the tribal population exercising those rights as the target general population (see section IV.A). EPA's selection of a $10^{-6}$ cancer risk level for the tribal target general population is consistent with EPA's 2000 Human Health Methodology, which states that when promulgating water quality criteria for states and tribes, EPA intends to use the $10^{-6}$ level, which reflects an appropriate risk for the general population.[25] EPA's 2000 Human Health Methodology did not consider how CWA decisions should account for applicable reserved fishing rights, including treaty-reserved rights. As discussed in section IV.C.a, because a FCR of 175 g/day very likely does not reflect unsuppressed consumption, using a cancer risk level of $10^{-6}$ ensures protection of tribal members' unsuppressed consumption. Independently, the treaties themselves could require higher levels of protection. The treaties themselves could be interpreted to require a certain level of risk; *e.g.,* a *de minimis* level of risk that would most reasonably approximate conditions at the time the treaties were signed and the fishing rights were reserved. In policy development regarding management of cancer risks, EPA often uses $10^{-6}$ as a *de minimis* risk level.[26] In this case, EPA considers $10^{-6}$ to be sufficiently protective, and the tribes have supported this during consultation.

Finally, many of Washington's rivers are in the Columbia River basin, upstream of Oregon's portion of the Columbia River. Oregon's criteria are based on a FCR of 175 g/day and a cancer risk level of $10^{-6}$. EPA's proposal to derive human health criteria for Washington using a cancer risk level of $10^{-6}$ along with a FCR of 175 g/day helps ensure that Washington's criteria will provide for the attainment and maintenance of Oregon's downstream WQS as required by 40 CFR 131.10(b).

c. Relative Source Contribution

EPA recommends using a RSC for non-carcinogens and nonlinear carcinogens to account for sources of exposure other than drinking water and consumption of inland and nearshore fish and shellfish (see section II.B.d). In 2015, after evaluating information on chemical uses, properties, occurrences, releases to the environment and regulatory restrictions, EPA developed chemical-specific RSCs for non-carcinogens and nonlinear carcinogens ranging from 0.2 (20 percent) to 0.8 (80 percent) following the Exposure Decision Tree approach described in EPA's 2000 Human Health Methodology.[27] [28] EPA proposes to use these same RSCs to derive human health criteria for Washington. Where EPA did not update the nationally recommended criteria for certain pollutants in 2015, EPA proposes to use a RSC of 0.2 to derive human health criteria for those pollutants in Washington to ensure protectiveness. See Table 1, column B2 for a list of EPA's proposed RSCs by pollutant.

d. Body Weight

EPA proposes to calculate human health criteria for Washington using a body weight of 80 kg, which represents the average weight of a U.S. adult. In 2015, EPA updated its national adult body weight to 80 kg based on national survey data (see section II.B.c).[29] Local

[24] O'Neill, S.M., and J.E. West. 2009. Marine distribution, life history traits, and the accumulation of polychlorinated biphenyls in Chinook salmon from Puget Sound, Washington. Transactions of the American Fisheries Society 138: 616–632.

O'Neill, S.M., G.M. Ylitalo, J.E. West, J. Bolton, C.A. Sloan, and M.M. Krahn. 2006. Regional patterns of persistent organic pollutants in five Pacific salmon species (*Oncorhynchus spp*) and their contributions to contaminant levels in northern and southern resident killer whales (*Orcinus orca*). 2006 Southern Resident Killer Whale Symposium, NOAA Fisheries Service Northwest Regional Office April 3–5, 2006. Seattle, WA. Extended Abstract. 5pp.

[25] EPA 2000 Human Health Methodology, pages 2–6. The Methodology recommends that states set human health criteria cancer risk levels for the target general population at either $10^{-5}$ or $10^{-6}$ (pages 2–6) and also notes that states and authorized tribes can always choose a more stringent risk level, such as $10^{-7}$ (pages 1–12).

[26] *See* Castorina, Rosemary and Tracey J. Woodruff. *Assessment of Potential Risk Levels Associated with the U.S. EPA Reference Values.* Environmental Health Perspectives, Vol. 111, No. 10, page 1318. August 2003. *http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1241613/pdf/ehp0111-001318.pdf.*

[27] USEPA. 2000. Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–822–B–00–004. *http://www.epa.gov/waterscience/criteria/humanhealth/method/complete.pdf.*

[28] Final Updated Ambient Water Quality Criteria for the Protection of Human Health, (80 FR 36986, June 29, 2015). See also: USEPA. 2015. Final 2015 Updated National Recommended Human Health Criteria. U.S. Environmental Protection Agency, Office of Water, Washington, DC. *http://water.epa.gov/scitech/swguidance/standards/criteria/current/hhfinal.cfm.*

[29] Final Updated Ambient Water Quality Criteria for the Protection of Human Health, (80 FR 36986, June 29, 2015). See also: USEPA. 2015. Final 2015 Updated National Recommended Human Health

tribal survey data relevant to Washington are consistent with EPA's national adult body weight of 80 kg.[30]

e. Drinking Water Intake

EPA proposes to calculate human health criteria for Washington using a rate of 2.4 L/day. In 2015, EPA updated its national default drinking water intake rate to 2.4 L/day based on national survey data (see section II.B.c).[31] EPA is not aware of any local data applicable to Washington that suggest a more appropriate rate.

f. Pollutant-Specific Reference Doses and Cancer Slope Factors

As part of EPA's 2015 updates to its 304(a) recommended human health criteria, EPA conducted a systematic search of eight peer-reviewed, publicly available sources to obtain the most current toxicity values for each pollutant (RfDs for non-carcinogenic effects and CSFs for carcinogenic effects).[32] EPA proposes to calculate human health criteria for Washington using the same toxicity values that EPA used in its 2015 304(a) criteria updates, to ensure that the resulting criteria are based on a sound scientific rationale. Where EPA did not update criteria for certain pollutants in 2015, EPA proposes to use the toxicity values that the Agency used the last time it updated its 304(a) criteria for those pollutants as the best available scientific information. See Table 1, columns B1 and B3 for a list of EPA's proposed toxicity factors by pollutant.

g. Pollutant-Specific Bioaccumulation Factors

For the 2015 national 304(a) human health criteria update, EPA estimated chemical-specific BAFs using a framework for deriving national BAFs described in EPA's 2000 Human Health Methodology.[33] Because the surveyed population upon which the 175 g/day FCR is based consumed almost exclusively trophic level four fish (*i.e.,* predator fish species), EPA proposes to apply the trophic level four BAF from the 2015 304(a) human health criteria updates in conjunction with the 175 g/day FCR, in order to ensure protectiveness.[34] Where EPA did not update criteria for certain pollutants in 2015, EPA proposes to use the BCFs that the Agency used the last time it updated its 304(a) criteria for those pollutants as the best available scientific information. See Table 1, columns B4 and B5 for a list of EPA's proposed bioaccumulation factors by pollutant.

*D. Proposed Human Health Criteria for Washington*

EPA proposes 195 human health criteria for 99 different pollutants (97 organism-only criteria and 98 water-plus-organism criteria) to protect the applicable designated uses of Washington's waters (see Table 1). The water-plus-organism criteria in column C1 of Table 1 are the applicable criteria for any waters that include the Domestic Water (domestic water supply) use defined in Washington's WQS (WAC 173–201A–600). The organism-only criteria in column C2 of Table 1 apply to waters that do not include the Domestic Water (domestic water supply) use and that Washington defines at WAC 173–201A–600 and 173–201A–610 as the following: Fresh waters—Harvesting (fish harvesting), and Recreational Uses; Marine waters—Shellfish Harvesting (shellfish—clam, oyster, and mussel—harvesting), Harvesting (salmonid and other fish harvesting, and crustacean and other shellfish—crabs, shrimp, scallops, etc.—harvesting), and Recreational Uses.

EPA solicits comment on the criteria, the inputs EPA used to derive these criteria, and specifically solicits additional Washington-specific information such as data from local fish or drinking water consumption rate studies, or bioaccumulation field studies from Washington waters.

TABLE 1—PROPOSED HUMAN HEALTH CRITERIA FOR WASHINGTON

| A | | B | | | | | C | |
|---|---|---|---|---|---|---|---|---|
| Chemical | CAS No. | Cancer slope factor, CSF (per mg/kg·d) | Relative source contribution, RSC (–) | Reference dose, RfD (mg/kg·d) | Bio-accumulation factor for trophic level 4 (L/kg tissue) | Bio-concentration factor LI≤(L/kg tissue) | Water & organisms (µg/L) | Organisms only (µg/L) |
| | | (B1) | (B2) | (B3) | (B4) | (B5) | (C1) | (C2) |
| 1. 1,1,1-Trichloroethane | 71556 | ..... | 0.20 | 2 | 10 | ..... | 8,000 | 20,000 |
| 2. 1,1,2,2-Tetrachloroethane | 79345 | 0.2 | ..... | ..... | 8.4 | ..... | 0.1 | 0.3 |
| 3. 1,1,2-Trichloroethane | 79005 | 0.057 | ..... | ..... | 8.9 | ..... | 0.35 | 0.90 |
| 4. 1,1-Dichloroethylene | 75354 | ..... | 0.20 | 0.05 | 2.6 | ..... | 300 | 2,000 |
| 5. 1,2,4-Trichlorobenzene | 120821 | 0.029 | ..... | ..... | 430 | ..... | 0.036 | 0.037 |
| 6. 1,2-Dichlorobenzene | 95501 | ..... | 0.20 | 0.3 | 82 | ..... | 300 | 300 |
| 7. 1,2-Dichloroethane | 107062 | 0.0033 | ..... | ..... | 1.9 | ..... | 8.9 | 73 |
| 8. 1,2-Dichloropropane | 78875 | 0.036 | ..... | ..... | 3.9 | ..... | 0.72 | 3.3 |
| 9. 1,2-Diphenylhydrazine | 122667 | 0.8 | ..... | ..... | 27 | ..... | 0.01 | 0.02 |
| 10. 1,2-Trans-Dichloroethylene | 156605 | ..... | 0.20 | 0.02 | 4.7 | ..... | 100 | 400 |
| 11. 1,3-Dichlorobenzene | 541731 | ..... | 0.20 | 0.002 | 190 | ..... | 0.9 | 1 |
| 12. 1,3-Dichloropropene | 542756 | 0.122 | ..... | ..... | 3.0 | ..... | 0.22 | 1.2 |
| 13. 1,4-Dichlorobenzene | 106467 | ..... | 0.20 | 0.07 | 84 | ..... | 70 | 80 |
| 14. 2,3,7,8-TCDD (Dioxin) | 1746016 | 156,000 | ..... | ..... | ..... | 5,000 | 5.8E–10 | 5.9E–10 |

Criteria. U.S. Environmental Protection Agency, Office of Water, Washington, DC. *http://water.epa.gov/scitech/swguidance/standards/criteria/current/hhfinal.cfm.*

[30] USEPA Region 10. August 2007. Framework for Selecting and Using Tribal Fish and Shellfish Consumption Rates for Risk-Based Decision Making at CERCLA and RCRA Cleanup Sites in Puget Sound and the Strait of Georgia. Appendix B. *http://yosemite.epa.gov/r10/CLEANUP.NSF/7780249be8f251538825650f0070bd8b/e12918970debc8e488256da6005c428e/$FILE/Tribal%20Shellfish%20Framework.pdf.*

[31] Final Updated Ambient Water Quality Criteria for the Protection of Human Health, (80 FR 36986, June 29, 2015). See also: USEPA. 2015. Final 2015 Updated National Recommended Human Health Criteria. U.S. Environmental Protection Agency, Office of Water, Washington, DC *http://water.epa.gov/scitech/swguidance/standards/criteria/current/hhfinal.cfm.*

[32] Final Updated Ambient Water Quality Criteria for the Protection of Human Health, (80 FR 36986, June 29, 2015). See also: USEPA. 2015. Final 2015 Updated National Recommended Human Health Criteria. U.S. Environmental Protection Agency, Office of Water, Washington, DC *http://water.epa.gov/scitech/swguidance/standards/criteria/current/hhfinal.cfm.*

[33] USEPA. 2000. Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health. U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA–822–B–00–004. *http://www.epa.gov/waterscience/criteria/humanhealth/method/complete.pdf.*

[34] *Fish Consumption Survey of the Umatilla, Nez Perce, Yakama, and Warm Springs Tribes of the Columbia River Basin* (Columbia River Inter-Tribal Fish Commission (CRITFC), 1994).

TABLE 1—PROPOSED HUMAN HEALTH CRITERIA FOR WASHINGTON—Continued

| A | | B | | | | | C | |
|---|---|---|---|---|---|---|---|---|
| Chemical | CAS No. | Cancer slope factor, CSF (per mg/kg·d) | Relative source contribution, RSC (−) | Reference dose, RfD (mg/kg·d) | Bio-accumulation factor for trophic level 4 (L/kg tissue) | Bio-concentration factor LI≤(L/kg tissue) | Water & organisms (µg/L) | Organisms only (µg/L) |
| | | (B1) | (B2) | (B3) | (B4) | (B5) | (C1) | (C2) |
| 15. 2,4,6-Trichlorophenol | 88062 | 0.011 | | | 150 | | 0.25 | 0.28 |
| 16. 2,4-Dichlorophenol | 120832 | | 0.20 | 0.003 | 48 | | 4 | 6 |
| 17. 2,4-Dimethylphenol | 105679 | | 0.20 | 0.02 | 7 | | 90 | 300 |
| 18. 2,4-Dinitrophenol | 51285 | | 0.20 | 0.002 | | 4.4 | 10 | 40 |
| 19. 2,4-Dinitrotoluene | 121142 | 0.667 | | | 3.9 | | 0.039 | 0.18 |
| 20. 2-Chloronaphthalene | 91587 | | 0.80 | 0.08 | 240 | | 100 | 100 |
| 21. 2-Chlorophenol | 95578 | | 0.20 | 0.005 | 5.4 | | 20 | 80 |
| 22. 2-Methyl-4,6-Dinitrophenol | 534521 | | 0.20 | 0.0003 | 10 | | 1 | 3 |
| 23. 3,3′-Dichlorobenzidine | 91941 | 0.45 | | | 69 | | 0.012 | 0.015 |
| 24. 3-Methyl-4-Chlorophenol | 59507 | | 0.20 | 0.1 | 39 | | 200 | 200 |
| 25. 4,4′-DDD | 72548 | 0.24 | | | 240,000 | | 7.9E–06 | 7.9E–06 |
| 26. 4,4′-DDE | 72559 | 0.167 | | | 3,100,000 | | 8.8E–07 | 8.8E–07 |
| 27. 4,4′-DDT | 50293 | 0.34 | | | 1,100,000 | | 1.2E–06 | 1.2E–06 |
| 28. Acenaphthene | 83329 | | 0.20 | 0.06 | | 510 | 10 | 10 |
| 29. Acrolein | 107028 | | 0.20 | 0.0005 | 1.0 | | 3 | 50 |
| 30. Acrylonitrile | 107131 | 0.54 | | | 1.0 | | 0.058 | 0.85 |
| 31. Aldrin | 309002 | 17 | | | 650,000 | | 4.1E–08 | 4.1E–08 |
| 32. alpha-BHC | 319846 | 6.3 | | | 1,500 | | 4.8E–05 | 4.8E–05 |
| 33. alpha-Endosulfan | 959988 | | 0.20 | 0.006 | 200 | | 3 | 3 |
| 34. Anthracene | 120127 | | 0.20 | 0.3 | | 610 | 40 | 40 |
| 35. Antimony | 7440360 | | 0.20 | 0.0004 | | 1 | 2.5 | 37 |
| 36. Arsenic | 7440382 | 1.75 | | | | 44 | [a] 0.0045 | [a] 0.0059 |
| 37. Asbestos | 1332214 | | | | | | [b] 7,000,000 (fibers/L) | |
| 38. Benzene | 71432 | [c] 0.055 | | | 5.0 | | [c] 0.44 | [c] 1.7 |
| 39. Benzidine | 92875 | 230 | | | 1.7 | | 0.00013 | 0.0012 |
| 40. Benzo(a) Anthracene | 56553 | 0.73 | | | | 3,900 | 0.00016 | 0.00016 |
| 41. Benzo(a) Pyrene | 50328 | 7.3 | | | | 3,900 | 1.6E–05 | 1.6E–05 |
| 42. Benzo(b) Fluoranthene | 205992 | 0.73 | | | | 3,900 | 0.00016 | 0.00016 |
| 43. Benzo(k) Fluoranthene | 207089 | 0.073 | | | | 3,900 | 0.0016 | 0.0016 |
| 44. beta-BHC | 319857 | 1.8 | | | 180 | | 0.0013 | 0.0014 |
| 45. beta-Endosulfan | 33213659 | | 0.20 | 0.006 | 130 | | 4 | 4 |
| 46. Bis(2-Chloroethyl) Ether | 111444 | 1.1 | | | 1.7 | | 0.027 | 0.24 |
| 47. *Bis(2-Chloro-1-Methylethyl) Ether | 108601 | | 0.20 | 0.04 | 10 | | 200 | 400 |
| 48. Bis(2-Ethylhexyl) Phthalate | 117817 | 0.014 | | | | 710 | 0.045 | 0.046 |
| 49. Bromoform | 75252 | 0.0045 | | | 8.5 | | 4.6 | 12 |
| 50. Butylbenzyl Phthalate | 85687 | 0.0019 | | | | 19,000 | 0.013 | 0.013 |
| 51. Carbon Tetrachloride | 56235 | 0.07 | | | 14 | | 0.2 | 0.5 |
| 52. Chlordane | 57749 | 0.35 | | | 60,000 | | 2.2E–05 | 2.2E–05 |
| 53. Chlorobenzene | 108907 | | 0.20 | 0.02 | 22 | | 50 | 80 |
| 54. Chlorodibromomethane | 124481 | 0.04 | | | 5.3 | | 0.60 | 2.2 |
| 55. Chloroform | 67663 | | 0.20 | 0.01 | 3.8 | | 50 | 200 |
| 56. Chrysene | 218019 | 0.0073 | | | | 3,900 | 0.016 | 0.016 |
| 57. Copper | 7440508 | | | | | | [d] 1300 | |
| 58. Cyanide | 57125 | | 0.20 | 0.0006 | | 1 | 4 | 50 |
| 59. Dibenzo(a,h) Anthracene | 53703 | 7.3 | | | | 3,900 | 1.6E–05 | 1.6E–05 |
| 60. Dichlorobromomethane | 75274 | 0.034 | | | 4.8 | | 0.73 | 2.8 |
| 61. Dieldrin | 60571 | 16 | | | 410,000 | | 7.0E–08 | 7.0E–08 |
| 62. Diethyl Phthalate | 84662 | | 0.20 | 0.8 | | 920 | 80 | 80 |
| 63. Dimethyl Phthalate | 131113 | | 0.20 | 10 | | 4,000 | 200 | 200 |
| 64. Di-n-Butyl Phthalate | 84742 | | 0.20 | 0.1 | | 2,900 | 3 | 3 |
| 65. Endosulfan Sulfate | 1031078 | | 0.20 | 0.006 | 140 | | 4 | 4 |
| 66. Endrin | 72208 | | 0.80 | 0.0003 | 46,000 | | 0.002 | 0.002 |
| 67. Endrin Aldehyde | 7421934 | | 0.80 | 0.0003 | 850 | | 0.1 | 0.1 |
| 68. Ethylbenzene | 100414 | | 0.20 | 0.022 | 160 | | 12 | 13 |
| 69. Fluoranthene | 206440 | | 0.20 | 0.04 | | 1,500 | 2 | 2 |
| 70. Fluorene | 86737 | | 0.20 | 0.04 | 710 | | 5 | 5 |
| 71. gamma-BHC; Lindane | 58899 | | 0.50 | 0.0047 | 2,500 | | 0.43 | 0.43 |
| 72. Heptachlor | 76448 | 4.1 | | | 330,000 | | 3.4E–07 | 3.4E–07 |
| 73. Heptachlor Epoxide | 1024573 | 5.5 | | | 35,000 | | 2.4E–06 | 2.4E–06 |
| 74. Hexachlorobenzene | 118741 | 1.02 | | | 90,000 | | 5.0E–06 | 5.0E–06 |
| 75. Hexachlorobutadiene | 87683 | 0.04 | | | 1,100 | | 0.01 | 0.01 |
| 76. Hexachlorocyclopentadiene | 77474 | | 0.20 | 0.006 | 1,300 | | 0.4 | 0.4 |
| 77. Hexachloroethane | 67721 | 0.04 | | | 600 | | 0.02 | 0.02 |
| 78. Indeno(1,2,3-cd) Pyrene | 193395 | 0.73 | | | | 3,900 | 0.00016 | 0.00016 |
| 79. Isophorone | 78591 | 0.00095 | | | 2.4 | | 30 | 200 |
| 80. Methyl Bromide | 74839 | | 0.20 | 0.02 | 1.4 | | 100 | 1,000 |
| 81. Methylene Chloride | 75092 | 0.002 | | | 1.6 | | 10 | 100 |
| 82. Methylmercury | 22967926 | | 2.7E–05 | 0.0001 | | | | [e] 0.033 (mg/kg) |
| 83. Nickel | 7440020 | | 0.20 | 0.02 | | 47 | 30 | 39 |
| 84. Nitrobenzene | 98953 | | 0.20 | 0.002 | 3.1 | | 10 | 60 |
| 85. N-Nitrosodimethylamine | 62759 | 51 | | | | 0.026 | 0.00065 | 0.34 |

TABLE 1—PROPOSED HUMAN HEALTH CRITERIA FOR WASHINGTON—Continued

| A | | B | | | | | C | |
|---|---|---|---|---|---|---|---|---|
| Chemical | CAS No. | Cancer slope factor, CSF (per mg/kg·d) (B1) | Relative source contribution, RSC (−) (B2) | Reference dose, RfD (mg/kg·d) (B3) | Bio-accumulation factor for trophic level 4 (L/kg tissue) (B4) | Bio-concentration factor LI≤(L/kg tissue) (B5) | Water & organisms (µg/L) (C1) | Organisms only (µg/L) (C2) |
| 86. N-Nitrosodi-n-Propylamine | 621647 | 7 | | | | 1.13 | 0.0044 | 0.058 |
| 87. N-Nitrosodiphenylamine | 86306 | 0.0049 | | | | 136 | 0.62 | 0.69 |
| 88. Pentachlorophenol (PCP) | 87865 | 0.4 | | | 520 | | 0.002 | 0.002 |
| 89. Phenol | 108952 | | 0.20 | 0.6 | 1.9 | | 4,000 | 30,000 |
| 90. Polychlorinated Biphenyls (PCBs) | | 2 | | | | 31,200 | [f]7.3E–06 | [f]7.3E–06 |
| 91. Pyrene | 129000 | | 0.20 | 0.03 | | 860 | 3 | 3 |
| 92. Selenium | 7782492 | | 0.20 | 0.005 | | 4.8 | 25 | 95 |
| 93. Tetrachloroethylene | 127184 | 0.0021 | | | 76 | | 2.4 | 2.9 |
| 94. Thallium | 7440280 | | 0.20 | 0.000068 | | 116 | 0.048 | 0.054 |
| 95. Toluene | 108883 | | 0.20 | 0.0097 | 17 | | 29 | 52 |
| 96. Toxaphene | 8001352 | 1.1 | | | 6,300 | | 6.6E–05 | 6.6E–05 |
| 97. Trichloroethylene | 79016 | 0.05 | | | 13 | | 0.3 | 0.7 |
| 98. Vinyl Chloride | 75014 | 1.5 | | | 1.7 | | 0.020 | 0.18 |
| 99. Zinc | 7440666 | | 0.20 | 0.3 | | 47 | 450 | 580 |

[a] This criterion refers to the inorganic form of arsenic only.
[b] This criterion is expressed as fibers per liter (fibers/L). The criterion for asbestos is the Maximum Contaminant Level Goal (MCLG) developed under the Safe Drinking Water Act (SDWA) (56 FR 3526, January 30, 1991).
[c] EPA's national 304(a) recommended criteria for benzene use a CSF range of 0.015 to 0.055 per mg/kg-day. EPA proposes to use the higher end of the CSF range (0.055 per mg/kg-day) to derive the proposed benzene criteria for Washington.
[d] The criterion for copper is the Maximum Contaminant Level Goal (MCLG) developed under the Safe Drinking Water Act (SDWA) (40 CFR 141.80, June 7, 1991).
[e] This criterion is expressed as the fish tissue concentration of methylmercury (mg methylmercury/kg fish). See *Water Quality Criterion for the Protection of Human Health: Methylmercury* (EPA–823–R–01–001, January 3, 2001) for how this value is calculated using the criterion equation in EPA's 2000 Human Health Methodology rearranged to solve for a protective concentration in fish tissue rather than in water.
[f] This criterion applies to total PCBs (*e.g.,* the sum of all congener or isomer or homolog or Aroclor analyses).
* Bis(2-Chloro-1-Methylethyl) Ether was previously listed as Bis(2-Chloroisopropyl) Ether.

*E. Applicability of Criteria When Final*

The EPA does not propose to revise or replace any existing criteria (related to human health or otherwise) that were already adopted and submitted to EPA by Washington (and for those adopted after May 30, 2000, approved by EPA), such as the state's narrative toxics criteria statement at WAC 173–201A–260(2)(a). Rather, EPA proposes to revise the current federal human health criteria applicable to waters in the state of Washington, as promulgated in the NTR, and establish new criteria for 14 additional priority pollutants. These new and revised human health criteria would apply for CWA purposes in addition to any existing criteria already applicable to Washington's waters.

EPA proposes to replicate in 40 CFR 131.45 the same general rules of applicability for human health criteria as in 40 CFR 131.36(c), with one exception. For waters suitable for the establishment of low flow return frequencies (*i.e.,* streams and rivers), EPA proposes that Washington must not use a low flow value below which numeric standards can be exceeded that is less stringent than the harmonic mean flow (a long-term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows). Per 65 FR 66444, November 3, 2000, EPA now recommends harmonic mean flow be used to implement human health criteria for both carcinogens and non-carcinogens.[35]

Under the CWA, Congress gave states primary responsibility for developing and adopting WQS for their navigable waters (CWA section 303(a)–(c)). Although EPA proposes human health criteria for Washington to update the existing federally promulgated criteria, Washington continues to have the option to adopt and submit to EPA human health criteria for the state's waters consistent with CWA section 303(c) and EPA's implementing regulations at 40 CFR part 131. EPA encourages Washington to expeditiously adopt protective human health criteria. Consistent with CWA section 303(c)(4), if Washington adopts and submits human health criteria and EPA approves such criteria before finalizing this proposed rule, EPA would not proceed with the final rulemaking for those waters and/or pollutants for which EPA approves Washington's criteria.

If EPA finalizes this proposed rule, and Washington subsequently adopts and submits human health criteria, EPA proposes that once EPA approves Washington's WQS, the pollutant-specific or site-specific EPA-approved criteria in Washington's WQS would become effective for CWA purposes and EPA's promulgated criteria for those pollutants or for that site would no longer apply. EPA would still undertake a rulemaking to withdraw the federal criteria for those pollutants, but any delay in that process would not delay Washington's approved criteria from becoming the sole applicable criteria for CWA purposes. EPA solicits comment on this approach.

*F. Alternative Regulatory Approaches and Implementation Mechanisms*

Once finalized, Washington will have considerable discretion to implement these revised federal human health criteria through various water quality control programs including the NPDES program, which limits discharges to waters except in compliance with a NPDES permit. EPA's regulations at 40 CFR 131.14, once effective, authorize states and authorized tribes to adopt WQS variances to provide time to achieve the applicable WQS. 40 CFR part 131 defines WQS variances at 131.3(o) as time-limited designated uses and supporting criteria for a specific pollutant(s) or water quality parameter(s) that reflect the highest attainable conditions during the term of the WQS variance. WQS variances adopted in accordance with 40 CFR part 131 allow states and authorized tribes to

[35] See also USEPA. 2014. Water Quality Standards Handbook—Chapter 5: General Policies. U.S. Environmental Protection Agency. Office of Water. Washington, D.C. EPA–820–B–14–004. *http://water.epa.gov/scitech/swguidance/standards/handbook/chapter05.cfm#section52.*

address water quality challenges in a transparent and predictable way. Variances help states and authorized tribes focus on making incremental progress in improving water quality, rather than pursuing a downgrade of the underlying water quality goals through a designated use change, when the current designated use is difficult to attain. EPA's regulations at 40 CFR 122.47 and 40 CFR 131.15, once effective, allow states and authorized tribes to include permit compliance schedules in their NPDES permits if dischargers need additional time to meet their water quality based limits based on the applicable WQS. EPA's updated regulations at 40 CFR part 131 also include provisions authorizing the use of permit compliance schedules to ensure that a decision to allow permit compliance schedules includes public engagement and transparency. (80 FR 51022, August 21, 2015).

40 CFR 131.10 specifies how states and authorized tribes establish, modify or remove designated uses for their waters. 40 CFR 131.11 specifies the requirements for establishing criteria to protect designated uses, including criteria modified to reflect site-specific conditions. In the context of this rulemaking, a site-specific criterion (SSC) is an alternative value to the federal human health criteria that would be applied on a watershed, area-wide, or waterbody-specific basis that meets the regulatory test of protecting the designated use, being scientifically defensible, and ensuring the protection and maintenance of downstream WQS. A SSC may be more or less stringent than the otherwise applicable federal criteria. A SSC may be appropriate when further scientific data and analyses can bring added precision to express the concentration of a particular pollutant that protects the human health-related designated use in a particular waterbody.

EPA does not propose to change any of the flexibilities afforded to Washington by EPA's regulations to modify or remove designated uses, adopt variances, issue compliance schedules or establish site-specific criteria. Washington may continue to use any of these regulatory flexibilities when implementing the revised federal human health criteria.

a. Designating Uses

EPA's proposed human health criteria apply to waters that Washington has designated for the following: Fresh waters—Harvesting (fish harvesting), Domestic Water (domestic water supply), and Recreational Uses; Marine waters—Shellfish Harvesting (shellfish—clam, oyster, and mussel—harvesting), Harvesting (salmonid and other fish harvesting, and crustacean and other shellfish—crabs, shrimp, scallops, etc.—harvesting), and Recreational Uses (see WAC 173–201A–600 and WAC 173–201A–610). If Washington removes the Domestic Water use but retains any of the other above designated uses for any particular waterbody ultimately affected by this rule, and EPA finds that removal to be consistent with CWA section 303(c) and EPA's implementing regulations at 40 CFR part 131, then the federal organism-only criteria would apply in place of the federal water-plus-organism criteria. If Washington removes designated uses such that none of the above uses apply to any particular waterbody ultimately affected by this rule and adopts the highest attainable use, as defined by 40 CFR 131.3(m), consistent with 40 CFR 131.10(g), and EPA finds that removal to be consistent with CWA section 303(c) and EPA's implementing regulations at 40 CFR part 131, then the federal human health criteria would no longer apply to that waterbody. Instead, any criteria associated with the newly designated highest attainable use would apply to that waterbody.

b. Variances and Compliance Schedules

EPA is proposing human health criteria that apply to use designations that Washington has already established. Washington has sufficient authority to use variances when implementing the human health criteria as long as such variances are adopted consistent with 40 CFR 131.14. Washington may use its currently EPA-approved variance procedures with respect to a temporary modification of its uses as it pertains to any federal criteria (see WAC 173–201A–420) when adopting such variances. Similarly, Washington already has an EPA-approved regulation authorizing the use of permit compliance schedules (see WAC 173–201A–510), consistent with 40 CFR 131.15. That state regulation is not affected by this rule, and Washington is authorized to grant compliance schedules, as appropriate, based on the federal criteria.

c. Site-Specific Criteria

As discussed in section IV.E, EPA proposes that once EPA approves human health criteria that Washington adopts and submits after EPA finalizes this proposed rule, the pollutant-specific or site-specific EPA-approved criteria in Washington's WQS would become effective for CWA purposes and EPA's promulgated criteria for those pollutants or for that site would no longer apply.

## V. Economic Analysis

These WQS may serve as a basis for development of NPDES permit limits. Washington has NPDES permitting authority, and retains considerable discretion in implementing standards. EPA evaluated the potential costs to NPDES dischargers associated with state implementation of EPA's proposed criteria. This analysis is documented in ''Economic Analysis for the Revision of Certain Federal Water Quality Criteria Applicable to Washington,'' which can be found in the record for this rulemaking.

Any NPDES-permitted facility that discharges pollutants for which the revised human health criteria are more stringent than the applicable aquatic life criteria (or for which human health criteria are the only applicable criteria) could potentially incur compliance costs. The types of affected facilities could include industrial facilities and POTWs discharging wastewater to surface waters (*i.e.,* point sources). Once in compliance with water quality-based effluent limitations (WQBELs) reflective of existing federal human health criteria applicable to Washington (hereafter referred to as ''baseline criteria''), EPA expects that dischargers will continue to use the same types of controls to come into compliance with the revised criteria; EPA did not attribute compliance with WQBELs reflective of baseline criteria to the proposed rule. EPA did not fully evaluate the potential for costs to nonpoint sources, such as agricultural runoff, for this preliminary analysis.

EPA recognizes that the permitting authority may require controls for nonpoint sources (*e.g.,* agricultural runoff). However, it is difficult to model and evaluate the potential cost impacts of this proposed rule to nonpoint sources because they are intermittent, variable, and occur under hydrologic or climatic conditions associated with precipitation events. Also, data on instream and discharge levels of the pollutants of concern after dischargers have implemented controls to meet current WQS, total maximum daily loads (TMDLs) for impaired waters, or other water quality improvement plans, are not available. Therefore, trying to determine which sources would not achieve WQS based on the revised human health criteria after complying with existing regulations and policies may not be possible.

Finally, legacy contamination (*e.g.,* in sediment) may be a source of ongoing loading. Atmospheric deposition may

also contribute loadings of the pollutants of concern (*e.g.,* mercury). EPA did not estimate sediment remediation costs, or air pollution controls costs, for this preliminary analysis.

*A. Identifying Affected Entities*

EPA identified 406 point source facilities that could ultimately be affected by this proposed rule. Of these potentially affected facilities, 73 are major dischargers and 333 are minor dischargers. EPA did not include general permit facilities in its analysis because data for such facilities are limited, and flows are usually negligible. Of the potentially affected facilities, EPA evaluated a sample of 17 major facilities. Minor facilities are unlikely to incur costs as a result of implementation of the rule. Minor facilities are typically those that discharge less than 1 million gallons per day (mgd) and do not discharge toxics in toxic amounts. Although lower human health criteria could potentially change this categorization, EPA did not have effluent data on toxic pollutants to evaluate minor facilities for this preliminary analysis. Table 2 summarizes these potentially affected facilities by type and category.

TABLE 2—POTENTIALLY AFFECTED FACILITIES

| Category | Minor | Major | All |
|---|---|---|---|
| Municipal | 184 | 48 | 232 |
| Industrial | 149 | 25 | 174 |
| Total | 333 | 73 | 406 |

*B. Method for Estimating Costs*

EPA evaluated the 2 major municipal facilities with design flows greater than 100 mgd and the largest industrial facility, to attempt to capture the facilities with the potential for the largest costs. For the remaining major facilities, EPA evaluated a random sample of facilities to represent discharger type and category. For all sample facilities, EPA evaluated existing baseline permit conditions, reasonable potential to exceed human health criteria based on the proposed rule, and potential to exceed projected effluent limitations based on the last three years of effluent monitoring data (if available). In instances of baseline effluent limitations not being reflective of baseline criteria, EPA estimated baseline effluent limitations, compliance actions, and costs. In instances of exceedances of projected effluent limitations under the proposed criteria, EPA determined the likely compliance scenarios and costs. Only compliance actions and costs that would be needed above the baseline level of controls are attributable to the proposed rule.

EPA assumed that dischargers will pursue the least cost means of compliance with WQBELs. Incremental compliance actions attributable to the proposed rule may include pollution prevention, end-of-pipe treatment, and alternative compliance mechanisms (*e.g.,* variances). EPA annualized capital costs, including study (*e.g.,* variance) and program (*e.g.,* pollution prevention) costs, over 20 years using a 7% discount rate to obtain total annual costs per facility. For the random sample, EPA extrapolated the annualized costs based on the sampling weight for each sample facility. To obtain an estimate of total costs to point sources, EPA added the results for the certainty sample to the extrapolated random sample costs.

C. Results

Based on the results for 17 sample facilities across 8 industrial and municipal categories,[36] EPA estimated a total annual cost of approximately $13.0 million to $13.1 million for all major dischargers in the state. The low end of the range reflects the assumption that the compliance actions will result in compliance with projected effluent limits through pollution prevention programs and end-of-pipe treatment, whereas the high scenario reflects the assumption that these actions will not result in compliance with very low limits and dischargers will also need to apply for variances. All of the incremental costs are attributable to industrial dischargers, primarily for treatment of arsenic. Overall, compliance with revised human health criteria for arsenic accounts for 99% of the costs, while compliance with revised human health criteria for mercury accounts for the remaining 1% of costs.

If the revised criteria result in an incremental increase in impaired waters, resulting in the need for TMDL development, there could also be some costs to nonpoint sources of pollution. Using available ambient monitoring data, EPA compared pollutant concentrations to the baseline and proposed criteria, identifying waterbodies that may be incrementally impaired (*i.e.,* impaired under the proposed criteria but not under the baseline). For the 26 parameters and stations for which EPA had sufficient monitoring data available to evaluate, there were 205 impairments under the baseline criteria and 254 under the proposed criteria, for a total of 49 potential incremental impairments (or a 24% increase relative to the baseline; including for mercury and DDT). This increase indicates the potential for nonpoint sources to bear some compliance costs, although data are not available to estimate the magnitude of these costs. The control of nonpoint sources such as in the context of a TMDL could result in less stringent requirements, and thus lower costs, for point sources.

[36] Seven industrial categories (mining, food and kindred products, paper and allied products, chemicals and allied products, petroleum refining and related industries, primary metal industries, and transportation and public utilities (except POTWs)) and municipal POTWs.

## VI. Statutory and Executive Order Reviews

*A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)*

It has been determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). The proposed rule does not establish any requirements directly applicable to regulated entities or other sources of toxic pollutants. However, these WQS may serve as a basis for development of NPDES permit limits. Washington has NPDES permitting authority, and retains considerable discretion in implementing standards. In the spirit of Executive Order 12866, EPA evaluated the potential costs to NPDES dischargers associated with state implementation of EPA's proposed criteria. This analysis,

*Economic Analysis for the Revision of Certain Federal Water Quality Criteria Applicable to Washington,* is summarized in section V of the preamble and is available in the docket.

*B. Paperwork Reduction Act*

This action does not impose any direct new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Actions to implement these WQS could entail additional paperwork burden. Burden is defined at 5 CFR 1320.3(b). This action does not include any information collection, reporting, or record-keeping requirements.

*C. Regulatory Flexibility Act*

This action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA). Small entities, such as small businesses or small governmental jurisdictions, are not directly regulated by this rule. This proposed rule will thus not impose any requirements on small entities. We continue to be interested, however, in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

*D. Unfunded Mandates Reform Act*

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. As these water quality criteria are not self-implementing, EPA's action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that could significantly or uniquely affect small governments.

*E. Executive Order 13132 (Federalism)*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This rule does not alter Washington's considerable discretion in implementing these WQS, nor would it preclude Washington from adopting WQS that EPA concludes meet the requirements of the CWA, either before or after promulgation of the final rule, which would eliminate the need for federal standards. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comments on this proposed action from state and local officials.

*F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. In the state of Washington, there are 29 federally recognized Indian tribes. To date, nine of these Indian tribes have been approved for TAS for CWA sections 303 and 401.[37] Of these nine tribes, seven have EPA-approved WQS in their respective jurisdictions.[38] This rule could affect federally recognized Indian tribes in Washington because the numeric criteria for Washington will apply to waters adjacent to (or upstream or downstream of) the tribal waters, and because the proposed Washington criteria are informed by tribal reserved rights. Additionally, there are ten federally recognized Indian tribes in the Columbia River Basin located in the states of Oregon and Idaho that this rule could affect because their waters could affect or be affected by the water quality of Washington's downstream or upstream waters.

EPA consulted with federally recognized tribal officials under EPA's Policy on Consultation and Coordination with Indian tribes early in the process of developing this proposed rule to permit them to have meaningful and timely input into its development. In February and March 2015, EPA held tribes-only technical staff and leadership consultation sessions to hear their views and answer questions of all interested tribes on the proposed rule. Representatives from approximately 23 tribes and four tribal consortia participated in two leadership meetings held in March 2015. EPA and tribes have also met regularly since November 2012 to discuss Washington's human health criteria at both the tribal leadership level and technical staff level. The tribes have repeatedly asked EPA to promulgate federal human health criteria for Washington if the state did not do so in a timely and protective manner. At these meetings, the tribes consistently emphasized that the human health criteria should be derived using at least a minimum FCR value of 175 g/day, a cancer risk level of $10^{-6}$, and the latest scientific information from EPA's 304(a) recommended criteria. EPA considered the input received during consultation with tribes when developing this proposal (see section IV for additional discussion of how EPA considered tribal input).

*G. Executive Order 13045 (Protection of Children From Environmental Health and Safety Risks)*

This rule is not subject to Executive Order 13045, because it is not economically significant as defined in Executive Order 12866, and because the environmental health or safety risks addressed by this action do not present a disproportionate risk to children.

The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure.

*H. Executive Order 13211 (Actions That Significantly Affect Energy Supply, Distribution, or Use)*

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

*I. National Technology Transfer and Advancement Act of 1995*

This proposed rulemaking does not involve technical standards.

*J. Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)*

This action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. Conversely, this action identifies and ameliorates disproportionately high and adverse human health effects on minority populations and low-income populations in Washington. EPA developed the human health criteria included in this proposed rule specifically to protect Washington's designated uses, using the most current science, including local and regional information on fish consumption. Applying these criteria to waters in the state of Washington will afford a greater

[37] *http://water.epa.gov/scitech/swguidance/standards/wqslibrary/approvtable.cfm.*

[38] *http://yosemite.epa.gov/r10/water.nsf/34090d07b77d50bd88256b79006529e8/dd2a4df00fd7ae1a88256e0500680e86!OpenDocument.* Note that this number does not include the Confederated Tribes of the Colville Reservation, which has federally-promulgated WQS from 1989. EPA is currently reviewing the Colville Tribe's application for TAS.

level of protection to both human health and the environment.

**List of Subjects in 40 CFR Part 131**

Environmental protection, Indians-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: August 31, 2015.

**Gina McCarthy,**

*Administrator.*

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 131 as follows:

## PART 131—WATER QUALITY STANDARDS

■ 1. The authority citation for part 131 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

## Subpart D—Federally Promulgated Water Quality Standards

### § 131.36 [Amended]

■ 2. In § 131.36, remove paragraph (d)(14).

■ 3. Add § 131.45 to read as follows:

### § 131.45 Revision of certain Federal water quality criteria applicable to Washington.

(a) *Scope.* This section promulgates human health criteria for priority toxic pollutants in surface waters in Washington.

(b) *Criteria for priority toxic pollutants in Washington.* The applicable human health criteria are shown in Table 1.

TABLE 1—PROPOSED HUMAN HEALTH CRITERIA FOR WASHINGTON

| A | | B | | | | | C | |
|---|---|---|---|---|---|---|---|---|
| Chemical | CAS No. | Cancer slope factor, CSF (per mg/kg·d) (B1) | Relative source contribution, RSC (–) (B2) | Reference dose, RfD (mg/kg·d) (B3) | Bio-accumulation factor for trophic level 4 (L/kg tissue) (B4) | Bio-concentration factor (L/kg tissue) (B5) | Water & organisms (µg/L) (C1) | Organisms only (µg/L) (C2) |
| 1. 1,1,1-Trichloroethane | 71556 | | 0.20 | 2 | 10 | | 8,000 | 20,000 |
| 2. 1,1,2,2-Tetrachloroethane | 79345 | 0.2 | | | 8.4 | | 0.1 | 0.3 |
| 3. 1,1,2-Trichloroethane | 79005 | 0.057 | | | 8.9 | | 0.35 | 0.90 |
| 4. 1,1-Dichloroethylene | 75354 | | 0.20 | 0.05 | 2.6 | | 300 | 2,000 |
| 5. 1,2,4-Trichlorobenzene | 120821 | 0.029 | | | 430 | | 0.036 | 0.037 |
| 6. 1,2-Dichlorobenzene | 95501 | | 0.20 | 0.3 | 82 | | 300 | 300 |
| 7. 1,2-Dichloroethane | 107062 | 0.0033 | | | 1.9 | | 8.9 | 73 |
| 8. 1,2-Dichloropropane | 78875 | 0.036 | | | 3.9 | | 0.72 | 3.3 |
| 9. 1,2-Diphenylhydrazine | 122667 | 0.8 | | | 27 | | 0.01 | 0.02 |
| 10. 1,2-Trans-Dichloroethylene | 156605 | | 0.20 | 0.02 | 4.7 | | 100 | 400 |
| 11. 1,3-Dichlorobenzene | 541731 | | 0.20 | 0.002 | 190 | | 0.9 | 1 |
| 12. 1,3-Dichloropropene | 542756 | 0.122 | | | 3.0 | | 0.22 | 1.2 |
| 13. 1,4-Dichlorobenzene | 106467 | | 0.20 | 0.07 | 84 | | 70 | 80 |
| 14. 2,3,7,8-TCDD (Dioxin) | 1746016 | 156,000 | | | | 5,000 | 5.8E–10 | 5.9E–10 |
| 15. 2,4,6-Trichlorophenol | 88062 | 0.011 | | | 150 | | 0.25 | 0.28 |
| 16. 2,4-Dichlorophenol | 120832 | | 0.20 | 0.003 | 48 | | 4 | 6 |
| 17. 2,4-Dimethylphenol | 105679 | | 0.20 | 0.02 | 7 | | 90 | 300 |
| 18. 2,4-Dinitrophenol | 51285 | | 0.20 | 0.002 | | 4.4 | 10 | 40 |
| 19. 2,4-Dinitrotoluene | 121142 | 0.667 | | | 3.9 | | 0.039 | 0.18 |
| 20. 2-Chloronaphthalene | 91587 | | 0.80 | 0.08 | 240 | | 100 | 100 |
| 21. 2-Chlorophenol | 95578 | | 0.20 | 0.005 | 5.4 | | 20 | 80 |
| 22. 2-Methyl-4,6-Dinitrophenol | 534521 | | 0.20 | 0.0003 | 10 | | 1 | 3 |
| 23. 3,3′-Dichlorobenzidine | 91941 | 0.45 | | | 69 | | 0.012 | 0.015 |
| 24. 3-Methyl-4-Chlorophenol | 59507 | | 0.20 | 0.1 | 39 | | 200 | 200 |
| 25. 4,4′-DDD | 72548 | 0.24 | | | 240,000 | | 7.9E–06 | 7.9E–06 |
| 26. 4,4′-DDE | 72559 | 0.167 | | | 3,100,000 | | 8.8E–07 | 8.8E–07 |
| 27. 4,4′-DDT | 50293 | 0.34 | | | 1,100,000 | | 1.2E–06 | 1.2E–06 |
| 28. Acenaphthene | 83329 | | 0.20 | 0.06 | | 510 | 10 | 10 |
| 29. Acrolein | 107028 | | 0.20 | 0.0005 | 1.0 | | 3 | 50 |
| 30. Acrylonitrile | 107131 | 0.54 | | | 1.0 | | 0.058 | 0.85 |
| 31. Aldrin | 309002 | 17 | | | 650,000 | | 4.1E–08 | 4.1E–08 |
| 32. alpha-BHC | 319846 | 6.3 | | | 1,500 | | 4.8E–05 | 4.8E–05 |
| 33. alpha-Endosulfan | 959988 | | 0.20 | 0.006 | 200 | | 3 | 3 |
| 34. Anthracene | 120127 | | 0.20 | 0.3 | | 610 | 40 | 40 |
| 35. Antimony | 7440360 | | 0.20 | 0.0004 | | 1 | 2.5 | 37 |
| 36. Arsenic | 7440382 | 1.75 | | | | 44 | [a] 0.0045 | [a] 0.0059 |
| 37. Asbestos | 1332214 | | | | | | [b] 7,000,000 (fibers/L) | |
| 38. Benzene | 71432 | [c] 0.055 | | | 5.0 | | [c] 0.44 | [c] 1.7 |
| 39. Benzidine | 92875 | 230 | | | 1.7 | | 0.00013 | 0.0012 |
| 40. Benzo(a) Anthracene | 56553 | 0.73 | | | | 3,900 | 0.00016 | 0.00016 |
| 41. Benzo(a) Pyrene | 50328 | 7.3 | | | | 3,900 | 1.6E–05 | 1.6E–05 |
| 42. Benzo(b) Fluoranthene | 205992 | 0.73 | | | | 3,900 | 0.00016 | 0.00016 |
| 43. Benzo(k) Fluoranthene | 207089 | 0.073 | | | | 3,900 | 0.0016 | 0.0016 |
| 44. beta-BHC | 319857 | 1.8 | | | 180 | | 0.0013 | 0.0014 |
| 45. beta-Endosulfan | 33213659 | | 0.20 | 0.006 | 130 | | 4 | 4 |
| 46. Bis(2-Chloroethyl) Ether | 111444 | 1.1 | | | 1.7 | | 0.027 | 0.24 |
| 47. * Bis(2-Chloro-1-Methylethyl) Ether | 108601 | | 0.20 | 0.04 | 10 | | 200 | 400 |
| 48. Bis(2-Ethylhexyl) Phthalate | 117817 | 0.014 | | | | 710 | 0.045 | 0.046 |
| 49. Bromoform | 75252 | 0.0045 | | | 8.5 | | 4.6 | 12 |
| 50. Butylbenzyl Phthalate | 85687 | 0.0019 | | | | 19,000 | 0.013 | 0.013 |
| 51. Carbon Tetrachloride | 56235 | 0.07 | | | 14 | | 0.2 | 0.5 |
| 52. Chlordane | 57749 | 0.35 | | | 60,000 | | 2.2E–05 | 2.2E–05 |
| 53. Chlorobenzene | 108907 | | 0.20 | 0.02 | 22 | | 50 | 80 |
| 54. Chlorodibromomethane | 124481 | 0.04 | | | 5.3 | | 0.60 | 2.2 |

TABLE 1—PROPOSED HUMAN HEALTH CRITERIA FOR WASHINGTON—Continued

| A | | B | | | | | C | |
|---|---|---|---|---|---|---|---|---|
| Chemical | CAS No. | Cancer slope factor, CSF (per mg/kg·d) | Relative source contribution, RSC (−) | Reference dose, RfD (mg/kg·d) | Bio-accumulation factor for trophic level 4 (L/kg tissue) | Bio-concentration factor (L/kg tissue) | Water & organisms (µg/L) | Organisms only (µg/L) |
| | | (B1) | (B2) | (B3) | (B4) | (B5) | (C1) | (C2) |
| 55. Chloroform | 67663 | ..... | 0.20 | 0.01 | 3.8 | ..... | 50 | 200 |
| 56. Chrysene | 218019 | 0.0073 | ..... | ..... | ..... | 3,900 | 0.016 | 0.016 |
| 57. Copper | 7440508 | ..... | ..... | ..... | ..... | ..... | [d] 1300 | ..... |
| 58. Cyanide | 57125 | ..... | 0.20 | 0.0006 | ..... | 1 | 4 | 50 |
| 59. Dibenzo(a,h) Anthracene | 53703 | 7.3 | ..... | ..... | ..... | 3,900 | 1.6E–05 | 1.6E–05 |
| 60. Dichlorobromomethane | 75274 | 0.034 | ..... | ..... | 4.8 | ..... | 0.73 | 2.8 |
| 61. Dieldrin | 60571 | 16 | ..... | ..... | 410,000 | ..... | 7.0E–08 | 7.0E–08 |
| 62. Diethyl Phthalate | 84662 | ..... | 0.20 | 0.8 | ..... | 920 | 80 | 80 |
| 63. Dimethyl Phthalate | 131113 | ..... | 0.20 | 10 | ..... | 4,000 | 200 | 200 |
| 64. Di-n-Butyl Phthalate | 84742 | ..... | 0.20 | 0.1 | ..... | 2,900 | 3 | 3 |
| 65. Endosulfan Sulfate | 1031078 | ..... | 0.20 | 0.006 | 140 | ..... | 4 | 4 |
| 66. Endrin | 72208 | ..... | 0.80 | 0.0003 | 46,000 | ..... | 0.002 | 0.002 |
| 67. Endrin Aldehyde | 7421934 | ..... | 0.80 | 0.0003 | 850 | ..... | 0.1 | 0.1 |
| 68. Ethylbenzene | 100414 | ..... | 0.20 | 0.022 | 160 | ..... | 12 | 13 |
| 69. Fluoranthene | 206440 | ..... | 0.20 | 0.04 | ..... | 1,500 | 2 | 2 |
| 70. Fluorene | 86737 | ..... | 0.20 | 0.04 | 710 | ..... | 5 | 5 |
| 71. gamma-BHC; Lindane | 58899 | ..... | 0.50 | 0.0047 | 2,500 | ..... | 0.43 | 0.43 |
| 72. Heptachlor | 76448 | 4.1 | ..... | ..... | 330,000 | ..... | 3.4E–07 | 3.4E–07 |
| 73. Heptachlor Epoxide | 1024573 | 5.5 | ..... | ..... | 35,000 | ..... | 2.4E–06 | 2.4E–06 |
| 74. Hexachlorobenzene | 118741 | 1.02 | ..... | ..... | 90,000 | ..... | 5.0E–06 | 5.0E–06 |
| 75. Hexachlorobutadiene | 87683 | 0.04 | ..... | ..... | 1,100 | ..... | 0.01 | 0.01 |
| 76. Hexachlorocyclopentadiene | 77474 | ..... | 0.20 | 0.006 | 1,300 | ..... | 0.4 | 0.4 |
| 77. Hexachloroethane | 67721 | 0.04 | ..... | ..... | 600 | ..... | 0.02 | 0.02 |
| 78. Indeno(1,2,3-cd) Pyrene | 193395 | 0.73 | ..... | ..... | ..... | 3,900 | 0.00016 | 0.00016 |
| 79. Isophorone | 78591 | 0.00095 | ..... | ..... | 2.4 | ..... | 30 | 200 |
| 80. Methyl Bromide | 74839 | ..... | 0.20 | 0.02 | 1.4 | ..... | 100 | 1,000 |
| 81. Methylene Chloride | 75092 | 0.002 | ..... | ..... | 1.6 | ..... | 10 | 100 |
| 82. Methylmercury | 22967926 | ..... | 2.7E–05 | 0.0001 | ..... | ..... | ..... | [e] 0.033 (mg/kg) |
| 83. Nickel | 7440020 | ..... | 0.20 | 0.02 | ..... | 47 | 30 | 39 |
| 84. Nitrobenzene | 98953 | ..... | 0.20 | 0.002 | 3.1 | ..... | 10 | 60 |
| 85. N-Nitrosodimethylamine | 62759 | 51 | ..... | ..... | ..... | 0.026 | 0.00065 | 0.34 |
| 86. N-Nitrosodi-n-Propylamine | 621647 | 7 | ..... | ..... | ..... | 1.13 | 0.0044 | 0.058 |
| 87. N-Nitrosodiphenylamine | 86306 | 0.0049 | ..... | ..... | ..... | 136 | 0.62 | 0.69 |
| 88. Pentachlorophenol (PCP) | 87865 | 0.4 | ..... | ..... | 520 | ..... | 0.002 | 0.002 |
| 89. Phenol | 108952 | ..... | 0.20 | 0.6 | 1.9 | ..... | 4,000 | 30,000 |
| 90. Polychlorinated Biphenyls (PCBs) | ..... | 2 | ..... | ..... | ..... | 31,200 | [f] 7.3E–06 | [f] 7.3E–06 |
| 91. Pyrene | 129000 | ..... | 0.20 | 0.03 | ..... | 860 | 3 | 3 |
| 92. Selenium | 7782492 | ..... | 0.20 | 0.005 | ..... | 4.8 | 25 | 95 |
| 93. Tetrachloroethylene | 127184 | 0.0021 | ..... | ..... | 76 | ..... | 2.4 | 2.9 |
| 94. Thallium | 7440280 | ..... | 0.20 | 0.000068 | ..... | 116 | 0.048 | 0.054 |
| 95. Toluene | 108883 | ..... | 0.20 | 0.0097 | 17 | ..... | 29 | 52 |
| 96. Toxaphene | 8001352 | 1.1 | ..... | ..... | 6,300 | ..... | 6.6E–05 | 6.6E–05 |
| 97. Trichloroethylene | 79016 | 0.05 | ..... | ..... | 13 | ..... | 0.3 | 0.7 |
| 98. Vinyl Chloride | 75014 | 1.5 | ..... | ..... | 1.7 | ..... | 0.020 | 0.18 |
| 99. Zinc | 7440666 | ..... | 0.20 | 0.3 | ..... | 47 | 450 | 580 |

[a] This criterion refers to the inorganic form of arsenic only.
[b] This criterion is expressed as fibers per liter (fibers/L). The criterion for asbestos is the Maximum Contaminant Level Goal (MCLG) developed under the Safe Drinking Water Act (SDWA) (56 FR 3526, January 30, 1991).
[c] EPA's national 304(a) recommended criteria for benzene use a CSF range of 0.015 to 0.055 per mg/kg-day. EPA proposes to use the higher end of the CSF range (0.055 per mg/kg-day) to derive the proposed benzene criteria for Washington.
[d] The criterion for copper is the Maximum Contaminant Level Goal (MCLG) developed under the Safe Drinking Water Act (SDWA) (40 CFR 141.80, June 7, 1991).
[e] This criterion is expressed as the fish tissue concentration of methylmercury (mg methylmercury/kg fish). See *Water Quality Criterion for the Protection of Human Health: Methylmercury* (EPA–823–R–01–001, January 3, 2001) for how this value is calculated using the criterion equation in EPA's 2000 Human Health Methodology rearranged to solve for a protective concentration in fish tissue rather than in water.
[f] This criterion applies to total PCBs (*e.g.*, the sum of all congener or isomer or homolog or Aroclor analyses).
* Bis(2-Chloro-1-Methylethyl) Ether was previously listed as Bis(2-Chloroisopropyl) Ether.

(c) *Applicability.* (1) The criteria in paragraph (b) of this section apply to waters with Washington's designated uses cited in paragraph (d) of this section and apply concurrently with any water quality criteria adopted by the state, except where pollutant- or waterbody-specific state human health criteria regulations determined by EPA to meet the requirements of Clean Water Act section 303(c) and 40 CFR part 131 apply, in which case Washington's pollutant- or waterbody-specific criteria will apply and not the criteria in paragraph (b) of this section.

(2) The criteria established in this section are subject to Washington's general rules of applicability in the same way and to the same extent as are other federally promulgated and state-adopted numeric criteria when applied to the same use classifications in paragraph (d) of this section.

(i) For all waters with mixing zone regulations or implementation procedures, the criteria apply at the appropriate locations within or at the boundary of the mixing zones; otherwise the criteria apply throughout the waterbody including at the end of any discharge pipe, conveyance or other discharge point.

(ii) The state must not use a low flow value below which numeric non-carcinogen and carcinogen human health criteria can be exceeded that is less stringent than the harmonic mean flow for waters suitable for the establishment of low flow return frequencies (*i.e.,* streams and rivers). Harmonic mean flow is a long-term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows.

(iii) If the state does not have such a low flow value for numeric criteria, then none will apply and the criteria in paragraph (b) of this section herein apply at all flows.

(d) *Applicable use designations.* (1) All waters in Washington assigned to the following use classifications are subject to the criteria identified in paragraph (d)(2) of this section:

(i) Fresh waters—

(A) Miscellaneous uses: Harvesting (Fish harvesting);

(B) Recreational uses;

(C) Water supply uses: Domestic water (Domestic water supply);

(ii) Marine waters—

(A) Miscellaneous uses: Harvesting (Salmonid and other fish harvesting, and crustacean and other shellfish (crabs, shrimp, scallops, etc.) harvesting);

(B) Recreational uses;

(C) Shellfish harvesting: Shellfish harvest (Shellfish (clam, oyster, and mussel) harvesting)

Note to paragraph (d)(1): The source of these uses is Washington Administrative Code 173–201A–600 for Fresh waters and 173–201A–610 for Marine waters.

(2) For Washington waters that include the use classification of Domestic Water, the criteria in column C1 of Table 1 in paragraph (b) of this section apply. For Washington waters that include any of the following use classifications but do not include the use classification of Domestic Water, the criteria in column C2 of Table 1 in paragraph (b) of this section apply: Harvesting (fresh and marine waters), Recreational Uses (fresh and marine waters), and Shellfish Harvesting.

[FR Doc. 2015–22592 Filed 9–11–15; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

**[EPA–R06–RCRA 2015–0070; FRL–9933–78–Region 6]**

## Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The State of Louisiana has applied to the Environmental Protection Agency (EPA) for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant Final authorization to the State of Louisiana. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by direct final rule. EPA did not make a proposal prior to the direct final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the direct final rule. Unless we get written comments which oppose this authorization during the comment period, the direct final rule will become effective 60 days after publication and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Send your written comments by October 14, 2015.

**ADDRESSES:** Submit any comments identified by Docket ID No. EPA–R06–RCRA–2015–0070, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

*2. Email: patterson.alima@epa.gov.*

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

*Instructions:* Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or email. Direct your comment to Docket No. EPA–R06–RCRA–2015–0070. The Federal 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 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. You can view and copy Louisiana's application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge, Louisiana 70884–2178, phone number (225) 219–3559 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

**FOR FURTHER INFORMATION CONTACT:** Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533) and Email address *patterson.alima@epa.gov.*

**SUPPLEMENTARY INFORMATION:** For additional information, please see the direct final published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: August 21, 2015.

**Ron Curry,**

*Regional Administrator, Region 6.*

[FR Doc. 2015–23072 Filed 9–11–15; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 85**

**[Docket No: FWS–HQ–WSR–2015–0006; FVWF94100900000–XXX–FF09W11000]**

**RIN 1018–AW66**

## Clean Vessel Act Grant Program

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Advance notice of proposed rulemaking; notice of intent.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) is seeking comments to assist us in developing a proposed rule for the Clean Vessel Act Grant Program (CVA). The proposed rule will use plain language to clarify topics that have led to varying interpretations and will incorporate changes in legislation and technology. We seek public input to advise us on topics of interest to the boating community in regard to projects funded through CVA. We ask for response from anyone having an interest in CVA and associated topics, but particularly from members of the public having experience, expertise, or both in administering CVA; entities receiving services from CVA-funded facilities; entities manufacturing, selling, or installing CVA-funded facilities and equipment; or persons possessing other professional or practical knowledge of the subjects we present in this document. We present topics of interest, but encourage comments on any topic relevant to CVA and the proposed rulemaking. The terms *you* or *your* in this document refer to those members of the public from whom we seek response. The terms *we, us,* and *our* refer to the U.S. Fish and Wildlife Service.

**DATES:** Submit comments on or before November 13, 2015.

**ADDRESSES:** You may submit comments, identified by docket number FWS–R9–WSR–2015–0006, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- U.S. mail: Public Comments Processing, Attn: Docket No. FWS–R9–WSR–2015–0006; U.S. Fish and Wildlife Service; Division of Policy, Performance, and Management Programs; MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–4501.
- Hand Delivery/Courier: U.S. Fish and Wildlife Service; Division of Policy, Performance, and Management Programs; 5275 Leesburg Pike, Falls Church, VA 22041–4501.

We will not accept email or faxes. All submissions received must include the agency name and docket number for this rulemaking. We will post all comments received without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and other information on the rulemaking process, see the ''Public Participation'' heading in **SUPPLEMENTARY INFORMATION.**

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and search for FWS–R9–WSR–2015–0006.

**FOR FURTHER INFORMATION CONTACT:** Lisa E. Van Alstyne, Wildlife and Sport Fish Restoration Program, Division of Policy and Programs, U.S. Fish and Wildlife Service, 703–358–1942.

**SUPPLEMENTARY INFORMATION:**

### Background

The Clean Vessel Act of 1992 (Act) (Pub. L. 102–587, title V, subtitle F) amends the Sport Fish Restoration Act (16 U.S.C. 777c) and establishes a program that provides matching grants to States for projects that address septic waste from recreational vessels. Grants may be used to conduct coastal surveys and establish plans; construct, renovate, operate, and maintain pumpout and other waste reception facilities for recreational vessels; and conduct programs to educate boaters about the environmental and health issues associated with improperly disposing of human waste. Priority consideration was established in the Act for projects that are in coastal States, include public/private partnerships, and include innovative ways to increase project availability and use. The Sportfishing and Recreational Boating Safety Act of 2005 (SAFETEA–LU) (Pub. L. 109–59, Title X, section 10131) amends the Clean Vessel Act to remove the preference for projects in coastal States.

Since inception, the Clean Vessel Act grant program (CVA) has awarded more than $246 million. The projects funded have helped States to build an infrastructure that links services within and between States and raised awareness of the benefits of properly disposing of septic waste. As a result, States have experienced a reduction in beach and shellfish bed closures, enhanced boater awareness and satisfaction, and improved water quality in recreational areas.

In the 1990s, we published in the **Federal Register** three documents related to CVA: Clean Vessel Act Pumpout Grant Program, Final rule (59 FR 11204, March 10, 1994); Clean Vessel Act: Pumpout Station and Dump Station Technical Guidelines, Notice of final guidelines (59 FR 11290, March 10, 1994); and Clean Vessel Act Pumpout Symbol, Slogan, and Program Crediting, Final rule (62 FR 45344, August 27, 1997). The CVA regulations are located in title 50 of the Code of Federal Regulations (CFR) in part 85 (50 CFR part 85).

As we move forward in the program, we propose not only to build on the success of CVA to date, but also to seek new and innovative ways to serve the boating public into the future. We hosted four open forum discussions between October 2014 and February 2015 in which we asked States and other stakeholders to share their knowledge and opinions on topics associated with implementing CVA nationally. Participants informed us on challenges to implementation and consistency that have arisen since the program began, changes in focus that have evolved as the program has matured, and successful approaches they would like to continue. These discussions prompted us to seek input on certain topics from a larger audience.

### Information Requested

With this advance notice of proposed rulemaking (ANPR), the Service is seeking information, comments, and suggestions that will help us to consider how best to address updating the CVA regulations and Technical Guidelines. We ask for your help in identifying significant issues that interfere with participation in CVA, administration of CVA, services provided under CVA, or successful implementation of CVA projects. We ask for your responses on successful approaches or foundational benefits that you suggest we should preserve in future rulemaking. We intend to use your input to develop updated regulations and guidelines in one location at 50 CFR part 85. After receiving and considering your responses to our requests in this ANPR, we will publish a proposed rule in the **Federal Register** for public review and comment. In particular, we encourage you to give comments and suggestions on the issues described in the body of the ANPR. When commenting, please indicate which of the listed issues your comment addresses and to which question you are responding. If your comments cover issues outside of those listed, please identify them as *Other.*

There are several topics where your response may reference a State or local law, regulation, standard, or other legal

reference. When your comments include a legal reference, please specifically cite the legal document. We recommend you use citation formats in *Association of Legal Writing Directors (ALWD) Guide to Legal Citation* or *Bluebook: A Uniform System of Citation* as your guide. If possible, please give a location where we may access the document electronically.

**Issue 1: Technical information**

(a) The Technical Guidelines (Guidelines) issued on March 10, 1994, reflect a collaborative effort between the Service and various entities that have expertise or interest in boating, clean water, waste disposal equipment, and other associated topics. We consulted with the Environmental Protection Agency (EPA), the U.S. Coast Guard (USCG), and the National Oceanic and Atmospheric Administration (NOAA) when developing the guidelines. We also asked for advice and input from States, local municipalities, boat users, manufacturers of pumpout equipment, marina operators, conservation groups, interest organizations, and the public. The resulting document reflects the best available knowledge at that time and informs the public on basic principles that were foundational to the grant program in the beginning stages of development.

(b) We are aware that advances have been made in technology, technique, and approach since we published the Guidelines. Through this notice, we ask for those same groups and any new user and interest groups, technical experts, and practitioners to advise us on some specific and some general technology issues. When responding to a topic, please address to the extent possible the following regarding the technology, technique, or approach:

(1) For technology, if it is currently available or would need to be developed;

(2) Cost;

(3) Expertise needed;

(4) Supporting infrastructure or other technology needed;

(5) Long-term personnel investment; and

(6) Any known obstacles.

(c) We ask that if you have knowledge of such advancements, you discuss developments that have been made since 1994, or are anticipated in the next few years, that improve, support, or otherwise affect CVA. Discuss how you suggest we should use this information to inform new guidelines.

(d) We ask your comments on these specific topics:

(1) States that experience seasonal cold weather likely have pumpout facility operators that choose to close for the season, winterize their pumpout equipment, or both. However, boaters may travel to those areas seeking pumpout services. What technology, technique, or approach would address the need to provide pumpout services in cold weather areas?

(2) How important is it for States to monitor the amount of waste removed through pumpouts? Should the guidelines strongly recommend meters or other ''add-on'' equipment to accomplish this? Should the regulations require it? If so, when should the new requirement be effective?

(3) Floating restrooms are eligible for CVA funding. However, with the emphasis of the program on providing facilities that benefit boaters, the current regulations state they cannot be connected to land or anything else that is connected to land, restricting floating restrooms to water-only access. Therefore, floating restrooms connected to an attached dock cannot be funded through CVA. (Land-based restrooms are currently ineligible.) We have received requests to revisit this restriction and consider the possibility of allowing floating restrooms to be attached to a dock and to allow piping to run directly from the floating restroom to a land connection for waste disposal. We ask you to comment on:

(i) Whether we should allow floating restrooms to be connected to land or docks. What are the advantages and disadvantages? Should there be limitations?

(ii) Are you aware of legal issues that affect floating restrooms, such as State or local regulations, permit restrictions, or building standards? If so, please discuss the effect and cite the regulation, code, or standard.

(iii) There are concerns with protecting floating restrooms from vandalism and other damage. If floating restrooms are allowed to be connected to land or docks, the potential for vandalism may increase with easier land-side access. Do you have any suggestions for how to address these concerns?

(iv) Is it important to maintain the emphasis on floating restrooms serving only the boating public? If we were to allow floating restrooms to be connected to docks, what approaches would restrict use to serve only the boating public?

(v) What approaches would ensure that floating restrooms are designed to limit land-side access and potential over-use by the non-boating public?

(vi) Should we participate in efforts to develop standards or best management practices for floating restrooms?

**Issue 2: State Participation in Offering Operation and Maintenance (O&M) Funds for CVA Projects**

(a) Some States offer CVA O&M, and some do not. We suggest that offering O&M greatly benefits CVA by:

(1) Increasing the number of pumpout facilities by supporting operators that otherwise might not be able to financially support ongoing service;

(2) Providing a mechanism to reimburse operators when they respond to equipment failures, increasing pumpout facility availability and functionality; and

(3) Helping to extend the useful life of the investment.

(b) The Service does not have a comprehensive list of how many and which States do not participate in offering O&M for pumpout projects, or the reasons why these States have chosen this approach. We would like to know more about those States that participate, and those that do not, in order to identify if changes in regulations or guidelines could improve this aspect of CVA. We ask States to respond telling us:

(1) Does your State offer O&M grant funding to subgrantees and operators?

(2) If your State does offer O&M funding, describe your program, including:

(i) Any restrictions on the type of projects that may receive O&M funds;

(ii) Any limits on O&M funds;

(iii) How you administer O&M processing; and

(iv) Any obstacles you currently experience that you suggest we may alleviate either through regulation or other means.

(3) If your State does not offer O&M funding, describe the reasons why your State has chosen not to offer O&M funding. If the reasons include laws or regulations, please cite as directed under Information Requested. Include in your comments changes you suggest we consider that might assist your State to begin a CVA O&M program.

**Issue 3: Do any existing or proposed State or local laws affect CVA?**

(a) Please cite, as directed under Information Requested, and discuss any State or local laws or regulations that either support or impede CVA projects. When available, include web links to the law or regulation.

(b) Discuss specifically how the law or regulation affects CVA projects. If it is a positive effect, tell us if you believe the Service should consider adopting similar principles. If it is a negative effect, tell us how it restricts your ability to complete successful projects. Please

suggest any changes in the CVA regulation that would increase your ability to complete successful projects within the parameters of current or proposed State and local laws and regulations.

**Issue 4: User Fees**

(a) The current regulations at 50 CFR 85.44 allow operators of facilities constructed, operated, or maintained with CVA grant funds to charge users a maximum $5 fee, with no justification. If an operator chooses to charge a higher fee, it must be justified. The proceeds must be accounted for and used by the operator to defray the operation and maintenance costs of the facility as long as the facility is needed and serves its intended purpose. The Service was to evaluate the maximum fee each year for inflation and other potential considerations. The Service has not taken this action to date.

(b) During an open forum discussion at the States Organization for Boating Access Conference on October 6, 2014, we asked States to comment on the following questions:

(1) Should the maximum fee be increased? Decreased?

(2) What are the pros and cons of higher fees?

(3) What alternatives do you suggest other than a maximum fee (Ex: sliding scale)?

(4) Should fees correspond to usage (Ex: gallons pumped, holding tank size)?

(5) Should the method of service influence the fees charged (Ex: self-serve vs. pumpout assistance)?

(c) We received a range of responses that fall into five general categories:

(1) Support no change to the current regulations. The $5 maximum fee works well, and boaters are used to it.

(2) Suggest the regulations be changed to mandate or encourage free pumpout services. Offering free pumpout services increases the number of boaters using pumpouts, decreases the amount of inappropriately disposed boater septic waste, and reduces the burden for operators in States that offer CVA O&M funding.

(3) Suggest the regulations be changed to allow a sliding scale with a $5 maximum for boats with smaller holding tanks, increasing fees with the size of the holding tank. An issue with this option is that not all pumpout equipment is installed with monitoring capability to gauge the number of gallons pumped.

(4) Address the fee issue by maintaining a similar approach as in the current regulations, but increase the fee.

(5) Allow operators to charge a fee according to the prevailing market rate for the area they serve.

(d) We are interested in comments from States, boaters, operators, and interest organizations that address the questions and responses above. When responding, please consider:

(1) The maximum fee that boaters will accept as reasonable for the service they receive;

(2) How the fee schedule may influence boater usage;

(3) How the fee schedule may affect water quality;

(4) If we need to consider State and local laws or codes when establishing a fee schedule; and

(5) How reduced fees may affect operators that incur additional costs for:

(i) Removing septic waste via a waste hauler from an on-site holding tank where municipal sewer service is not available;

(ii) Disposing of boater waste via municipal sewer connections where the municipality charges an additional fee for boater waste (Ex: hazardous waste disposal fee); or

(iii) Other actions to process or dispose of boater waste.

**Issue 5: Defining ''Recreational Vessel'' and Access to CVA-Funded Services**

(a) We have received many comments requesting clarity on how to define ''recreational vessel'' in the context of CVA and whether we should consider allowing CVA-funded facilities to be available to non-recreational vessels (Ex: house boats, commercial vessels). We ask your comments on the following:

(1) How should we define ''recreational vessel'' for CVA? Should the term include vessels that are not for personal use, but that transport the public to recreational opportunities? (Ex: dive boats, fishing charters)

(2) What criteria might we use that would clearly separate a recreational vessel from a non-recreational vessel?

(b) We have considered that the ultimate benefit of CVA is clean recreational waters that benefit all users. We have engaged in discussions that ask us to consider allowing CVA-funded pumpouts to be available for use by other than what we define as a ''recreational vessel.'' We ask for comments on the following:

(1) Should CVA-funded facilities be available to serve all vessels, regardless of their designation as recreational or non-recreational? What are the advantages and disadvantages?

(2) If CVA-funded facilities are used to service other than non-recreational vessels, should operators be allowed to charge a higher fee for non-recreational use? (The rationale is that the higher fees would help pay for replacement/repairs of the equipment that will have a reduced useful life due to the additional burden on the equipment.)

(3) Are there any user groups or vessel types that should be fully excluded from consideration for expanding availability of CVA-funded pumpouts? Why or why not?

(4) If we choose to expand eligible use, what restrictions, if any, should be imposed on non-recreational vessels using CVA-funded pumpouts?

**Issue 6: Definition of ''Useful Life''**

(a) The term ''useful life'' as used in the current CVA regulations was intended to relate to the functional longevity of the equipment. Using this approach, there are multiple considerations that could influence the useful life of a pumpout project, such as environmental effects (marine vs. freshwater environment, weather), biological effects (quagga mussels), amount and type of usage, adequate maintenance, boater education on proper use, and equipment components that are more vulnerable to wear or failure. In addition, it is likely that more than one of these considerations are present at one time, compounding potential impacts. Many States indicate that they have moved away from looking at the operational longevity of the equipment and instead have set a contractual requirement for the number of years the operator must maintain the equipment.

The above information has led us to reconsider our regulatory approach for how long a pumpout facility must be maintained and operational for its intended purpose. We also consider that a primary goal of CVA is to have sufficient available and functional pumpout facilities and that they contribute to a network of pumpout facilities for continued boater access and use.

(b) We typically employ useful life consideration for capital improvements. We define a ''capital improvement'' as: (1) a new structure that costs at least $25,000 to build; or (2) altering, renovating, or repairing an existing structure if it increases the structure's useful life by 10 years or if it costs at least $25,000. The focus is on structures attached to real property.

The cost of a typical land-based pumpout facility is below the threshold for a capital improvement. Mobile or movable pumpout facilities, such as boats and floating restrooms, we consider personal property and not a capital improvement. We, therefore, must consider that using useful life to

measure obligation for a pumpout facility may not benefit the consistency and viability of the CVA program mission.

We suggest the alternative approach of applying in regulation an obligation for a minimum number of years that an operator must maintain an operational pumpout for its intended purpose. After this time, an operator may choose to continue the obligation for another period under the CVA grant program, continue operation outside the CVA grant program, or cease operation of the pumpout facility.

The majority of States responding to an inquiry suggested 10 years, but other suggestions ranged from 4 to 20 years.

(c) We ask for your comments on the following:

(1) Which approach do you suggest is the best for the continued success of CVA, and why do you prefer it?

(2) What obligation do you suggest an operator assume when participating in CVA, including how long an operator must maintain a CVA-funded pumpout facility?

(3) If a State offers O&M funding for existing facilities, should participation in O&M extend the obligation to maintain and operate the facility? For example, if we assume a fixed-year obligation for maintaining a pumpout facility, for each year that the operator receives O&M funding should it extend the obligation an additional year?

(4) What CVA-funded actions would you suggest we identify that, if completed, will restart the fixed-year obligation period? (Ex: replacement, major renovation, etc.)

(5) We discussed in Issue 5 the possibility of expanding the type of vessels that could be serviced by CVA-funded facilities. If we choose the approach to require a fixed-year obligation for a CVA-funded facility, the CVA-funded facility would be obligated to be maintained and functional for the designated period regardless of use, so additional wear and tear would be the responsibility of the operator to address during that period. What advantages, disadvantages, or other effects should we consider regarding this combined approach?

## Public Participation

We seek comments from you in response to the topics and questions above. We also seek any relevant comments on other issues related to this proposed rulemaking. We especially seek recommendations for effective and efficient approaches to CVA. After analyzing the comments received from this ANPR, we will proceed with a proposed rulemaking.

All submissions received must include the Service docket number for this notice. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal information—may be made publicly available. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Service supports a collaborative process as we develop the proposed rule. After the comment period ends for the ANPR, we will post information on other opportunities to comment prior to the proposed rule, background, and past comments received at: *http://fawiki.fws.gov/display/CR5C8/CVA+Review+50+CFR+85+Home.*

Dated: August 31, 2015.

**Karen Hyun,**

*Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2015–22723 Filed 9–11–15; 8:45 am]

**BILLING CODE 4310–55–P**

# Notices

Federal Register
Vol. 80, No. 177
Monday, September 14, 2015

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

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Ketchikan Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Ketchikan Resource Advisory Committee (RAC) will meet in Ketchikan, Alaska. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. The meeting is open to the public. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://www.fs.usda.gov/main/pts.*

**DATES:** The meeting will be held October 14, 2015, at 4:00 p.m. All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held at the Ketchikan Misty Fiords Ranger District, 3031 Tongass Avenue, Ketchikan, Alaska. A conference line has been set up for those wishing to listen in by telephone, for the conference call number, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Ketchikan Misty Fiords Ranger District. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Diane L. Olson, RAC Coordinator, by phone at 907–228–4105 or via email at *dianelolson@fs.fedus*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is:

1. To update members on past RAC projects, and
2. Propose new RAC projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by October 9, 2015, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Diane L. Olson, RAC Coordinator, Ketchikan Misty Fiords Ranger District, 3031 Tongass Avenue, Ketchikan, Alaska 99901; by email to *dianelolson@fsled.us,* or via facsimile to 907–225–8738.

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: September 1, 2015.

**Jeffrey DeFreest,**

*District Ranger.*

[FR Doc. 2015–22786 Filed 9–11–15; 8:45 am]

**BILLING CODE M**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Delaware Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a briefing meeting of the Delaware Advisory Committee to the Commission will convene at 1:00 p.m. (EDT) on Thursday, October 8, 2015, by teleconference. The purpose of the meeting is to hear from experts who will share information about the impact that discriminatory public school disciplinary practices and policies have on children of color. This presentation will inform the DE Advisory Committee's civil rights review of discriminatory school discipline in the state's public schools and whether the Supportive School Discipline Initiative is employed by Delaware schools.

Interested members of the public may listen to the discussion by calling the following toll-free conference call number 1–888–359–3624 and conference call code: 2977026#. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the above conference call number and conference call code.

Members of the public are invited to submit written comments; the comments must be received in the regional office by Monday, October 9, 2015. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

The activities of this advisory committee, including records and

documents discussed during the meeting, will be available for public viewing, as they become available at: *https://database.faca.gov/committee/meetings.aspx?cid=240.* Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

**Agenda**

*Administrative Matters*

Ivy L. Davis, Director, Eastern Regional Office and Designated Federal Official

*Welcome and Introductions*

Enid Wallace-Simms, Vice Chair

*Expert Presentations and Discussion*

DE State Advisory Committee

*Open Comment*

**DATES:** Thursday, October 8, 2015 at 1:00 p.m. (EDT).

**ADDRESSES:** The meeting will be held via teleconference:

**Public Call Information**

Conference Call-in Number: 1–888–359–3624; Conference Call ID code: 2977026.

TDD: Dial Federal Relay Service 1–800–977–8339 and give the operator the above conference call-in number and conference call code.

**FOR FURTHER INFORMATION CONTACT:** Ivy L. Davis at *ero@usccr.gov,* or 202–376–7533.

Dated: September 8, 2015.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2015–22954 Filed 9–11–15; 8:45 am]

**BILLING CODE 6335–01–P**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the Virginia Advisory Committee

**AGENCY:** Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that both an orientation and planning meeting of the Virginia Advisory Committee to the Commission will convene at 2:00 p.m. (EDT) on Thursday, October 1, 2015, by teleconference. The purpose of the orientation meeting is to inform the newly appointed members about the rules of operation for the advisory committee. The purpose of the planning meeting is to begin discussing possible topics for the advisory committee's expected civil rights review.

Interested members of the public may listen to the discussion by calling the following toll-free conference call number 1–888–437–9445 and conference call code: 8116017#. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the above conference call number and conference call code.

Members of the public are invited to submit written comments; the comments must be received in the regional office by Monday, November 2, 2015. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov*. Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

The activities of this advisory committee, including records and documents discussed during the meeting, will be available for public viewing, as they become available at: *https://database.faca.gov/committee/meetings.aspx?cid=279*. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

**Agenda**

*Administrative Matters*

Ivy L. Davis, Director, Eastern Regional Office and Designated Federal Official

*Welcome and Introductions*

K. Shiek Pal, Chair

*Orientation Meeting*

VA State Advisory Committee

*Planning Meeting*

VA State Advisory Committee

**DATES:** Thursday, October 1, 2015 at 2:00 p.m. (EDT).

**ADDRESSES:** The meeting will be held via teleconference:

**Public Call Information**

Conference Call-in Number: 1–888–437–9445; Conference Call ID code: 8116017#.

TDD: Dial Federal Relay Service 1–800–977–8339 and give the operator the above conference all-in number and conference call code.

**FOR FURTHER INFORMATION CONTACT:** Ivy L. Davis at *ero@usccr.gov,* or 202–376–7533.

Dated: September 8, 2015.

**David Mussatt,**

*Chief, Regional Programs Unit.*

[FR Doc. 2015–22955 Filed 9–11–15; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* Bureau of Economic Analysis (BEA).

*Title:* Annual Survey of U.S. Direct Investment Abroad.

*OMB Control Number:* 0608–0053.

*Form Number:* BE–11.

*Type of Request:* Regular submission.

*Number of Respondents:* An estimated 1,900 U.S. parents will file data for their U.S. operations on the A form; 21,800 foreign affiliates, which include 20,500 B forms, 1,150 C forms, and 150 D forms; and 500 Claim for Exemption forms.

*Estimated Total Annual Burden Hours:* 262,250 hours. Total annual burden is calculated by multiplying the estimated number of submissions of each form by the average hourly burden

per form, which is 7 hours for the A form, 12 hours for the B form, 2 hours for the C form, 1 hour for the D form, and 1 hour for the Claim for Exemption forms.

*Estimated Time per Respondent:* 138.0 hours per respondent (262,250 hours/1,900 U.S. parents) is the average, but may vary considerably among respondents because of differences in company structure, size, and complexity.

*Needs and Uses:* The Annual Survey of U.S. Direct Investment Abroad (Form BE–11) collects financial and operating data covering the operations of U.S. parents and their foreign affiliates, including their balance sheets, income statements, property, plant, and equipment, employment and employee compensation, merchandise trade, sales of goods and services, taxes, and research and development activity. The survey is a sample survey that covers all foreign affiliates above a size-exemption level and their U.S. parents. The sample data are used to derive universe estimates in nonbenchmark years by extrapolating forward similar data reported in the BE–10, Benchmark Survey of U.S. Direct Investment Abroad, which is conducted every five years. The data are needed to measure the size and economic significance of direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies.

The data from the survey are primarily intended as general purpose statistics. They should be readily available to answer any number of research and policy questions related to U.S. direct investment abroad.

*Affected Public:* Businesses or other for-profit organizations.

*Frequency:* Annual.

*Respondent's Obligation:* Mandatory.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRASubmission@omb.eop.gov* or fax to (202) 395–5806.

Dated: September 9, 2015.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2015–23014 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–06–P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* U.S. Census Bureau.

*Title:* 2016 Government Units Survey.

*OMB Control Number:* 0607–0930.

*Form Number(s):* GUS–1.

*Type of Request:* Reinstatement, with change, of an expired collection.

*Number of Respondents:* 77,000.

*Average Hours per Response:* 15 minutes.

*Burden Hours:* 19,250.

*Needs and Uses:* This information request covers the questionnaire needed to conduct the directory survey component of the 2017 Census of Governments. The 2016 Government Units Survey (GUS) will be used to update the universe list of public sector entities for the 2017 Census of Governments. Each of the estimated 77,000 non-school governments will be sent a questionnaire. Respondents will be encouraged to respond to the survey on the Internet but will have the option to answer the questions and return the questionnaire by paper mail. Respondents will be asked to verify or correct the name and mailing address of the government and answer five questions to complete the survey.

The GUS is mailed to all municipalities, townships, counties, and special districts. The 2011 GUS, conducted in advance of the 2012 Census of Governments, consisted of nine broad content areas: Background information, debt, license and permit fees, taxes, retirement/pension plan, government activity, public services, judicial or legal activities, and finance. The 2016 GUS will differ from the former version by shortening the number of content areas. The 2016 GUS consists of only two broad content areas: Background and employee information. Both the 2011 and 2016 GUS also include(d) both remarks and contact information sections. The first content area for the 2016 GUS consists predominately of yes/no questions and is designed to determine the existence of a government. The employees section of the questionnaire requests the number of paid employees of a government. A notice published in the **Federal Register** on April 1, 2015 stated our intent to ask respondents detailed questions on defined-contribution plans, defined-benefit and post-employment healthcare plans. However, we will not be asking these questions for this collection.

The GUS serves multiple purposes. The GUS will be used to obtain descriptive information on the basic characteristics of governments; to identify and delete inactive units from the official list of public entities maintained by the Census Bureau; to identify file duplicates and units that were dependent on other governments; to update and verify the mailing addresses of governments; and to produce the official count of non-school government units in the United States.

Federal legislation relevant to the American workforce, the Fair Labor Standards Act (FLSA) and the Family Medical Leave Act, refer to the list of governments maintained by the Census Bureau for purposes of administering provisions of these laws. The Bureau of Justice Statistics maintains an interest in the list of active governments and their activities for purposes of administering grant programs. The Bureau of Economic Analysis (BEA) uses the products of the Census of Governments including the counts of state and local governments; and state and local government employment and payroll data. BEA also uses revenue, expenditures, debt, and financial assets data from the Census of Governments for principal inputs to the local government portion of their Gross Domestic Product publication. In addition, users from academia, research organizations, governments, public interest groups, and various businesses provide evidence of their interest through requests for information and requests for assistance in accessing universe information available on the Census Bureau Internet Web site.

*Affected Public:* State, local or tribal government.

*Frequency:* Every 5 years.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13 U.S.C., Sections 161 and 193.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: September 8, 2015.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2015–22958 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–07–P**

## DEPARTMENT OF COMMERCE

### Census Bureau

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* U.S. Census Bureau, Commerce.

*Title:* Geographic Partnership Programs.

*OMB Control Number:* 0607–0795.

*Form Number(s):* Not applicable.

*Type of Request:* Regular Submission.

*Number of Respondents:* 9,900.

Fiscal Year (FY) 2015: 1,900.

FY 2016: 4,000.

FY 2017: 4,000.

*Average Hours per Response:* 13.5.

*Burden Hours:* 133,650.

FY 2015: 25,650.

FY 2016: 54,000.

FY 2017: 54,000.

*Needs and Uses:* The mission of GEO within the U.S. Census Bureau is to plan, coordinate, and administer all geographic and cartographic activities needed to facilitate Census Bureau statistical programs throughout the United States and its territories. GEO manages programs to continuously update geographic data including addresses, spatial features, boundaries, and geographic entities in the Master Address File/Topologically Integrated Geographic Encoding and Referencing (MAF/TIGER) System. GEO also conducts research into geographic concepts, methods, and standards needed to facilitate Census Bureau data collection and dissemination programs. Geographic Partnership Programs (GPPs) encourages participants, following Census Bureau guidelines, to review, update, and suggest modifications to geographic data to maintain MAF/TIGER and to ensure the accurate reporting of data from censuses and surveys. Because state, local, and tribal governments have geographic data and current knowledge about where growth and change are occurring in their jurisdictions, their input into the overall development of a continually maintained address list for censuses and surveys makes a vital contribution. The Census Bureau recognizes that state, local, and tribal governments have authoritative geographic data for their jurisdictions. The benefits to local governments in sharing that information as part of the Census Bureaus GPPs are realized with quality data for more accurate results of censuses and surveys. This notice is for a generic clearance that will cover a number of activities required for updating MAF/TIGER with participant-provided address and other geographic information, or obtain address and spatial data for research and evaluation purposes. The information collected in these programs in cooperation with state, local, and tribal governments and other partners is essential to the mission of the Census Bureau and directly contributes to the successful outcome of censuses and surveys conducted by the Census Bureau. The generic clearance allows the Census Bureau to focus its resources on actual operational planning, development of procedures, and implementation of programs to update and improve the geographic data maintained in MAF/TIGER.

**Geographic Support System Initiative (GSS–I)**

The GSS–I is an integrated program designed to improve geographic data and enhance the quality assessment and measurement for MAF/TIGER. The GSS–I builds on the accomplishments of the last decade's MAF/TIGER Enhancement Program (MTEP), which redesigned MAF/TGER, improved the positional accuracy of TIGER spatial features, and emphasized quality measurement. The Census Bureau plans on a continual update process for MAF/TIGER throughout the decade to support current surveys, including the American Community Survey (ACS). Major participants are the Census Bureau with state, local, and tribal governments. The Census Bureau will contact state, local, and tribal governments to obtain files containing their geographic data to explore data exchange opportunities, and share best practices on maintaining quality geographic data. Governments can provide a file of their geographic data or provide data through a web-based application sponsored by the Census Bureau. Governments can choose the format and medium to provide their data directly to the Census Bureau, or may elect to standardize their data using Community TIGER.

*Affected Public:* State, local, and tribal governments.

*Frequency:* Annually.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13 U.S.C. Sections 16, 141, and 193.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: September 8, 2015.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2015–22952 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–07–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
(9/1/2015 through 9/8/2015)

| Firm name | Firm address | Date accepted for investigation | Product(s) |
|---|---|---|---|
| Northridge Gardens, Inc. d/b/a PUREfactory Naturals. | 3380 Town Point Drive, #330, Kennesaw, GA 30144 | 9/4/2015 | The firm manufactures lotion bars, hand cream, lip balm, body wash and other body care products. |
| United Lens | 259 Worcester Street, Southbridge, MA 01550 | 9/3/2015 | The firm manufactures finished mirrors, prisms, windows, and other optical components. |
| The Old Wood Company, LLC | 99 Riverside Drive, Asheville, NC 28801 | 9/3/2015 | The firm manufactures tabletops, tables with bases, stools, and other furniture items. |
| Machining Concepts, Inc. | 1304 Industrial Drive, Erie, PA 16505 | 9/8/2015 | The firm manufactures precision component parts comprised of stainless steel and other metals. |
| Palmetto Plating Company, Inc.. | 510 Saco Lowell Road Easley SC 29640 | 9/8/2015 | The firm manufactures protective metal coatings and finishes. |

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: September 8, 2015.

**Michael S. DeVillo,**

*Eligibility Examiner.*

[FR Doc. 2015–23019 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–WH–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–31–2015]**

### Foreign-Trade Zone 44—Mount Olive, New Jersey, Authorization of Production Activity, Robertet, Inc., (Fragrance Compounds), Mount Olive, New Jersey

On May 6, 2015, Robertet, Inc. submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within FTZ 44-Site 1 in Mount Olive, New Jersey.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (80 FR 27628–27631, 05–14–2015). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: September 4, 2015.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2015–23077 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–34–2015]**

### Authorization of Production Activity; Foreign-Trade Subzone 29F; Hitachi Automotive Systems Americas, Inc. (Automotive Battery Management Systems); Harrodsburg, Kentucky

On May 5, 2015, the Louisville and Jefferson County Riverport Authority, grantee of FTZ 29, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Hitachi Automotive Systems Americas, Inc., operator of Subzone 29F in Harrodsburg, Kentucky.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (80 FR 30434–30435, May 28, 2015). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: September 3, 2015.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2015–23079 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–59–2015]**

### Foreign-Trade Zone (FTZ) 29—Louisville, Kentucky; Notification of Proposed Production Activity; Custom Quality Services (Liquor Kitting); Louisville, Kentucky

Custom Quality Services submitted a notification of proposed production activity to the FTZ Board for its facility in Louisville, Kentucky within FTZ 29. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on September 2, 2015.

The Custom Quality Services facility is located within Site 1 of FTZ 29. The facility is used for the warehousing, distribution and kitting of liquor and glassware. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Custom Quality Services from customs duty payments on the foreign status components used in export production. On its domestic sales, Custom Quality Services would be able to choose the duty rates during customs entry procedures that apply to: Whiskey liquor kits; vodka kits; tequila kits; and, wine kits (duty rate ranges from duty-free to 6.3¢/liter) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: Whiskey, bourbon; tequila; wine; whiskey and cola; vodka; liqueur; specialty-tempered glassware; cut or engraved glassware;

lead crystal glasses; non-lead crystal glasses; and, drinking glasses (duty rate ranges from duty-free to 28.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 26, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: September 4, 2015.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2015–23078 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–60–2015]**

### Foreign-Trade Zone (FTZ) 84—Houston, Texas; Notification of Proposed Production Activity; Mitsubishi Caterpillar Forklift America Inc. (Forklift Trucks); Houston, Texas

Mitsubishi Caterpillar Forklift America Inc. (MCFA), an operator of FTZ 84, submitted a notification of proposed production activity to the FTZ Board for its facility in Houston, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on August 13, 2015.

MCFA already has authority to produce forklift trucks (Class I through Class V) powered by gasoline, propane or electric motors within Site 27 of FTZ 84. The current request would add certain foreign-status components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt MCFA from customs duty payments on the foreign status components used in export production. On its domestic sales, MCFA would be able to choose the duty rates during customs entry procedures that apply to forklift trucks (free) for the foreign status materials and components noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components sourced from abroad include: Acrylonitrile-butadiene rubber sheets; alloy/non-alloy steel angles/shapes/sections/pipes/tubes; steel liquid/compressed petroleum gas tanks and cylinders; steel wires; and, liquid crystal display video monitors (duty rate ranges from free to 5.0%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is October 26, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: September 2, 2015.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2015–23082 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

**[Docket No. 150902803–5803–01]**

### Effects of Extending Foreign Policy-Based Export Controls

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Request for comments.

**SUMMARY:** The Bureau of Industry and Security (BIS) is seeking public comments on the effect of existing foreign policy-based export controls in the Export Administration Regulations. Section 6 of the Export Administration Act requires BIS to consult with industry on the effect of such controls and to report the results of the consultations to Congress. BIS is conducting the consultations through this request for public comments. Comments from all interested persons are welcome. All comments will be made available for public inspection and copying and included in a report to be submitted to Congress.

**DATES:** Comments must be received by October 14, 2015.

**ADDRESSES:** Comments may be submitted through the Federal e-Rulemaking portal (*www.regulations.gov*). The regulations.gov ID for this notice is: BIS–2015–0029. Comments may also be sent by email to *publiccomments@bis.doc.gov* or on paper to Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & Pennsylvania Avenue NW., Room 2099B, Washington, DC 20230. Include the phrase ''FPBEC Comment'' in the subject line of the email message or on the envelope if submitting comments on paper. All comments must be in writing (either submitted to regulations.gov, by email or on paper). All comments, including Personal Identifying Information (*e.g.,* name, address) voluntarily submitted by the commenter will be a matter of public record and will be available for public inspection and copying. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Elan Mitchell, Foreign Policy Division, Office of Nonproliferation Controls and Treaty Compliance, Bureau of Industry and Security, telephone 202–482–4777. Copies of the current Annual Foreign Policy Report to the Congress are available at *http://www.bis.doc.gov/index.php/about-bis/newsroom/archives/27-about-bis/502-foreign-policy-reports,* and copies may also be requested by calling the Office of Nonproliferation and Treaty Compliance at the number listed above.

**SUPPLEMENTARY INFORMATION:** Foreign policy-based controls in the Export Administration Regulations (EAR) are implemented pursuant to section 6 of the Export Administration Act of 1979, as amended, (50 U.S.C. app. sections 2401–2420 (2000)) (EAA). The current foreign policy-based export controls maintained by the Bureau of Industry and Security (BIS) are set forth in the EAR (15 CFR parts 730–774), including in parts 742 (CCL Based Controls), 744 (End-User and End-Use Based Controls) and 746 (Embargoes and Other Special Controls). These controls apply to a range of countries, items, activities and persons, including:

- Entities acting contrary to the national security or foreign policy interests of the United States (§ 744.11);

- Certain general purpose microprocessors for ''military end-uses'' and ''military end-users'' (§ 744.17);
- Significant items (SI): Hot section technology for the development, production, or overhaul of commercial aircraft engines, components, and systems (§ 742.14);
- Encryption items (§ 742.15);
- Crime control and detection items (§ 742.7);
- Specially designed implements of torture (§ 742.11);
- Certain firearms and related items based on the Organization of American States Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition included within the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (§ 742.17);
- Regional stability items (§ 742.6);
- Equipment and related technical data used in the design, development, production, or use of certain rocket systems and unmanned air vehicles (§§ 742.5 and 744.3);
- Chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§§ 742.2 and 744.4) and various chemicals included on the list of those chemicals controlled pursuant to the Chemical Weapons Convention (§ 742.18);
- Communication intercepting devices, software and technology (§ 742.13);
- Nuclear propulsion (§ 744.5);
- Aircraft and vessels (§ 744.7);
- Restrictions on exports and reexports to certain persons designated as proliferators of weapons of mass destruction (§ 744.8);
- Certain cameras to be used by military end-users or incorporated into a military commodity (§ 744.9);
- Countries designated as Supporters of Acts of International Terrorism (§§ 742.8, 742.9, 742.10, 742.19, 746.4, 746.7, and 746.9);
- Certain entities in Russia (§ 744.10);
- Individual terrorists and terrorist organizations (§§ 744.12, 744.13 and 744.14);
- Certain persons designated by Executive Order 13315 (''Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members'') (§ 744.18);
- Certain sanctioned entities (§ 744.20);
- Embargoed countries (Part 746); and
- U.S. and U.N. arms embargoes (§ 746.1 and Country Group D:5 of Supplement No. 1 to Part 740).

In addition, the EAR impose foreign policy-based export controls on certain nuclear related commodities, technology, end-uses and end-users (§§ 742.3 and 744.2), in part, implementing section 309(c) of the Nuclear Non-Proliferation Act (42 U.S.C. 2139a).

Under the provisions of section 6 of the EAA, export controls maintained for foreign policy purposes require annual extension. Section 6 of the EAA requires a report to Congress when foreign policy-based export controls are extended. The EAA expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2015 (80 FR 48233 (Aug. 11, 2015)), continues the EAR and, to the extent permitted by law, the provisions of the EAA, in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)). The Department of Commerce, as appropriate, follows the provisions of section 6 of the EAA by reviewing its foreign policy-based export controls, conducting consultations with industry on such controls through public comments and preparing a report to be submitted to Congress. In January 2015, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy-based export controls then in effect. BIS is now soliciting public comment on the effects of extending the existing foreign policy-based export controls from January 21, 2016 to January 20, 2017. Among the criteria considered in determining whether to extend U.S. foreign policy-based export controls are the following:

1. The likelihood that such controls will achieve their intended foreign policy purposes, in light of other factors, including the availability from other countries of the goods, software or technology proposed for such controls;

2. Whether the foreign policy objective of such controls can be achieved through negotiations or other alternative means;

3. The compatibility of the controls with the foreign policy objectives of the United States and with overall U.S. policy toward the country subject to the controls;

4. Whether the reaction of other countries to the extension of such controls is not likely to render the controls ineffective in achieving the intended foreign policy objective or be counterproductive to U.S. foreign policy interests;

5. The comparative benefits to U.S. foreign policy objectives versus the effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology; and

6. The ability of the United States to effectively enforce the controls.

BIS is particularly interested in receiving comments on the economic impact of proliferation controls. BIS is also interested in industry information relating to the following:

1. Information on the effect of foreign policy-based export controls on sales of U.S. products to third countries (*i.e.,* those countries not targeted by sanctions), including the views of foreign purchasers or prospective customers regarding U.S. foreign policy-based export controls.

2. Information on controls maintained by U.S. trade partners. For example, to what extent do U.S. trade partners have similar controls on goods and technology on a worldwide basis or to specific destinations?

3. Information on licensing policies or practices by our foreign trade partners that are similar to U.S. foreign policy based export controls, including license review criteria, use of conditions, and requirements for pre- and post-shipment verifications (preferably supported by examples of approvals, denials and foreign regulations).

4. Suggestions for bringing foreign policy-based export controls more into line with multilateral practice.

5. Comments or suggestions to make multilateral controls more effective.

6. Information that illustrates the effect of foreign policy-based export controls on trade or acquisitions by intended targets of the controls.

7. Data or other information on the effect of foreign policy-based export controls on overall trade at the level of individual industrial sectors.

8. Suggestions for measuring the effect of foreign policy-based export controls on trade.

9. Information on the use of foreign policy-based export controls on targeted countries, entities, or individuals. BIS is also interested in comments relating generally to the extension or revision of existing foreign policy-based export controls.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BIS in reviewing the controls and in

developing the report to Congress. All comments received in response to this notice will be displayed on BIS's Freedom of Information Act (FOIA) Web site at *http://efoia.bis.doc.gov/* and on the Federal e-Rulemaking portal at *www.Regulations.gov.* All comments will also be included in a report to Congress, as required by section 6 of the EAA, which directs that BIS report to Congress the results of its consultations with industry on the effects of foreign policy-based controls.

Dated: September 8, 2015.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2015–22982 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–427–818]**

### Low-Enriched Uranium From France: Final Results of Antidumping Duty Administrative Review; 2013–2014

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On March 9, 2015, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on low-enriched uranium (LEU) from France.[1] The review covers one producer or exporter of the subject merchandise, Eurodif S.A., AREVA NC, and AREVA NC, Inc. (collectively AREVA). The Department determines that AREVA made no shipments of subject merchandise during the POR. The Department also determines that we will issue revised certifications required from the importer and end-user.

**DATES:** *Effective Date:* September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4261.

**SUPPLEMENTARY INFORMATION:**

#### Background

For a complete description of the events that followed the *Preliminary Results,* see the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at *http://acess.trade.gov,* and it is available to all parties in the Central Records Unit of the main Commerce Building, room B8024. In addition, a complete version of the Issues and Decision Memorandum is also accessible on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

#### Period of Review

The period of review (POR) is February 1, 2013, through January 31, 2014.

#### Scope of the Order

The product covered by the order is all low-enriched uranium. Low-enriched uranium is enriched uranium hexafluoride ($UF_6$) with a $U^{235}$ product assay of less than 20 percent that has not been converted into another chemical form, such as $UO_2$, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including low-enriched uranium produced through the down-blending of highly enriched uranium).[3]

#### Analysis of Comments Received

All issues raised by the parties in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is appended to this notice.

#### Changes Since the Preliminary Results

In the *Preliminary Results* the Department determined that AREVA did have shipments of merchandise subject to the antidumping order on LEU from France during the POR. Upon review of the comments received from parties, the Department finds that AREVA had no shipments subject to the antidumping duty order. We have also determined to allow revised the re-export certifications required under the scope of the order to allow replenishment of LEU that has been re-exported and to address the issue of samples in future entries.[4]

#### Determination of No Shipments

We determine that AREVA had no shipments of merchandise subject to the antidumping duty order on LEU from France during the POR.

#### Determination of Revised Certifications

The Department will issue customs instructions with revised certifications to U.S. Customs and Border Protection (CBP). These instructions will be posted on CBP's Antidumping and Countervailing Duty Online Search System, available at *http://adcvd.cbp.dhs.gov/adcvdweb/,* and the Department will release the customs instructions with revised certifications via ACCESS. The revised certifications are effective when posted on the CBP's Antidumping and Countervailing Duty Online Search System.

#### Assessment Rates

Since the Department found that AREVA had no shipments subject to the order during the POR, we did not calculate importer-specific assessment rates for these final results.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by companies included in the final results of review for which these companies did not know that the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[5]

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

#### Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of LEU from France entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for AREVA will remain unchanged from the

[1] *See Low Enriched Uranium from France; Preliminary Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 12434 (March 9, 2015) (*Preliminary Results*).

[2] *See* ''Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Low-Enriched Uranium From France: 2013–2014'' from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance (Issues and Decision Memorandum), dated concurrently with these results and herby adopted by this notice.

[3] For a full description of the scope of the order, *see* the Issues and Decision Memorandum.

[4] *See* Issue 2: Re-export Certifications section of the Issues and Decision Memorandum.

[5] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

rate assigned to the company in the most recently completed review of that company, except for entries for which the importer claims to be excluded from the order under the re-export provision of the scope, which will require a cash deposit rate of zero percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period with a completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period with a completed segment of this proceeding for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.95 percent, the all-others rate established in the investigation.[6] Entries accompanied by certifications from the exporter, the importer, and the end user, indicating that the LEU will be re-exported within 18 months will be subject to a cash deposit requirement of zero percent *ad valorem.* These cash deposit requirements, when imposed, shall remain in effect until further notice.

### Notification Regarding Administrative Protective Orders

This notice is the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

### Notification to Importers

This notice serves as a final reminder to the importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

### Notification to Interested Parties

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 4, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix

**Issues in the Issues and Decision Memorandum**



[FR Doc. 2015–23050 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–979]**

### Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Rescission of Antidumping Duty New Shipper Review; 2013–2014

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''Department'') published its *Preliminary Rescission* for the new shipper review (''NSR'') of the antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (''PRC'') on April 21, 2015.[1] The period of review (''POR'') is December 1, 2013, through May 31, 2014. As discussed below, we preliminarily found that the sale made by Hengdian Group DMEGC Magnetics Co., Ltd. (''DMEGC'') was non-*bona fide,* and announced our preliminary intent to rescind its NSR. For the final results of this review, we continue to find DMEGC's sale to be non-*bona fide.* Therefore, we are rescinding this NSR.

**DATES:** *Effective Date:* September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Pedersen, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2769.

**SUPPLEMENTARY INFORMATION:**

### Background

For a complete description of the events that following the publication of the *Preliminary Results,* see the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's AD and Countervailing Duty (CVD) 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. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

### Scope of the Order

The merchandise covered by the order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.[3] Merchandise covered by the order is classifiable under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030,

[6] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Low Enriched Uranium From France,* 67 FR 6680 (February 13, 2002).

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Rescission of 2013–2014 Antidumping Duty New Shipper Review,* 80 FR 22164 (April 21, 2015) (''*Preliminary Rescission*''); *see also* Memorandum to Howard Smith, Acting Director, Office 4, AD/CVD Operations, from Jeffrey Pedersen, International Trade Analyst, titled ''2013–2014 Antidumping Duty New Shipper Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Preliminary Bona Fide Sales Analysis for Hengdian Group DMEGC Magnetics Co., Ltd.,'' dated April 7, 2015.

[2] *See* Memorandum from Edward Yang, Senior Director, Office VII, Antidumping and Countervailing Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty New Shipper Review: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China'' issued concurrently with and hereby adopted by this notice (''Issues and Decision Memorandum'').

[3] For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.

and 8501.31.8000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties are addressed in the Issues and Decision Memorandum.[4] A list of the issues which parties raised is attached to this notice as an Appendix.

**Bona Fide Analysis**

For the *Preliminary Rescission,* the Department analyzed the *bona fides* of DMEGC's single sale and preliminarily found it to be a non-*bona fide* sale.[5] Based on the Department's complete analysis of all of the information and comments on the record of this review, the Department continues to find DMEGC's sale to be a non-*bona fide* sale. The Department reached this conclusion based on the totality of circumstances, namely: (a) The atypical nature of the price and sale quantity; (b) DMEGC's failure to demonstrate that its first unaffiliated customer resold the merchandise at a profit; (c) the timing of the sale; and (d) issues concerning payment.[6] For a complete discussion, *see* the Issues and Decision Memorandum.[7]

**Rescission of New Shipper Review**

For the foregoing reasons, the Department finds that DMEGC's sale is a non-*bona fide* sale and that this sale does not provide a reasonable or reliable basis for calculating a dumping margin. Because this non-*bona fide* sale was DMEGC's only sale of subject merchandise during the POR, the Department is rescinding this NSR.

**Assessment**

As the Department is rescinding this NSR, we have not calculated a company-specific dumping margin for DMEGC. DMEGC remains part of the PRC-wide entity and, accordingly, its entries will be assessed at the PRC-wide rate.

**Cash Deposit Requirements**

Effective upon publication of this notice of final rescission of the NSR of DMEGC, the Department will instruct U.S. Customs and Border Protection to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise from DMEGC. Because we did not calculate a dumping margin for DMEGC or grant DMEGC a separate rate in this review, DMEGC continues to be part of the PRC-wide entity. The cash deposit rate for the PRC-wide entity is 238.95 percent. These cash deposit requirements shall remain in effect until further notice.

**Administrative Protective Order**

This notice also serves as a reminder to parties subject to Administrative Protective Order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in these segments of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.214.

Dated: September 4, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix—Issues and Decision Memorandum**



[FR Doc. 2015–23049 Filed 9–11–15; 8:45 am]

BILLING CODE 3510–DS–P

[4] *Id.*

[5] *See* ''Decision Memorandum for the Preliminary Rescission of the 2013–2014 Antidumping Duty New Shipper Review: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, dated April 7, 2015.

[6] *See* Issues and Decision Memorandum.

[7] *Id.* Further, because a significant amount of the information discussed may not be publicly disclosed, the Department addressed the issue in a separate business proprietary memorandum. *See* Memorandum to Edward Yang Senior Director, Office VII, Antidumping and Countervailing Duty Operations, from Abdelali Elouaradia, Director, Office IV, Antidumping and Countervailing Duty Operations: ''2013–2014 Antidumping Duty New Shipper Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Comments in the Issues and Decision Memorandum Containing Business Proprietary Information,'' dated concurrently with this notice.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–868]**

### Large Residential Washers From the Republic of Korea: Partial Rescission of Antidumping Duty Administrative Review; 2014–2015

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is partially rescinding its administrative review of the antidumping duty order on large residential washers (LRW) from the Republic of Korea (Korea) for the period of review February 1, 2014, through January 31, 2015 (POR).

**DATES:** *Effective Date:* September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** David Goldberger or Reza Karamloo, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–4470, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 2, 2015, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on LRW from Korea for the POR.[1]

On February 11, 2015, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), the Department received a timely request from LG Electronics, Inc. and its affiliate LG Electronics USA, Inc. (collectively, LG) to conduct a review of LG's sales and shipments to the United States during the POR. On February 26, 2015, Whirlpool Corporation, the petitioner, requested that the Department conduct an administrative review of the sales of LG, Samsung Electronics Co., Ltd. (Samsung), and Daewoo Electronics Corporation (Daewoo).[2]

On April 3, 2015, the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 80 FR 5509 (February 2, 2015).

[2] *See* February 11 and 26, 2015, letters from LG and the petitioner, respectively, regarding request for administrative review.

on LRW from Korea with respect to the above-named companies.[3]

On May 29, 2015, the petitioner timely withdrew its request for a review of Samsung and Daewoo.[4]

**Partial Rescission of Review**

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of notice of initiation of the requested review. The petitioner's withdrawal request was filed before the 90-day deadline. Therefore, in response to the withdrawal of request for review of Samsung and Daewoo, and pursuant to 19 CFR 351.213(d)(1), we are rescinding this review with regard to these companies. The instant review will continue with respect to LG.

**Assessment**

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of this notice in the **Federal Register**.

**Notification to Importers**

This notice serves as the only reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement may result in the presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

**Notification Regarding Administrative Protective Order**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: September 8, 2015.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2015–23051 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–DS–P**

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 18202 (April 3, 2015).

[4] *See* May 29, 2015, letter from the petitioner regarding withdrawal of request for review.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–552–801]**

### Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2013–2014

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''the Department'') is conducting the 11th administrative review of the antidumping duty order on certain frozen fish fillets (''fish fillets'') from the Socialist Republic of Vietnam (''Vietnam'').[1] The Department preliminarily determines that the Hung Vuong Group (''HVG'') [2] and Thuan An Production Trading and Service Co., Ltd. (''TAFISHCO'') sold subject merchandise in the United States at prices below normal value (''NV'') during the period of review (''POR'') August 1, 2013, through July 31, 2014. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

**DATES:** *Effective date:* September 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Javier Barrientos or Jerry Huang, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202–482–2243 or 202–482–4047, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 30, 2014, the Department initiated the 11th administrative review of the antidumping duty order on fish fillets from Vietnam for the period August 1, 2013, through July 31, 2014.[3] On April 8, 2015, the Department partially extended the deadline for issuing the preliminary results by 106 days.[4] On August 11, 2015, the Department further extended the deadline for issuing the preliminary results by 14 days.[5] The revised deadline for the preliminary results of this administrative is now August 31, 2015.

**Scope of the Order**

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus.* These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000,

[1] *See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,* 68 FR 47909 (August 12, 2003) (''*Order*'').

[2] The Department previously found that An Giang Fisheries Import & Export Joint Stock Company (''Agifish'') is a member of the Hung Vuong Group, which also includes Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong—Vinh Long Co., Ltd. and Hung Vuong—Sa Dec Co., Ltd. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011–2012,* 79 FR 19053 (April 7, 2014).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 58729 (September 30, 2014) (''*Initiation Notice*'').

[4] *See* Memorandum to James P. Maeder, Senior Director, Office I, Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding ''Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of 2013–2014 Antidumping Duty Administrative Review,'' dated April 8, 2015.

[5] *See* Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding ''Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Second Extension of Deadline for Preliminary Results of 2013–2014 Antidumping Duty Administrative Review,'' dated August 11, 2015.

1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (''HTSUS'').[6] Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.[7]

**Partial Rescission of Administrative Review**

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. On November 25, 2014, Vinh Hoan Corporation (''Vinh Hoan'') withdrew its review request.[8] On November 25, 2014, Petitioner [9] withdrew its review request with respect to Vinh Hoan.[10] On December 23, 2014, Bien Dong Seafood Co., Ltd (''Bien Dong'') withdrew its review request,[11] and Petitioner withdrew its review request with respect to Bien Dong Seafood on the same date.[12] On December 29, 2014, Petitioner withdrew its review request with respect to Hung Vuong Seafood Joint Stock Company (''Hung Vuong Seafood''), Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung) (''Thanh Hung''), Vinh Long Import-Export Company (also known as Vinh Long or Imex Cuu Long) (''Vinh Long'').[13] No other party requested an administrative review of Vinh Hoan, Bien Dong, Hung Vuong Seafood, Thanh Hung, and Vinh Long. Therefore, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding this review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam with respect to Vinh Hoan, Bien Dong, Hung Vuong Seafood, Thanh Hung, and Vinh Long. The review will continue with respect to the other firms for which a review was requested and initiated.

**Preliminary Determination of No Shipments**

The following companies filed no-shipment certifications indicating that they did not export subject merchandise to the United States during the POR: An Giang Agriculture and Food Import-Export Joint Stock Company, Anvifish Joint Stock Company, Asia Commerce Fisheries Joint Stock Company, Binh An Seafood Joint Stock Company, Dai Thanh Seafoods Company Limited, Fatifish Company Limited, Golden Quality Seafood Corporation, Hiep Thanh Seafood Joint Stock Company, Hoa Phat Seafood Import-Export and Processing JSC, Ngoc Ha Co., Ltd. Food Processing and Trading, Quang Minh Seafood Company, Limited, QVD Food Company, Ltd., Saigon-Mekong Fishery Co., Ltd., Southern Fisheries Industries Company, Ltd., TG Fishery Holdings Corporation, and To Chau Joint Stock Company (collectively ''No Shipment Companies''). Based on the certifications submitted by the above companies, and our analysis of the CBP information, we preliminarily determine that the No Shipment Companies did not have any reviewable transactions during the POR. The Department finds that consistent with its practice in non-market economy (''NME'') cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to the No Shipment Companies and issue appropriate instructions to CBP based on the final results of the review.[14]

**Vietnam-Wide Entity**

A review was requested, but not rescinded, for Asia Pangasius Company Limited, Nam Phuong Seafood Co., Ltd., NTACO Corporation, Thien Ma Seafood Co., Ltd., Thuan Hung Co., Ltd. (collectively, ''No Response Companies'').[15] The No Response Companies are not eligible for separate rate status because they did not submit completed separate rate applications or certifications.[16] Accordingly, the Department finds that these No Response Companies are a part of the Vietnam-wide entity.

The Department's change in policy regarding conditional review of the NME-wide entity applies to this administrative review.[17] Under this policy, the Vietnam-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity in this review, the entity is not under review and the entity's rate is not subject to change.

**Methodology**

The Department conducted this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Tariff Act of 1930, as amended (''the Act''). Constructed export prices and export prices have been calculated in accordance with section 772 of the Act. Because Vietnam is an NME within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov,* and is

[6] Until July 1, 2004, these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007, these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius,* including basa and tra). On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (''CBP''): 1604.19.2000 and 1604 19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

[7] *See* ''Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Decision Memorandum for the Preliminary Results of the 2012–2013 Antidumping Duty Administrative Review,'' dated concurrently with and hereby adopted by this notice (''Preliminary Decision Memorandum''), for a complete description of the Scope of the Order.

[8] *See* Letter from Vinh Hoan regarding Frozen Fish Fillets from the Socialist Republic of Vietnam: Withdraw of Request for Administrative Review—Vinh Hoan Corporation, dated November 25, 2014.

[9] Catfish Farmers of America and individual U.S. catfish processors America's Catch, Alabama Catfish Inc. dba Harvest Select Catfish, Inc., Heartland Catfish Company, Magnolia Processing, Inc. dba Pride of the Pond, and Simmons Farm Raised Catfish, Inc. (hereinafter, ''Petitioner'').

[10] *See* Letter from Petitioner regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Withdrawal of Request for Antidumping Duty Administrative Review, dated November 25, 2014.

[11] *See* Letter from Bien Dong Seafood regarding Frozen Fish Fillets from the Socialist Republic of Vietnam: Withdrawal of Request for Administrative Review—Bien Dong Seafood Co., Ltd., dated December 23, 2014.

[12] *See* Letter from Petitioner regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Withdrawal of Request for Antidumping Duty Administrative Review, dated December 23, 2014.

[13] *See* Letter from Petitioner regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Withdrawal of Request for Antidumping Duty Administrative Review, dated December 29, 2014. We note that Petitioners also withdrew their request for Anvifish Co., Ltd. (''Anvifish''), and Vinh Quang Fisheries Corporation (''Vinh Quang''). However, there are still outstanding review requests for these companies at this time.

[14] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–65695 (October 24, 2011).

[15] *See Initiation Notice,* 79 FR at 58732.

[16] *Id.,* 79 FR at 58730.

[17] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

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 Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

**Preliminary Results of Review**

The Department preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2013, through July 31, 2014:

| Exporter | Weighted-average margin (dollars/kilogram) [18] |
|---|---|
| Hung Vuong Group [19] | 0.36 |
| Thuan An Production Trading and Services Co., Ltd | 0.84 |
| Basa Joint Stock Company | 0.60 |
| Cadovimex II Seafood Import-Export and Processing Joint Stock Company | 0.60 |
| Cafatex Corporation | 0.60 |
| Can Tho Import-Export Joint Stock Company | 0.60 |
| C.P. Vietnam Corporation | 0.60 |
| Cuu Long Fish Joint Stock Company | 0.60 |
| East Sea Seafoods LLC | 0.60 |
| GODACO Seafood Joint Stock Company | 0.60 |
| Green Farms Seafood Joint Stock Company | 0.60 |
| Hoang Long Seafood Processing Company Limited | 0.60 |
| International Development and Investment Corporation | 0.60 |
| Nam Viet Corporation | 0.60 |
| NTSF Seafoods Joint Stock Company | 0.60 |
| Seafood Joint Stock Company No. 4—Branch Dong Tam Fisheries Processing Company | 0.60 |
| Viet Phu Foods and Fish Corporation | 0.60 |
| Vinh Quang Fisheries Joint-Stock Company | 0.60 |

**Disclosure, Public Comment and Opportunity To Request a Hearing**

The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the **Federal Register**.[20] Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.[21] Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.[22] Parties submitting briefs should do so pursuant to the Department's electronic filing system, ACCESS.

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 within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date and time to be determined. *See* 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, 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.[23] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For any individually examined respondent whose weighted average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[24] Where either a respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[25]

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject

[18] In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479 (March 24, 2008).

[19] This rate is applicable to the Hung Vuong Group, which includes: An Giang Fisheries Import and Export Joint Stock Company, Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong—Vinh Long Co., Ltd., and Hung Vuong—Sa Dec Co., Ltd.

[20] *See* 19 CFR 351.309(c)(1)(ii).

[21] *See* 19 CFR 351.309(d)(1)–(2).

[22] *See* 19 CFR 351.309(c)(2), (d)(2).

[23] *See* 19 CFR 351.212(b).

[24] *See* 19 CFR 351.212(b)(1).

[25] *See* 19 CFR 351.106(c)(2).

merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the Vietnam -wide entity; and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam 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 antidumping duties prior to liquidation of the relevant entries during the POR. 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.

This preliminary determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 21, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

**Appendix**

**List of Topics Discussed in the Preliminary Decision Memorandum**

1. Summary
2. Case History
3. Scope of the Order
4. Discussion of the Methodology
   a. Selection of Respondents
   b. Preliminary Determination of No Shipments
   c. Non-Market Economy Country Status
   d. Separate Rates
   e. Vietnam-Wide Entity
   f. Surrogate Country
   g. Determination of Comparison Method
   h. Results of Differential Pricing Analysis
   i. Comparisons to Normal Value
   j. U.S. Price
   k. Use of Facts Available
   l. Normal Value
   m. Factor Valuations
   n. Currency Conversion
5. Recommendation

[FR Doc. 2015–22858 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE154**

### Endangered Species; File No. 18926

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Jane Provancha, Mail Code: IHA–005 OHF, Room 1104, Kennedy Space Center, FL 32815 has applied in due form for a permit to take green sea (*Chelonia mydas*), loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempii*), and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

**DATES:** Written, telefaxed, or email comments must be received on or before October 14, 2015.

**ADDRESSES:** The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 18926 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Brendan Hurley or Amy Hapeman, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a five-year permit to continue monitoring the abundance and distribution of sea turtles inhabiting the waters of the northern Indian River Lagoon and Mosquito Lagoon system (in Volusia and Brevard Counties), Florida. The purpose of this project is to provide NASA-Kennedy Space Center with updates on the status of marine turtles within its boundaries and nearby waters. This area also will continue to be used as an index site to document distribution and movement of individuals in these waters. The applicant requests to capture by hand, tangle, or dip net up to 50 green, one Kemp's ridley, 1 hawksbill, and 50 loggerhead turtles, each year. Turtles will be placed onboard a research vessel for morphometric measures, tagging, photographs, tissue and blood sampling, and/or possible lavage, before release. A subset of captured turtles may also be released with sonic transmitters glued to the carapace.

Dated: September 8, 2015.

**Julia Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2015–23007 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE172**

### Endangered Species; File No. 19528

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Michael Bresette, Inwater Research Group Inc., 4160 NE Hyline Dr., Jensen Beach, FL 34957, has applied in due form for a permit to take green (*Chelonia mydas*), hawksbill (*Eretmochelys*

*imbricata*), Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and loggerhead (*Caretta caretta*) sea turtles for purposes of scientific research.

**DATES:** Written, telefaxed, or email comments must be received on or before October 14, 2015.

**ADDRESSES:** The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 19528 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Amy Hapeman, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a five-year permit to investigate habitat preference, species abundance, size frequencies, diet composition, genetic origin, disease occurrence and sex ratios of sea turtles in waters of the Indian River and Miami-Dade Counties in southeastern Florida. During vessel surveys, up to 250 greens, 100 loggerheads, 50 hawksbills, 10 Kemp's ridleys, and one leatherback sea turtle would be sighted and pursued for capture by hand, dip net or tangle net annually. Once captured, the following procedures may be performed on sea turtles: Measurements, flipper and passive integrated transponder tagging, temporary marking, photography/video, lavage, blood and tissue sampling, and/or attachment of a transmitter. In addition, up to 1,400 green, 100 loggerhead, 280 hawksbill, and 10 Kemp's ridley sea turtles could be harassed during vessel approaches.

Dated: September 8, 2015.

**Julia Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2015–23008 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; A Creel Survey of the Recreational (Non-Commercial), Boat Ramp Based Fisheries in the United States Virgin Islands

**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 November 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 Dr. Brent Stoffle, Fishery Anthropologist, SEFSC, NMFS, 75 Virginia Beach Drive, Miami FL 33149, (305) 361–4276 or *Brent.Stoffle@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

This request is for a new information collection.

The National Marine Fisheries Service (NMFS) proposes to collect landings and socioeconomic data from recreational anglers in the U.S. Virgin Islands. This data collection will assist in creating and utilizing an appropriate methodology for future sampling of this segment of these fisheries and to assist in the development of management proposals. In addition, the information will be used to satisfy legal mandates under Executive Order 12898, the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act, and other pertinent statues.

#### II. Method of Collection

The information will be collected on paper using face to face interviews.

#### III. Data

*OMB Control Number:* 0648–xxxx.

*Form Number(s):* None.

*Type of Review:* Regular (request for a new information collection).

*Affected Public:* Business or other for-profit organizations; individuals or households.

*Estimated Number of Respondents:* 250.

*Estimated Time per Response:* 15 minutes.

*Estimated Total Annual Burden Hours:* 63.

*Estimated Total Annual Cost to Public:* $0 in recordkeeping/reporting costs.

#### 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: September 9, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–23028 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE153**

### Advisory Committee to the U.S. Section of the International Commission for the Conservation of Atlantic Tunas; Fall Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** In preparation for the 2015 International Commission for the Conservation of Atlantic Tunas (ICCAT) meeting, the Advisory Committee to the U.S. Section to ICCAT is announcing the convening of its fall meeting.

**DATES:** The meeting will be held October 8–9, 2015. There will be an open session on Thursday, October 8, 2015, from 9 a.m. through approximately 12:30 p.m. The remainder of the meeting will be closed to the public and is expected to end by 1 p.m. on October 9. Interested members of the public may present their views during the public comment session on October 8, 2015.

**ADDRESSES:** The meeting will be held at the Sheraton Hotel, 8777 Georgia Ave., Silver Spring, MD 20910. Written comments should be sent via email (*Rachel.O'Malley@noaa.gov*). Comments may also be sent via mail to Rachel O'Malley at NMFS, Office of International Affairs and Seafood Inspection, Room 10653, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Rachel O'Malley, Office of International Affairs and Seafood Inspection, 301–427–8373.

**SUPPLEMENTARY INFORMATION:** The Advisory Committee to the U.S. Section to ICCAT will meet October 8–9, 2015, first in an open session to consider management-and research-related information on stock status of Atlantic highly migratory species and then in a closed session to discuss sensitive matters. The open session will be from 9 a.m. through 12:30 p.m. on October 8, 2015, including an opportunity for public comment beginning at approximately 12 p.m. Comments may also be submitted in writing for the Advisory Committee's consideration. Interested members of the public can submit comments by mail or email; use of email is encouraged. All written comments must be received by October 6, 2015 (see **ADDRESSES**).

NMFS expects members of the public to conduct themselves appropriately at the open session of the Advisory Committee meeting. At the beginning of the public comment session, an explanation of the ground rules will be provided (*e.g.,* alcohol in the meeting room is prohibited, speakers will be called to give their comments in the order in which they registered to speak, each speaker will have an equal amount of time to speak and speakers should not interrupt one another). The session will be structured so that all attending members of the public are able to comment, if they so choose, regardless of the degree of controversy of the subject(s). Those not respecting the ground rules will be asked to leave the meeting.

After the open session, the Advisory Committee will meet in closed session to discuss sensitive information relating to upcoming international negotiations regarding the conservation and management of Atlantic highly migratory species.

#### Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Rachel O'Malley at (301) 427–8373 or *Rachel.O'Malley@noaa.gov* at least 5 days prior to the meeting date.

Dated: September 9, 2015.

**John Henderschedt,**

*Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service.*

[FR Doc. 2015–23066 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; International Billfish Angler Survey

**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 November 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 James Wraith, Southwest Fisheries Science Center, 8901 La Jolla Shores Drive, La Jolla, CA 92037, (858) 546 7087 or *james.wraith@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The International Billfish Angler Survey began in 1969 and is an integral part of the Billfish Research Program at the National Oceanic and Atmospheric Administration's (NOAA) Southwest Fisheries Science Center (SWFSC). The survey tracks recreational angler fishing catch and effort for billfish in the Pacific and Indian Oceans in support of the Pacific and Western Pacific Fishery Management Councils, authorized under the Magnuson-Stevens Fishery Conservation and Management and Act (MSA). The data are used by scientists and fishery managers to assist with assessing the status of billfish stocks. The survey is intended for anglers cooperating in the Billfish Program and is entirely voluntary. This survey is specific to recreational anglers fishing for Istiophorid and Xiphiid billfish in the Pacific and Indian Oceans; as such it provides the only estimates of catch per unit of effort for recreational billfish fishing in those areas.

#### II. Method of Collection

The paper form is sent to anglers with recent participation in the SWFSC Billfish Research Program and is also available for downloading on the SWFSC Billfish Program Web site. Completed forms are submitted by mail.

#### III. Data

*OMB Number:* 0648–0020.

*Form Number:* NOAA Form 88–10.

*Type of Review:* Regular (extension of a current information collection).

*Affected public:* Individuals or households.

*Estimated Number of Respondents:* 600.

*Estimated Time per Response:* 5 minutes.

*Estimated Total Annual Burden Hours:* 50.

*Estimated Total Annual Cost to Public:* $0 in recordkeeping/reporting costs.

**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: September 8, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–22991 Filed 9–11–15; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMODITY FUTURES TRADING COMMISSION

### Public Alert—Registration Deficient List

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice; request for comment.

**SUMMARY:** The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing a new program, the Registration Deficient List (''RED List''), that will post on the Commission's Web site and distribute to the public certain factual information about foreign entities that are soliciting or accepting funds from U.S. residents and are acting in a manner that requires registration but are not appropriately registered with the CFTC.

**DATES:** Comments must be received on or before October 14, 2015.

**ADDRESSES:** You may submit comments, identified by ''Registration Deficient List,'' by any of the following methods:

- *The agency's Web site, at http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Rick Glaser, Deputy Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street NW., Washington, DC 20581, phone: (202) 418–5358, email: *rglaser@cftc.gov.*

**SUPPLEMENTARY INFORMATION:** The CFTC today is announcing a new program, effective immediately, for informing the public about unregistered foreign entities engaged in the solicitation or acceptance of funds from U.S. residents at a retail level. These entities solicit and/or accept funds for investments in, among other things, foreign currency (''forex'') and binary options. Through this new program, the Registration Deficient List (''RED List''), the Commission will publish on its Web site the names of unregistered foreign entities that the Commission has reason to believe may be required to register with the CFTC but are not, in fact, registered. Publication does not represent final Commission disposition or a final Commission order. By making this information publicly available, the Commission expects investors to make more informed decisions whether to trade with or through such an entity. The more U.S. investors trade with and through registered entities, the more likely that their funds have a better chance of being protected.

**I. Background**

The Commission often receives investigative leads relating to foreign entities that solicit and/or accept funds from U.S. residents at a retail level. For example, the CFTC's Division of Enforcement (''Enforcement'') has investigated approximately 60 such cases in the past twenty-four months. These cases involve unregistered foreign entities that engage in, among other things, forex in a capacity similar to Retail Foreign Exchange Dealers, Introducing Brokers, Commodity Trading Advisors or Commodity Pool Operators and binary options.[2] Almost all, if not all, of these foreign entities are acting in a capacity that requires them to be registered with the Commission.

In many cases, there are obstacles to bringing an effective enforcement action against these types of entities. For example, the Commission spends considerable resources investigating these matters. Even if Enforcement is able to develop a legal case against one of these entities, international service of process is cumbersome, often takes a very long time to effectuate and is not always successful. Even if service of process is successful, many of these entities are judgment proof.

The Commission believes that a consumer protection approach has a better chance of success than continuing to spend resources on Enforcement investigations and litigations that have a limited chance of success. The proposed RED List would disseminate information about certain foreign entities into the marketplace so that U.S. residents would be able to make more informed choices about how they trade their money. This approach is used by other regulators, including the Securities and Exchange Commission.[3]

[1] 17 CFR 145.9 (2014).

[2] The Commission uses forex and binary options merely as illustrative examples. Any entity that meets the criteria set forth below is a candidate for inclusion on the RED list.

[3] There are approximately 47 countries that issue, or have issued, lists, warning letters, or public statements, including Belgium, Brazil, British Virgin Islands, Canada (Ontario, British Columbia and the Quebec provincial regulators), Croatia, Denmark, Hong Kong, Ireland, Malaysia, Panama, Poland, Cyprus, Singapore, Spain, Sweden, Switzerland, Thailand, The Netherlands, the United Kingdom and the U.S.

The International Organization of Securities Commissions (''IOSCO'') has established an

## II. The RED List

In light of the challenges associated with taking enforcement action against such entities, the Commission believes it useful to educate and empower prospective investors. The goal of the RED List is to provide prospective investors with information regarding unregistered soliciting entities before they invest. For a foreign entity to be listed on the CFTC's RED List, reasonable grounds must exist to believe that the entity meets the following six criteria:

1. The entity is foreign;
2. The foreign entity has no or limited presence in the United States; [4]
3. The foreign entity is soliciting and/or accepting funds from U.S. residents;
4. The foreign entity is offering a product within the Commission's jurisdiction (*e.g.* ''forex'');
5. The foreign entity is required to be registered; and
6. The foreign entity is not registered.[5]

If the foreign entity meets these criteria, Enforcement will propose that it be included on a publicly disclosed list stating that the foreign entity is acting in a capacity that appears to require registration but is not registered with the Commission. This list will then be publicized by the Commission's Office of Consumer Outreach by a variety of different methods and media.

The RED List process contains three separate levels of review before a recommendation is made to the Commission for inclusion on the RED List. First the Intake Officer reviews the complaint and makes an initial determination of whether a foreign entity should potentially be included in the RED List. This initial determination is passed to a Triage Officer who will conduct a limited investigation and then make a recommendation to an Enforcement Deputy Director. The Deputy Director will, based on the information before him/her, make a decision as to whether to recommend to the Commission that it include a foreign entity on the RED List. These levels of review are to ensure that only those foreign entities that should be included on the RED List are included on the RED List.

The CFTC is committed to providing accurate information to investors using the RED List. Before listing an entity on the RED List, Commission staff will notify the entity by Notice Letter of the Commission's intent to list the entity. The entity will have the opportunity to respond to the Commission and provide relevant documentation. If the foreign entity does not respond to the notice letter or provides an unsatisfactory response, Enforcement will recommend to the Commission that a foreign entity should be included on the RED List.

To implement the RED List, the Commission will post on its public Web sites, *http://www.SmartCheck.gov/REDList,* the names, and only the names, of unregistered soliciting foreign entities that have been subject of complaints received by the CFTC. The RED list will contain the following information:

**RED (Registration Deficient) LIST**

**List of Foreign Entities That Have Been Identified as Acting in a Capacity That Appears To Require Registration but Are Not Appropriately Registered With the Commission**

The Commodity Futures Trading Commission (''CFTC'') frequently receives investigative leads and questions from the public about foreign entities that solicit and/or accept funds from U.S. residents at a retail level. For example these leads and questions can relate to, among things, foreign entities that engage in foreign currency (''Forex'') in a capacity similar to Retail Foreign Exchange Dealers (''RFEDs''), Introducing Brokers, Commodity Trading Advisors or Commodity Pool Operators *http://www.cftc.gov/ConsumerProtection/FraudAwarenessPrevention/ForeignCurrencyTrading/index.htm;* and binary options *http://www.cftc.gov/PressRoom/PressReleases/fraudadv_binaryoptions.* Many of these foreign entities are acting in a capacity that requires them to be registered with the CFTC.

If a foreign entity is registered with the CFTC, then it is subject to CFTC regulations and oversight that apply to registrants. Generally, foreign entities that solicit you to trade are required to register with the CFTC. For this reason, it is important for you to consider whether the foreign entity that solicits you is, in fact, registered with the CFTC.

In certain cases, a preliminary review by the CFTC reveals that foreign entities that solicit and/or accept funds from U.S. residents at a retail level have no or limited U.S. presence, and act in a capacity that requires registration, but are not in fact registered. In an effort to warn the public about these entities, the CFTC is publishing the names of those foreign entities.

The goal of this list is to provide information to U.S. consumers about foreign entities that are acting in an unregistered capacity and to help them make more informed decisions about whether to trade with or through such an entity. The more that U.S. consumers trade with and through registered entities, the more likely that their funds will have a greater chance of being protected.

*The named foreign entities currently appear to be acting in a capacity that requires registration with the CFTC but are NOT registered with the CFTC.*

[Inserted will be a list of all of the foreign entities that have met the criteria, as approved by the Commission.]

The inclusion of an entity's name on the RED list does not mean that the CFTC or a Court has concluded that a violation of any provision of the Commodity Exchange Act or the Commission's Regulations has occurred.

## III. Review of RED List

Twice annually, on or about June 30 and December 31, the Triage Officer will review the RED List and, if it appears that a minimum of 12 months have elapsed during which no complaints have been received regarding the a foreign entity and the foreign entity's Web site is either inactive or taken down, Enforcement will submit a recommendation for Commission consideration to move the foreign entity from the active portion of the RED List homepage to the archival portion of such page.

Issued in Washington, DC, on September 9, 2015, by the Commission.

**Robert N. Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2015–23040 Filed 9–11–15; 8:45 am]

**BILLING CODE 6351–01–P**

investor Alert Portal on its Web site to receive and publish alerts and warnings from its members about firms which are not authorized to provide investment services in the jurisdiction that issued the alert or warning.

[4] Merely registering a Web site with a U.S. based domain name registrar does not constitute physical presence.

[5] If the foreign entity offers binary options there is one additional criterion: Whether the entity is a foreign board of trade. If it is a foreign board of trade, then the entity would not be eligible for the RED list.

## BUREAU OF CONSUMER FINANCIAL PROTECTION

**[Docket No: CFPB–2015–0038]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing a new information collection titled, ''Regulation F: Fair Debt Collection Practices Act, State Application for Exemption (12 CFR 1006.2)''.

**DATES:** Written comments are encouraged and must be received on or before October 14, 2015 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by the title of the information collection, OMB Control Number (see

below), and docket number (see above), by any of the following methods:

• *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *OMB:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection.

*Please note that comments submitted after the comment period will not be accepted.* In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

**FOR FURTHER INFORMATION CONTACT:** Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this email box.*

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Regulation F: Fair Debt Collection Practices Act, State Application for Exemption (12 CFR 1006.2).

*OMB Control Number:* 3170–XXXX.

*Type of Review:* Request for a new OMB Control Number.

*Affected Public:* State and Tribal governments and the five (5) inhabited U.S. Territories.

*Estimated Number of Respondents:* 1.

*Estimated Total Annual Burden Hours:* 2.

*Abstract:* This Rule establishes procedures and criteria whereby states may apply to the Bureau for exemption of a class of debt collection practices within the applying state from the provisions of the Fair Debt Collection Practices Act (FDCPA) as provided in section 817 of the Act, 15 U.S.C. 1692. The information collection request seeks OMB approval for the state application for exemption from the provisions of FDCPA as contained in 12 CFR 1006.2.

Request for Comments: The Bureau issued a 60-day **Federal Register** notice on June 15, 2015, (80 FR 34148). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on 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. All comments will become a matter of public record.

Dated: September 9, 2015.

**Linda F. Powell,**

*Chief Data Officer, Bureau of Consumer Financial Protection.*

[FR Doc. 2015–23070 Filed 9–11–15; 8:45 am]

**BILLING CODE 4810–AM–P**

## BUREAU OF CONSUMER FINANCIAL PROTECTION

**[Docket No: CFPB–2015–0039]**

### Agency Information Collection Activities: Comment Request

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection, titled, ''High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z).''

**DATES:** Written comments are encouraged and must be received on or before November 13, 2015 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

• *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.

• *Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1275 First Street NE., Washington, DC 20002.

*Please note that comments submitted after the comment period will not be accepted.* In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

**FOR FURTHER INFORMATION CONTACT:** Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this mailbox.*

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z).

*OMB Control Number:* 3170–0023.

*Type of Review:* Extension without change of a currently approved collection.

*Affected Public:* Businesses and other for- and non-profit institutions.

*Estimated Number of Respondents:* 49.

*Estimated Total Annual Burden Hours:* 317.

*Abstract:* The Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.,* was enacted to foster comparison credit shopping and informed credit decision making by requiring accurate disclosure of the costs and terms of credit to consumers. Creditors are subject to disclosure and other requirements that apply to open-end credit (*e.g.,* revolving credit or credit lines) and closed-end credit (*e.g.,* installment financing). TILA imposes disclosure requirements on all types of creditors in connection with consumer credit, including mortgage companies, finance companies, retailers, and credit card issuers, to ensure that consumers are fully apprised of the terms of financing prior to consummation of the transaction and, in some instances, during the loan term. It also imposes advertising disclosure requirements on advertisers of consumer credit. TILA also establishes billing error resolution procedures for open-end credit and limits consumer

liability for the unauthorized use of credit cards. An amendment to TILA, the Home Ownership and Equity Protection Act (HOEPA), imposes, among other things, various disclosure and other requirements on certain creditors offering high-cost mortgages to consumers. The CFPB promulgated its Regulation Z to implement TILA, as required by the statute. The CFPB enforces TILA as to certain creditors and advertisers. TILA also contains a private right of action for consumers and provides enhanced remedies to consumers in high-cost mortgages for violations of HOEPA.

*Request for Comments:* Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on 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. All comments will become a matter of public record.

Dated: September 9, 2015.

**Linda F. Powell,**

*Chief Data Officer, Bureau of Consumer Financial Protection.*

[FR Doc. 2015–23068 Filed 9–11–15; 8:45 am]

**BILLING CODE 4810–AM–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### National Commission on the Future of the Army; Notice of Federal Advisory Committee Meeting

**AGENCY:** Deputy Chief Management Officer, Department of Defense (DoD).

**ACTION:** Notice of Federal advisory committee meeting.

**SUMMARY:** The DoD is publishing this notice to announce an open meeting of the National Commission on the Future of the Army (''the Commission'').

**DATES:** Date of the open meeting: Thursday, September 24, 2015, from 3 p.m. to 5 p.m.

**ADDRESSES:** Address of open meeting, September 24, 2015: Red Lion Hotel Conference Room, Red Lion Hotel—Tacoma, 8402 S. Hosmer Street, Tacoma, WA 98444.

**FOR FURTHER INFORMATION CONTACT:** Mr. Don Tison, Designated Federal Officer, National Commission on the Future of the Army, 700 Army Pentagon, Room 3E406, Washington, DC 20310–0700, Email: *dfo.public@ncfa.ncr.gov.* Desk (703) 692–9099. Facsimile (703) 697–8242.

**SUPPLEMENTARY INFORMATION:**

Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the National Commission on the Future of the Army was unable to provide public notification of its meeting of September 24, 2015, as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement. This meeting will be held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

*Purpose of Meetings:* During the open meeting on Thursday, September 24, 2015, the Commission will hear verbal comments from the public.

*Agenda:* September 24, 2015, 3 p.m. to 5 p.m.—Open Hearing: The public will have the opportunity to make verbal comments.

*Meeting Accessibility:* Pursuant to 41 CFR 102–3.140 through 102–3.165 and the availability of space, the meeting scheduled for September 24, 2015 from 3 p.m. to 5 p.m. at the Red Lion Hotel Conference Room is open to the public. Seating is limited and pre-registration is strongly encouraged. Media representatives are also encouraged to register. Members of the media must comply with the rules of photography and video filming published by the Red Lion Hotel. The closest public parking facility is located on the property. Visitors should keep their belongings with them at all times.

*Written Comments:* Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written comments to the Commission in response to the stated agenda of the open and/or closed meeting or the Commission's mission. The Designated Federal Officer (DFO) will review all submitted written statements. Written comments should be submitted to Mr. Donald Tison, DFO, via facsimile or electronic mail, the preferred modes of submission. Each page of the comment must include the author's name, title or affiliation, address, and daytime phone number. All comments received before Wednesday, September 23, 2015, will be provided to the Commission before the September 24, 2015, meeting. Comments received after Wednesday, September 23, 2015, will be provided to the Commission before its next meeting. All contact information may be found in the **FOR FURTHER INFORMATION CONTACT** section.

*Oral Comments:* In addition to written statements, one hour and forty minutes will be reserved for individuals or interest groups to address the Commission on September 24, 2015. Those interested in presenting oral comments to the Commission must summarize their oral statement in writing and submit with their registration. The Commission's staff will assign time to oral commenters at the meeting; no more than five minutes each for individuals. While requests to make an oral presentation to the Commission will be honored on a first come, first served basis, other opportunities for oral comments will be provided at future meetings.

*Registration:* Individuals and entities who wish to attend the public hearing and meeting on Thursday, September 24, 2015 are encouraged to register for the event with the DFO using the electronic mail and facsimile contact information found in the **FOR FURTHER INFORMATION CONTACT** section. The communication should include the registrant's full name, title, affiliation or employer, email address, day time phone number. This information will assist the Commission in contacting individuals should it decide to do so at a later date. If applicable, include written comments and a request to speak during the oral comment session. (Oral comment requests must be accompanied by a summary of your presentation.) Registrations and written comments should be typed.

**Additional Information**

The DoD sponsor for the Commission is the Deputy Chief Management Officer. The Commission is tasked to submit a report, containing a comprehensive study and recommendations, by February 1, 2016 to the President of the United States and the Congressional defense committees. The report will contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions it may consider appropriate in light of the results of the study. The comprehensive

study of the structure of the Army will determine whether, and how, the structure should be modified to best fulfill current and anticipated mission requirements for the Army in a manner consistent with available resources.

Dated: September 8, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–22983 Filed 9–11–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Charter Establishment of Department of Defense Federal Advisory Committees

**AGENCY:** Department of Defense.

**ACTION:** Establishment of Federal advisory committee.

**SUMMARY:** The Department of Defense is publishing this notice to announce that it is establishing the charter for the Lake Eufaula Advisory Committee (''the Committee'').

**FOR FURTHER INFORMATION CONTACT:** Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

**SUPPLEMENTARY INFORMATION:** This committee's charter is being established in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a).

The Committee is a statutory Federal advisory committee that provides information and recommendations to the Secretary of Defense through the Secretary of the Army, the Assistant Secretary of the Army for Civil Works, and the U.S. Army Corps of Engineers (''the Corps''), regarding the operations of Lake Eufaula for the project purposes for Lake Eufaula.

According to section 3133(a) of the 2007 WRDA, the Lake Eufaula project goal is to maximize the use of available storage in a balanced approach that incorporates advice from representatives from all the project purposes to ensure that the full value of the reservoir is realized by the United States. To achieve this goal, recreation is recognized as a project purpose at Lake Eufaula, pursuant to section 4 of the Flood Control Act of December 22, 1944 (58 Stat. 889). The recommendations of the Committee shall be considered by the Secretary of the Army and the Corp in performing a reallocation study and developing an interim management plan as required by sections 3133(c) and (d) of the 2007 WRDA. The Department of Defense (DoD), through the Department of the Army and the Corps, shall provide support for the Committee and shall ensure compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (''the Sunshine Act'') (5 U.S.C. 552b, as amended), governing Federal statutes and regulations, and established DoD policies and procedures.

Pursuant to section 3133(b) of the 2007 WRDA, the Committee shall be composed of members that equally represent the project purposes for Lake Eufaula, identified as flood control, water supply, hydroelectric power, navigation, fish and wildlife, and recreation. The Committee shall consist of no more than 12 members. Committee members will serve a two-year term of service, with annual renewals, on the Committee. Members may be appointed to no more than two terms of service (four years total) without prior approval of the Secretary of Defense or Deputy Secretary of Defense. Members may subsequently be reappointed to the Committee but only after being off the Committee for at least two years.

The Committee will be comprised of a mix of regular government employee (RGE) members, special government employee (SGE) members, and representative members. Those individuals who are full-time or permanent part-time Federal officers or employees will be appointed pursuant to 41 CFR 102–3.130(a) to serve as RGE members. Those individuals who are not full-time or permanent part-time Federal officers or employees and provide their own best independent judgment based on their individual expertise will be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as SGE members. Those individuals who are not full-time or permanent part-time Federal officers or employees and are selected for the purpose of obtaining the point of view or perspective of an outside interest group or stakeholder interest will be appointed pursuant to 41 CFR 102–3.130(a) to serve as representative members.

The Secretary of the Army will appoint the Chair and the Vice Chair of the Committee and the leadership for any approved subcommittees from the respective Committee and subcommittee membership previously approved by the Secretary of Defense or Deputy Secretary of Defense.

With the exception of reimbursement for official travel and per diem, Committee members shall serve without compensation.

The DoD, when necessary and consistent with the Committee's mission and DoD policies and procedures, may establish subcommittees, task groups, or working groups to support the Committee. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Army. Currently, the Committee does not use subcommittees. If the DoD determines that the establishment of subcommittees is warranted, the Committee's charter and membership balance plan must be amended prior to such establishment.

The Designated Federal Officer (DFO) shall be a full-time or permanent part-time DoD officer or employee designated in accordance with governing DoD policies and procedures.

The Committee's DFO is required to be in attendance at all meetings of the Committee and any subcommittees for the entire duration of each and every meeting. However, in the absence of the Committee's DFO, a properly approved Alternate DFO, duly designated to the Committee according to DoD policies and procedures, shall attend the entire duration of the meetings of the Committee or any subcommittees.

The DFO, or the Alternate DFO, shall call all meetings of the Committees and any subcommittees; prepare and approve all meeting agendas; and adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public's interest or required by governing regulations or DoD policies and procedures.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Committee membership about the Committee's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Committee.

All written statements shall be submitted to the DFO for the Committee, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Committee's DFO can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.*

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Committee. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: September 8, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–22966 Filed 9–11–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### Intent To Prepare an Integrated Draft Feasibility Report and Environmental Impact Statement To Investigate Hydrologic and Hydraulic Problems Threatening Navigation, Aquatic Ecosystem Habitat, Recreation, Flood Damage Reduction and Existing Infrastructure at the Three Rivers Study Site in Arkansas and Desha Counties in Southeast Arkansas

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** The study is being conducted under the authority contained in the River and Harbor Act of 1946 (Pub. L. 79–525), as amended, which authorized the development of the Arkansas River and its tributaries for the purposes of navigation, flood control, hydropower, water supply, recreation, and fish and wildlife. Public Law 91–649 stated that the project would be known as the McClellan-Kerr Arkansas River navigation system. Additional authorization is included by the Flood Control Act of 1970, (Pub. L. 91–611), as amended, under Section 216 and under guidance provided in ER 1105–2–100. Pursuant to the National Environmental Policy Act (NEPA), the USACE, Little Rock District, will prepare a Draft Environmental Impact Statement (EIS) for the Three Rivers Study. The EIS will evaluate potential impacts (beneficial and adverse) to the natural, physical, and human environment as a result of implementing any of the proposed project alternatives developed during the process.

**ADDRESSES:** Submit written comments to Mr. Craig Hilburn, Biologist, U.S. Army Corps of Engineers, Planning and Environmental Division, Environmental Branch, Little Rock District, P.O. Box 867, Little Rock, AR 72203–0867. Comments will be accepted through October 15, 2015.

**FOR FURTHER INFORMATION CONTACT:** For questions or comments regarding the Three Rivers Draft Feasibility Report or EIS, please contact Mr. Craig Hilburn, (501) 324–5735 or email: *david.c.hilburn@usace.army.mil.*

**SUPPLEMENTARY INFORMATION:**

*1. MKARNS:* The McClellan-Kerr Arkansas River Navigation System consists of a series of 18 locks and dams that provide navigation from the Mississippi River to the Port of Catoosa near Tulsa, Oklahoma. River flow in the Arkansas River is modified primarily by 11 reservoirs in Oklahoma.

*2. Study Location:* The study is located at the confluence of the Mississippi, White, and Arkansas Rivers in Desha and Arkansas Counties, in southeast Arkansas. Prominent features include the McClellan-Kerr Arkansas River Navigation System (MKARNS) Post Canal and the 160,000-acre Dale Bumpers National Wildlife Refuge (U.S. Fish and Wildlife Service). The Arkansas Post Canal connects the Arkansas River to the White River for navigation onto the Mississippi River to complete the 445-mile navigation system. The study area is downstream of Lock No. 1 of the MKARNS and upstream of the Montgomery Point Lock & Dam and includes any adjacent landmasses that are presently being impacted or could be potentially impacted by the alternatives.

*3. Study History:* Studies in the area have occurred since the mid-1960's. Structures were placed along the White River and between the White and Arkansas River to regulate hydrologic flow between the two systems in the 1960's, 1970's and late 1980's.

*4. Scoping/Public Involvement.* The Public Scoping process provides information about the study to the public, serves as a mechanism to solicit agency and public input on alternatives and issues of concern, and ensures full and open participation in Scoping and review of the Draft EIS. Comments received as a result of this notice and news releases will be used to assist the preparers in identifying potential impacts to the quality of the human or natural environment. The Corps invites other Federal agencies, Native American Tribes, State and local agencies and officials, private organizations, and interested individuals to participate in the Scoping process by forwarding written comments to (see **ADDRESSES**). Interested parties may also request to be included on the mailing list for public distribution of announcements and documents.

*5. Issues/Alternatives:* The EIS will evaluate effects from a range of alternatives developed to address navigation and environmental concerns of the area. Anticipated significant issues to be addressed in the EIS include impacts on: (1) Navigation, (2) flooding, (3) recreation, (4) river hydraulics, (5) fish and wildlife resources and habitats, (6) wetlands, (7) timber and forestry management, and (8) other impacts identified by the Public, agencies or USACE studies.

The hydrology of the two rivers is strongly influenced by high water in the Mississippi River. Significant hydrologic and hydraulic problems currently threaten the Corps' mission areas of Navigation, Recreation, Flood Risk Management, as well as aquatic ecosystem habitat and existing infrastructure. Possible solutions may include increasing detention upstream, raising the height of the containment structure, removal of the control structure, or construction of a passive or active weir to restore a more natural hydrology between the two rivers. The study will evaluate opportunities for ecosystem restoration. Proposed improvements resulting from the study could impact (positively or negatively) navigation, agriculture, silviculture, hydropower, recreation, flood risk management, and fish and wildlife.

*6. Availability of the Draft EIS:* The Draft Environmental Impact Statement is anticipated to be available for public review in the spring of 2017, subject to the receipt of Federal funding.

**Courtney W. Paul,**

*Colonel, U.S. Army, District Engineer.*

[FR Doc. 2015–23032 Filed 9–11–15; 8:45 am]

**BILLING CODE 3720–58–P**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### National Wetland Plant List

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice.

**SUMMARY:** The National Wetland Plant List (NWPL) is used to delineate wetlands for purposes of the Clean Water Act and the Wetland Conservation Provisions of the Food Security Act. Other applications of the list include wetland restoration, establishment, and enhancement projects. To update the NWPL, the U.S. Army Corps of Engineers (Corps), as part of an interagency effort with the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS) and the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), is announcing the availability of the draft National Wetland Plant List (NWPL) 2015 and its Web address to solicit public comments. The public will now be provided the opportunity to

comment and vote on the proposed update of wetland indicator status ratings for 186 plants species in select Corps wetland regions.

**DATES:** Comments must be submitted on or before November 13, 2015.

**ADDRESSES:** U.S. Army Corps of Engineers, Attn: CECW–CO (Ms. Karen Mulligan), 441 G Street NW., Washington, DC 20314–1000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Karen Mulligan, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4664.

**SUPPLEMENTARY INFORMATION:** The U.S. Army Corps of Engineers (Corps) administers the National Wetland Plant List (NWPL) for the United States (U.S.) and its territories. Responsibility for the NWPL was transferred to the Corps from the U.S. Fish and Wildlife Service (FWS) in 2006. The Corps led interagency efforts to update the list in 2012, 2013, and 2014. The 2012 list contained 7,828 species, the 2013 update contained 7,937 species, and the 2014 update contained 8,061 species. Additions to these lists represent new records, range extensions, nomenclatural changes, and newly proposed species.

During the latest review process the ratings of two groups of plant species were reevaluated. The first consisted of a group of plants for which the public submitted rating changes on the NWPL Web site from November 10, 2014 to January 31, 2015. A total of 60 suggested rating changes for 42 species were submitted for eight Corps regions and two subregions. Twenty-two ratings and 14 species of these were not evaluated because (1) the proposed rating and the current rating were the same (nine species), (2) crops and epiphytic species were removed from the NWPL in the 2012 update (four species), and (3) insufficient information (one species). This leaves a total of 38 ratings for 28 species which were evaluated in seven Corps regions and two subregions. Of the 28 species evaluated, seven of these were suggested additions to the NWPL. The second group consisted of species with highly variable ratings, which were reexamined because they spanned more than three ratings categories, nationally (*i.e.,* rated FACW in the Arid West and UPL in the Caribbean). This group contained 885 ratings of 169 species. Three species were included in both groups. As a result of the process, 923 ratings of 194 species, in ten Corps regions were reviewed by the regional and national panels and a draft NWPL 2015, containing 8,056 species, has been compiled.

In group one, 71% percent of the public requests resulted in potential changes to the NWPL (resulting in 27 rating changes for 21 species). The ratings of the remaining species are unchanged, including one proposed addition that was determined to be an upland plant. Six new plants were recommended to be added to the NWPL. In group two, 30% percent of the highly variable ratings resulted in proposed changes to the NWPL (267 proposed rating changes for 168 species). One species was removed from the NWPL because it does not grow in soil. Removal of ten additional species is proposed because they were determined to be rated UPL in every region in which they occur. The overall net change between the 2014 list and the proposed 2015 list would be five species (6 proposed additions and 11 proposed removals).

Together, the proposed changes based on public requests and highly variable ratings total 1% of the ratings (294) and 2% (186) of the species on the 2014 NWPL. These proposed changes are nearly an equal split between species that received wetter ratings and those that received drier ratings. The specific break-down of proposed changes are: 51 percent (151 ratings for 116 species) rated wetter and 49 percent (143 ratings for 111 species) rated drier. The number of species above (227) exceeds the number of species included in the update (186) because 41 species were included in each category (*e.g.,* proposed to go drier in one region and wetter in another). Most of the rating changes are proposed in the Atlantic and Gulf Coastal Plain (55) and the Caribbean Islands (53) regions. The fewest changes are proposed in the Hawaii and Pacific Islands (12) and the Northcentral and Northeast (13) regions. Complete lists of changes by region, resources used to evaluate ratings and species, and newly submitted literature references are located at: *http://wetland_plants.usace.army.mil/nwpl2015_update/proposed_changes/.*

**Indicator Status Ratings**

On the NWPL, there are five categories of indicator status ratings, used to describe a plant's likelihood for occurrence in a wetland versus and upland: Obligate Wetland (OBL), Facultative Wetland (FACW), Facultative (FAC), Facultative Upland (FACU), and Obligate Upland (UPL). These rating categories are defined by the National Panel as follows: OBL—almost always is a hydrophyte, rarely in uplands; FACW—usually is a hydrophyte but occasionally found in uplands; FAC—commonly occurs as either a hydrophyte or non-hydrophyte; FACU—occasionally is a hydrophyte but usually occurs in uplands; UPL—rarely is a hydrophyte, almost always in uplands. These category definitions are qualitative descriptions that better reflect the qualitative supporting information, rather than numeric frequency ranges. The percentage frequency categories used in the older definitions are only used for testing problematic or contested species being recommended for indicator status changes. Plus and minus designations and wetland indicator designations such as No Indicator (NI), No Occurrence (NO), and No Agreement (NA) are no longer used on the NWPL. When assigning wetland indicator statuses, commenters should use the rating definitions described above and developed by the National Panel for updating the NWPL.

Wetlands are defined as those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (33 CFR 328.3 and 40 CFR 230.3). Such wetlands are identified using the Corps 1987 Wetland Delineation Manual or relevant regional supplements, whichever is more recent. Wetlands are identified using the three factor approach. Because each species being evaluated occurs as part of a vegetation assemblage, examining the other species present may be useful in assessing hydrophytic vegetation.

**Instructions for Providing Comments Online**

Reviewers may consider the ecological information on the NWPL Web site, which includes prior information obtained by the FWS and others. Links to prior rating votes and maps of Corps wetland regions can be accessed from the NWPL *homepage.* To access regional voting records during the recent NWPL updates, click the ''*Voting History (Rounds/Algos)''* link. To find ratings from the 1988 or 1996 Plant Lists, click ''*National Wetland Plant List'', ''NWI 1988/1996 Lists''* and then either ''*1996 National Summary''* or ''*1988 National Summary (Reed 1988).''* The Corps wetland regions and subregions are based on Land Resource Regions (LRRs) and Major Land Resource Areas (MLRAs) (*http://soils.usda. gov/survey/geography/mlra/*). To display regional maps click the ''*Wetland Regions and Rating Info''* link on the NWPL homepage. To view subregional maps, click the link under the ''NWPL Viewer Tool'' heading in the

upper left of the homepage. Once the viewer tool opens in a new window, click the ''*Custom Plant List,*'' ''*Geographic Area,*'' and ''*USACE subregions*'' links. The viewer tool is also used to access individual species pages. To find a species, type the scientific name into the search box in the upper right corner. Users are automatically redirected to the currently accepted name when a synonym is entered. Each species page includes scientific and common names, synonyms, and maps of distributions by county. Habitat descriptions from the literature can be displayed in the center of the page by clicking on ''*Species Detail,*'' ''*Center Page View,*'' and ''*FWS or CRREL Literature.*''

The Corps is requesting assistance in the form of data, comments, literature references, or field experiences, to help clarify the status of the 186 species in the 2015 NWPL update. Comments may be made on one or more species in any of the wetland supplement regions or subregions where a rating change is proposed. A list of these species by region and the details of how their rating was evaluated by Regional and National Panel members can be viewed at the NWPL homepage, *http://wetland_plants. usace.army.mil/* by clicking on the ''*Proposed FR NWPL2015 Update*'' and ''*Proposed Changes*'' links. Recently submitted literature references are also shown here. Comments on these proposed changes to the NWPL are being accepted at the same Web site. To add input, commenters should click on the ''*Federal Register Comments*'' link underneath the ''*Proposed Changes*'' link. Commenters will be redirected to an online form for submitting comments. Literature citations, experiential references, monitoring data, and other relevant reports may be submitted through this form. In all cases, the most useful comments are from specific knowledge or studies related to individual species. Commenters should use their regional botanical and ecological expertise, field observations, reviews of the most recent indicator status information, appropriate botanical literature, floras, herbarium specimens with notation of habitat and associated species, habit data, relevant studies, and historic list information. Guessing ratings is inappropriate. The commenter can also submit general comments on the 2015 NWPL update that are not related to a specific species. General comments can be submitted by clicking on the email contact link titled ''*Questions or Comments? Contact us!*'' on the NWPL homepage. All votes and comments will be compiled and sent to the National Panel for their consideration.

**Future Actions**

Future updates to the NWPL will occur biennially according to the following proposed procedures. A change in indicator status may be requested at any time at *http://wetland_plants.usace.army.mil/* by clicking on the ''Submit a NWPL *Change Request*'' link and submitting the appropriate data. Data includes ecological data, literature reviews, testing descriptions, geographic data, and frequency and abundance data for the taxon in wetlands and uplands in the Corps wetland region or subregion for which the change is proposed. The regions and subregions are based on Land Resource Regions (LRRs) and Major Land Resource Areas (MLRAs) (*http://soils.usda.gov/survey/geography/mlra/*) and are shown for each wetland supplement region on the NWPL Web site. If the commenter believes that a wetland supplement region needs a subregion that has not yet been developed, the commenter should identify the MLRAs involved and provide a list of species from within that region that need their own wetland ratings.

Proposed rating changes will be compiled in January of odd years (*i.e.* 2017, 2019) and sent to the Regional Panels for input in February. The National Panel will assign wetland ratings to non-consensus species and will review all regional lists in April. The proposed changes will be compiled over the summer and published in the **Federal Register** for public comment in September. In October, public comments will be summarized and the National Panel will review and respond to comments. The final changes will be published in the **Federal Register** in December of odd years.

Dated: September 4, 2015.

**Edward E. Belk, Jr.**

*Chief, Operations and Regulatory Division, Directorate of Civil Works.*

[FR Doc. 2015–23031 Filed 9–11–15; 8:45 am]

**BILLING CODE 3720–58–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2015–ICCD–0074]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; Mandatory Civil Rights Data Collection

**AGENCY:** Office of Civil Rights (OCR), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before October 14, 2015.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://wwww.regulations.gov* by searching the Docket ID number ED–2015–ICCD–0074. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E105, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Rosa Olmeda, 202–453–5968.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the

respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Mandatory Civil Rights Data Collection

*OMB Control Number:* 1870–0504

*Type of Review:* A revision of an existing information collection.

*Respondents/Affected Public:* State, Local and Tribal Governments

*Total Estimated Number of Annual Responses:* 17, 620

*Total Estimated Number of Annual Burden Hours:* 1,520,260

*Abstract:* The collection, use and reporting of education data is an integral component of the mission of the U.S. Department of Education (ED). EDFacts, an ED initiative to put performance data at the center of ED's policy, management, and budget decision-making processes for all K–12 education programs, has transformed the way in which ED collects and uses data. For school years 2009–10 and 2011–12, the Civil Rights Data Collection (CRDC) was approved by OMB as part of the EDFacts information collection (1875–0240). For school years 2013–14 and 2015–16, the Office for Civil Rights (OCR) cleared the CRDC as a separate collection from EDFacts. OCR used the most current EDFacts information collection approved by OMB (1875–0240) as a model for the 2013–14 and 2015–16 CRDC information collection that was approved by OMB (1870–0504) in February 2014. Similarly, the currently proposed revised CRDC information collection for school year 2015–16 is modeled after the most recent OMB-approved EDFacts information collection. Except for a few data elements that were revised based on recommendations received from various school districts and advice received from experts across ED, the currently proposed CRDC information collection for school year 2015–16 is identical to the information collection for school year 2015–16 that was approved by OMB in February 2014. As with previous CRDC collections, the purpose of the 2015–16 CRDC is to obtain vital data related to the civil rights laws' requirement that public local educational agencies and elementary and secondary schools provide equal educational opportunity. ED seeks OMB approval under the Paperwork Reduction Act to collect from school districts, the elementary and secondary education data described in the sections of Attachment A.

Dated: September 9, 2015.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015–23002 Filed 9–11–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### National Advisory Council on Indian Education; Public Teleconference Meeting

**AGENCY:** National Advisory Council on Indian Education (NACIE or Council), U.S. Department of Education.

**ACTION:** Announcement of an open public teleconference meeting.

**SUMMARY:** This notice sets forth the schedule of an upcoming public meeting conducted by the National Advisory Council on Indian Education NACIE). Notice of the meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and intended to notify the public of its opportunity to attend.

**DATES:** The NACIE teleconference meeting will be held via conference call on September 25, 2015—2:00 p.m.–2:30 p.m. Eastern Daylight Saving Time. Up to 20 dial-in, listen only phone lines will be made available to the public on a first come, first served basis. The conference call number is 1–800–857–9682 and the participant code is 5273162.

**FOR FURTHER INFORMATION CONTACT:** Tina Hunter, Designated Federal Official, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202. Telephone: 202–205–8527. Fax: 202–205–0310.

**SUPPLEMENTARY INFORMATION:** NACIE's Statutory Authority and Function: The National Advisory Council on Indian Education is authorized by § 7141 of the Elementary and Secondary Education Act. The Council is established within the Department of Education to advise the Secretary of Education on the funding and administration (including the development of regulations, and administrative policies and practices) of any program over which the Secretary has jurisdiction and includes Indian children or adults as participants or programs that may benefit Indian children or adults, including any program established under title VII, part A of the Elementary and Secondary Education Act. The Council submits to the Congress, not later than June 30 of each year, a report on the activities of the Council that includes recommendations the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program.

One of the Council's responsibilities is to develop and provide recommendations to the Secretary of Education on the funding and administration (including the development of regulations, and administrative policies and practices) of any program over which the Secretary has jurisdiction that can benefit Indian children or adults participating in any program which could benefit Indian children.

*Meeting Agenda:* The purpose of the meeting is to convene the Council to conduct the following business: (1) Final discussion, review and approval of the annual report to Congress; and, (2) Discuss schedule to submit recommendations to the Secretary of Education on funding and administration of programs.

*Access to Records of the Meeting:* The Department will post the official report of the meeting on the Office of Elementary and Secondary Education (OESE) Web site at: *http://www2.ed.gov/about/offices/list/oese/index.html?src=oc* 21 days after the meeting. Pursuant to the FACA, the public may also inspect the materials at the Office of Indian Education, United States Department of Education, 400 Maryland Avenue SW., Washington, DC 20202, Monday-Friday, 8:30 a.m. to 5:00 p.m. Eastern Daylight Saving Time or by emailing *TribalConsultation@ed.gov* or by calling Terrie Nelson on (202) 401–0424 to schedule an appointment.

*Reasonable Accommodations:* The teleconference is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify Brandon Dent on (202) 453–6450 no later than September 18, 2015. Although we will attempt to meet a request received after request due date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to make arrangements.

*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.

**Authority:** The National Advisory Council on Indian Education is authorized by section 7141 of the Elementary and Secondary Education Act.

**Ann Whalen,**

*Senior Advisor to the Secretary Delegated the Duties of Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2015–22891 Filed 9–11–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2015–ICCD–0110]**

### Agency Information Collection Activities; Comment Request; Pell for Students Who Are Incarcerated Experimental Site Initiative

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before November 13, 2015.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://wwww.regulations.gov* by searching the Docket ID number ED–2015–ICCD–0110. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Pell for Students who are Incarcerated Experimental Site Initiative.

*OMB Control Number:* 1845—NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* Private Sector, State, Local and Tribal Governments.

*Total Estimated Number of Annual Responses:* 100.

*Total Estimated Number of Annual Burden Hours:* 7,500.

*Abstract:* Through the Pell for Students who are Incarcerated experiment (also known as Second Chance Pell) the Department of Education will provide selected eligible postsecondary institutions with a waiver to the current statutory ban on incarcerated individuals, who are otherwise eligible, from receiving Federal Pell Grant funds to attend eligible postsecondary programs. The experiment aims to test whether participation in high-quality educational opportunities increases after access to financial aid for incarcerated adults is expanded and to examine how waiving the restriction influences individual academic and life outcomes.

Dated: September 8, 2015.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015–22970 Filed 9–11–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### National Committee on Foreign Medical Education and Accreditation

**AGENCY:** Office of Postsecondary Education, U.S. Department of Education, National Committee on Foreign Medical Education and Accreditation.

**ACTION:** Announcement of a Committee meeting.

**SUMMARY:** The purpose of this notice is to announce the upcoming meeting of the National Committee on Foreign Medical Education and Accreditation (NCFMEA). Parts of this meeting will be open to the public, and the public is invited to attend those portions.

*Meeting Date and Place:* The meeting will be held on October 28, 29, and 30, 2015, from 8:30 a.m. until approximately 5:00 p.m., at the U.S. Department of Education, Eighth Floor Conference Center, Office of Postsecondary Education, 1990 K Street NW., Washington, DC 20006. The Committee will meet in Executive Session on October 30, 2015. The entire October 30th session will be devoted to training sessions for the Committee; and, therefore, is closed to the public.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hong, Executive Director for the NCFMEA, U.S. Department of Education, 1990 K Street NW., Room 8073, Washington, DC 20006–8129; telephone: 202 502–7696; fax: 202 502–7874, or email: *Jennifer.Hong@ed.gov*

**SUPPLEMENTARY INFORMATION:** *Statutory Authority and Function:* The NCFMEA was established by the Secretary of Education under § 102 of the Higher Education Act of 1965, as amended. The NCFMEA's responsibilities are to:

- Evaluate the standards of accreditation applied to foreign medical schools and,
- Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

A determination of comparability of accreditation standards by the NCFMEA is an eligibility requirement for foreign medical schools to participate in the William D. Ford Federal Direct Student Loan Program, 20 U.S.C. 1087a *et seq.*

*Meeting Agenda:* The NCFMEA will review the standards of accreditation applied to medical schools to determine whether those standards are comparable to the standards of accreditation applied to medical schools in the United States. The NCFMEA will also review previously requested reports from accrediting entities that accredit medical schools. Discussion of the standards of accreditation will be held in sessions open to the public. Discussions resulting in specific determinations of comparability are closed to the public until proper notification of the NCFMEA's decision is provided to the medical school by the Department.

The countries which are scheduled to be discussed are Antigua and Barbuda, Canada, Cayman Islands, Dominica, Dominican Republic, and Hungary. The meeting agenda, as well as the staff analyses pertaining to the meeting, will be posted on the Department of Education's Web site prior to the meeting at *http://www2.ed.gov/about/bdscomm/list/ncfmea.html.*

*Reasonable Accommodations:* The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice by September 28, 2015, although we will attempt to meet a request received after that date.

*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.

*Delegation of Authority:* The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

**Authority:** § 102 of the Higher Education Act of 1965, as amended.

**Jamienne S. Studley,**

*Deputy Under Secretary.*

[FR Doc. 2015–23018 Filed 9–11–15; 8:45 am]

**BILLING CODE 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:* EC15–202–000.

*Applicants:* Golden West Power Partners, LLC.

*Description:* Application for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action of Golden West Power Partners, LLC.

*Filed Date:* 9/4/15.

*Accession Number:* 20150904–5280.

*Comments Due:* 5 p.m. ET 9/25/15.

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

*Docket Numbers:* ER15–2101–001.

*Applicants:* Golden West Power Partners, LLC.

*Description:* Notice of Change in Status of Golden West Power Partners, LLC.

*Filed Date:* 9/3/15.

*Accession Number:* 20150903–5223.

*Comments Due:* 5 p.m. ET 9/24/15.

*Docket Numbers:* ER15–2241–000.

*Applicants:* MP2 Energy NJ LLC.

*Description:* Amendment and clarification to July 22, 2015 MP2 Energy NJ LLC tariff filing.

*Filed Date:* 9/4/15.

*Accession Number:* 20150904–5078.

*Comments Due:* 5 p.m. ET 9/18/15.

*Docket Numbers:* ER15–2242–000.

*Applicants:* MP2 Energy IL LLC.

*Description:* Amendment and clarification to July 22, 2015 MP2 Energy IL LLC tariff filing.

*Filed Date:* 9/4/15.

*Accession Number:* 20150904–5079.

*Comments Due:* 5 p.m. ET 9/18/15.

*Docket Numbers:* ER15–2550–000.

*Applicants:* Rancho Cucamonga Municipal Utility.

*Description:* Amendment to August 28, 2015 Petition of Rancho Cucamonga Municipal Utility for Limited Waiver of the California Independent System Operator Corporation's Tariff Provisions.

*Filed Date:* 9/2/15.

*Accession Number:* 20150902–5250.

*Comments Due:* 5 p.m. ET 9/23/15.

*Docket Numbers:* ER15–2615–000.

*Applicants:* Goodwell Wind Project, LLC.

*Description:* Baseline eTariff Filing: Goodwell Wind Project, LLC MBR Tariff to be effective 10/1/2015.

*Filed Date:* 9/3/15.

*Accession Number:* 20150903–5196.

*Comments Due:* 5 p.m. ET 9/24/15.

*Docket Numbers:* ER15–2616–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2015–09–03_MISO–PJM JOA DA M2M FFE to be effective 9/30/2015.

*Filed Date:* 9/3/15.

*Accession Number:* 20150903–5212.

*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* ER15–2617–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2015–09–04_SA 2836 NSP-City of Willmar TIA to be effective 9/5/2015.

*Filed Date:* 9/4/15.

*Accession Number:* 20150904–5168.

*Comments Due:* 5 p.m. ET 9/25/15.

*Docket Numbers:* ER15–2618–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Service Agreement No. 4252; Queue W2–094 (WMPA) to be effective 8/10/2015.

*Filed Date:* 9/4/15.

*Accession Number:* 20150904–5177.

*Comments Due:* 5 p.m. ET 9/25/15.

*Docket Numbers:* ER15–2619–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: First Revised Service Agreement No. 4109; Queue No. Z1–073 to be effective 8/5/2015.

*Filed Date:* 9/4/15.

*Accession Number:* 20150904–5187.

*Comments Due:* 5 p.m. ET 9/25/15.

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

*Docket Numbers:* ES15–67–000.

*Applicants:* Louisville Gas & Electric Company.

*Description:* Application under Section 204 of the Federal Power Act of Louisville Gas and Electric Company.

*Filed Date:* 9/4/15.

*Accession Number:* 20150904–5269.

*Comments Due:* 5 p.m. ET 9/25/15.

*Docket Numbers:* ES15–68–000.

*Applicants:* Kentucky Utilities Company.

*Description:* Application under Section 204 of the Federal Power Act of Kentucky Utilities Company.

*Filed Date:* 9/4/15.

*Accession Number:* 20150904–5282.

*Comments Due:* 5 p.m. ET 9/25/15.

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: September 4, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–23009 Filed 9–11–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL15–100–000]**

### Northwest Power Pool Members' Market, Assessment and Coordination Committee; Notice of Petition for Declaratory Order

Take notice that on September 4, 2015, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2), the Northwest Power Pool Members' Market Assessment and Coordination Committee (Petitioner), filed a petition for a declaratory order (petition) on limited threshold issues critical to the development of a subhourly energy market in the Northwest Power Pool footprint, all as more fully explained in the petition.

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

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

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

*Comment Date:* 5:00 p.m. Eastern time on October 5, 2015.

Dated: September 8, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–23012 Filed 9–11–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13629–002]**

### Coleman Hydro LLC; Notice of Teleconference

a. Project Name and Number: Coleman Hydroelectric Project No. 13629.

b. Date and Time of Meeting: September 22, 2015; 10:00 a.m. Pacific Daylight Time (11:00 a.m. Mountain Daylight Time).

c. FERC Contact: Jim Hastreiter, *james.hastreiter@ferc.gov* or (503) 552–2760.

d. Purpose of Meeting: U.S. Fish and Wildlife Service has requested the teleconference to discuss the scope of the proposed Coleman Hydroelectric Project and its effects on federally-listed bull trout, as it relates to the Commission staff's request for formal consultation under section 7 of the Endangered Species Act.

e. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate by phone. Please call Jim Hastreiter at (503) 552–2760 by September 15, 2015, to RSVP and to receive specific instructions on how to participate.

Dated: September 8, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–23054 Filed 9–11–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM98–1–000]**

### Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable

proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866)208–3676, or for TTY, contact (202)502–8659.

| *Docket No.* | *File date:* | *Presenter or requester* |
|---|---|---|
| *Prohibited:* | | |
| 1. P–803–087 | 8–27–15 | California Water Board. |
| *Exempt:* | | |
| 1. P–1494–000 | 8–17–15 | Mayor Dewey F. Bartlett, Jr. City of Tulsa, OK. |
| 2. CP14–96–000 | 8–17–15 | Members of New York Assembly.[1] |
| 3. CP14–96–000 | 8–17–15 | New York State Senator George Latimer. |
| 4. CP14–96–000 | 8–17–15 | New York Assemblyman Steven Otis. |
| 5. CP14–96–000 | 8–20–15 | Westchester County Board of Legislators.[2] |
| 6. CP14–96–000 | 8–21–15 | Town of Cortlandt, NY. |
| 7. CP13–483–000 | 8–24–15 | FERC Staff.[3] |
| CP13–492–000 | | |
| 8. CP13–483–000 | 8–24–15 | FERC Staff.[4] |
| CP13–492–000 | | |
| 9. CP14–96–000 | 8–24–15 | New York State Senator Liz Krueger. |
| 10. CP14–96–000 | 8–31–15 | New York Assemblymember Shelley Mayer. |
| 11. CP14–96–000 | 8–31–15 | New York State Senator Andrea Stewart-Cousins. |
| 12. CP14–503–000 | 9–1–15 | FERC Staff.[5] |
| 13. CP14–529–000 | 9–1–15 | FERC Staff.[6] |
| 14. CP14–529–000 | 9–1–15 | FERC Staff.[7] |

[1] Sandy Galef and David Buchwald.
[2] Alan Cole, Michael Kaplowitz, Benjamin Boykin, Catherine Parker, Alfreda Williams, Catherine Borgia, Mary Jane Shimsky, Lyndon Williams, Ken Jenkins.
[3] Notes from 8–20–15 telephone conference call with federal cooperating agencies regarding production of the final environmental impact statement.
[4] Letter dated 8–18–15 from the US Environmental Protection Agency.
[5] Record of 7–1–15 telephone call with Oklahoma Department of Environmental Quality.
[6] Record of 7–30–15 telephone call with USFWS New England Field Office.
[7] Record of 8–24–15 telephone call with USACE New England District.

Dated: September 8, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–23013 Filed 9–11–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER15–2534–000]**

## Saddleback Ridge Wind, 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 Saddleback Ridge Wind, 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 September 28, 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: September 8, 2015.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2015–23055 Filed 9–11–15; 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: EC15–203–000.*
*Applicants:* Grant Wind, LLC.
*Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Expedited Consideration, Confidential Treatment and Waivers of Grant Wind, LLC.*
*Filed Date:* 9/4/15.
*Accession Number: 20150904–5426.*
*Comments Due:* 5 p.m. ET 9/25/15.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers: EG15–123–000.*
*Applicants:* Moxie Freedom LLC.
*Description:* Notice of Self-Certification of EWG Status of Moxie Freedom LLC under EG15–123.
*Filed Date:* 9/8/15.
*Accession Number: 20150908–5095.*
*Comments Due:* 5 p.m. ET 9/29/15.

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

*Docket Numbers: ER15–524–002.*
*Applicants:* Tucson Electric Power Company.
*Description: Compliance filing: Compliance Filing to be effective 5/15/2015.*
*Filed Date:* 9/8/15.
*Accession Number: 20150908–5137.*
*Comments Due:* 5 p.m. ET 9/29/15.
*Docket Numbers:* ER15–584–001.
*Applicants:* ISO New England Inc., Connecticut Transmission Municipal Electric Energy Cooperative.
*Description: Compliance filing: CT Transmission Municipal Electric Energy Cooperative—Compliance Filing to be effective 11/17/2014.*
*Filed Date:* 9/8/15.
*Accession Number: 20150908–5085.*
*Comments Due:* 5 p.m. ET 9/29/15.
*Docket Numbers: ER15–1407–002.*
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description: Report Filing: 2015–09–08_SA 2767 Refund Report of ATC-Manitowoc CFA to be effective N/A.*
*Filed Date:* 9/8/15.
*Accession Number: 20150908–5086.*
*Comments Due:* 5 p.m. ET 9/29/15.
*Docket Numbers: ER15–2380–000.*
*Applicants:* Willey Battery Utility, LLC.
*Description: Amendment to August 5, 2015 Willey Battery Utility, LLC tariff filing.*
*Filed Date:* 9/4/15.
*Accession Number: 20150904–5166.*
*Comments Due:* 5 p.m. ET 9/25/15.
*Docket Numbers: ER15–2621–000.*
*Applicants:* Pacific Gas and Electric Company.
*Description: § 205(d) Rate Filing: Revisions to the Plumas-Sierra Operating Agreement to be effective 10/31/2015.*
*Filed Date:* 9/8/15.
*Accession Number: 20150908–5011.*
*Comments Due:* 5 p.m. ET 9/29/15.
*Docket Numbers:* ER15–2622–000.
*Applicants:* California Independent System Operator Corporation.
*Description: Transmission Access Charge Informational Filing, et al. of the California Independent System Operator Corporation.*
*Filed Date:* 9/4/15.
*Accession Number: 20150904–5405.*
*Comments Due:* 5 p.m. ET 9/25/15.

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

*Docket Numbers: RR15–14–000.*
*Applicants:* North American Electric Reliability Corporation.
*Description: Errata (correction and clarification) to August 14, 2015 Petition of North American Electric Reliability Corporation for Approval of the Amendments, et. al.*
*Filed Date:* 9/3/15.
*Accession Number: 20150903–5222.*
*Comments Due:* 5 p.m. ET 9/17/15.

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: September 8, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–23011 Filed 9–11–15; 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:* PR15–42–000.
*Applicants:* TPL SouthTex Transmission Company LP.
*Description:* Submits tariff filing per 284.123(e)/.224: Filing of Revised Operating Statement to be effective 9/1/2015 Filing Type: 770.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5161.
*Comments/Protests Due:* 5 p.m. ET 9/17/15.

*Docket Numbers:* PR15–43–000.
*Applicants:* Enable Illinois Intrastate Transmission, LLC.
*Description:* Submits tariff filing per 284.123(e)/.224: 2015 Housekeeping to be effective 9/28/2015; Filing Type: 770.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5288.
*Comments/Protests Due:* 5 p.m. ET 9/17/15.

*Docket Numbers:* RP15–1209–000.
*Applicants:* Enable Mississippi River Transmission, L.
*Description:* Section 4(d) Rate Filing: 2015 Housekeeping Filing to be effective 9/28/2015.
*Filed Date:* 8/26/15.
*Accession Number:* 20150826–5114.
*Comments Due:* 5 p.m. ET 9/8/15.
*Docket Numbers:* RP15–1210–000.
*Applicants:* Northwest Pipeline LLC.
*Description:* Section 4(d) Rate Filing: 2015 Winter Fuel Filing to be effective 10/1/2015.
*Filed Date:* 8/26/15.
*Accession Number:* 20150826–5132.
*Comments Due:* 5 p.m. ET 9/8/15.
*Docket Numbers:* RP15–1211–000.
*Applicants:* Northern Natural Gas Company.
*Description:* Section 4(d) Rate Filing: 20150826 Negotiated Rate to be effective 9/1/2015.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5064.
*Comments Due:* 5 p.m. ET 9/8/15.
*Docket Numbers:* RP15–1212–000.
*Applicants:* Transcontinental Gas Pipe Line Company.
*Description:* Section 4(d) Rate Filing: Cash Out Reference Spot Prices to be effective 10/1/2015.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5084.
*Comments Due:* 5 p.m. ET 9/8/15.

*Docket Numbers:* RP15–1213–000.
*Applicants:* Alliance Pipeline L.P.
*Description:* Section 4(d) Rate Filing: September 1–30 2015 Auction to be effective 9/1/2015.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5108.
*Comments Due:* 5 p.m. ET 9/8/15.

*Docket Numbers:* RP15–1214–000.
*Applicants:* Florida Gas Transmission Company, LLC.
*Description:* Section 4(d) Rate Filing: Fuel Filing on 8–27–15 to be effective 10/1/2015.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5123.
*Comments Due:* 5 p.m. ET 9/8/15.

*Docket Numbers:* RP15–1215–000.
*Applicants:* El Paso Natural Gas Company, L.L.C.
*Description:* Section 4(d) Rate Filing: Negotiated Rate Agreement Update (APS Sept 2015) to be effective 9/1/2015.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5210.
*Comments Due:* 5 p.m. ET 9/8/15.

*Docket Numbers:* RP15–1216–000.
*Applicants:* El Paso Natural Gas Company, L.L.C.
*Description:* Section 4(d) Rate Filing: Park and Loan Locations Filing to be effective 10/1/2015.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5215.
*Comments Due:* 5 p.m. ET 9/8/15.

*Docket Numbers:* RP15–1217–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* Section 4(d) Rate Filing: Exhibit A Filing to be effective 10/1/2015.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5217.
*Comments Due:* 5 p.m. ET 9/8/15.

*Docket Numbers:* RP15–1219–000.
*Applicants:* National Fuel Gas Supply Corporation.
*Description:* Section 4(d) Rate Filing: Non-Conforming (Range Resources) to be effective 9/1/2015.
*Filed Date:* 8/27/15.
*Accession Number:* 20150827–5277.
*Comments Due:* 5 p.m. ET 9/8/15.

*Docket Numbers:* RP15–1220–000.
*Applicants:* Transcontinental Gas Pipe Line Company.
*Description:* Section 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Sep 2015 to be effective 9/1/2015.
*Filed Date:* 8/28/15.
*Accession Number:* 20150828–5000.
*Comments Due:* 5 p.m. ET 9/9/15.

*Docket Numbers:* RP15–1221–000.
*Applicants:* Panhandle Eastern Pipe Line Company, LP.
*Description:* Section 4(d) Rate Filing: Negotiated Rates Filing on 8–28–15 to be effective 9/1/2015.
*Filed Date:* 8/28/15.
*Accession Number:* 20150828–5054.
*Comments Due:* 5 p.m. ET 9/9/15.

*Docket Numbers:* RP15–1222–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* Section 4(d) Rate Filing: BBPC 2015–09–01 Releases to EDF Trading to be effective 9/1/2015.
*Filed Date:* 8/28/15.
*Accession Number:* 20150828–5059.
*Comments Due:* 5 p.m. ET 9/9/15.

*Docket Numbers:* RP15–1223–000.
*Applicants:* Ruby Pipeline, L.L.C.
*Description:* Section 4(d) Rate Filing: FL&U and EPC to be effective 10/1/15 to be effective 10/1/2015.
*Filed Date:* 8/28/15.
*Accession Number:* 20150828–5078.
*Comments Due:* 5 p.m. ET 9/9/15.

*Docket Numbers:* RP15–1224–000.
*Applicants:* Dominion Transmission, Inc.
*Description:* Section 4(d) Rate Filing: DTI—August 28, 2015 Negotiated Rate Agreement to be effective 9/1/2015.
*Filed Date:* 8/28/15.
*Accession Number:* 20150828–5121.
*Comments Due:* 5 p.m. ET 9/9/15.

*Docket Numbers:* RP15–1226–000.
*Applicants:* MarkWest Pioneer, L.L.C.
*Description:* Section 4(d) Rate Filing: Quarterly FRP Filing to be effective 10/1/2015.
*Filed Date:* 8/28/15.
*Accession Number:* 20150828–5165.
*Comments Due:* 5 p.m. ET 9/9/15.

*Docket Numbers:* RP15–1227–000.
*Applicants:* Dominion Carolina Gas Transmission, LLC.
*Description:* 2015 Penalty Revenue Sharing Report of Dominion Carolina Gas Transmission, LLC under RP15–1227.
*Filed Date:* 8/28/15.
*Accession Number:* 20150828–5235.
*Comments Due:* 5 p.m. ET 9/9/15.

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

**Filings in Existing Proceedings**

*Docket Numbers:* RP15–1182–001.
*Applicants:* Enable Gas Transmission, LLC.
*Description:* Compliance filing RP15–1182 filing for Record 36 to be effective 9/14/2015.
*Filed Date:* 8/28/15.
*Accession Number:* 20150828–5257.
*Comments Due:* 5 p.m. ET 9/9/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 31, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–23010 Filed 9–11–15; 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:* RP15–1248–000.
*Applicants:* Cimarron River Pipeline, LLC.
*Description:* 2015 Cash Out Report of Cimarron River Pipeline, LLC under RP15–1248.
*Filed Date:* 9/1/15.
*Accession Number:* 20150901–5272.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–1249–000.
*Applicants:* Dauphin Island Gathering Partners.
*Description:* 2015 Cash Out Report of Dauphin Island Gathering Partners under RP15–1249.
*Filed Date:* 9/1/15.
*Accession Number:* 20150901–5273.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–1259–000.
*Applicants:* Tennessee Gas Pipeline Company, L.L.C.
*Description:* § 4(d) Rate Filing: Volume No. 2—Neg. Rate Agrmts with Cargill, Inc. et al. to be effective 11/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5373.
*Comments Due:* 5 p.m. ET 9/16/15.

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

**Filings in Existing Proceedings**

*Docket Numbers:* RP15–755–001.
*Applicants:* Cheyenne Plains Gas Pipeline Company, L.
*Description:* Compliance filing Order No. 801 System Map Compliance Update Filing to be effective 5/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5345.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–756–001.
*Applicants:* Colorado Interstate Gas Company, L.L.C.
*Description:* Compliance filing Order No. 801 System Map Compliance Update Filing to be effective 5/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5343.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–757–001.
*Applicants:* Wyoming Interstate Company, L.L.C.
*Description:* Compliance filing Order No. 801 System Map Compliance Update Filing to be effective 5/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5334.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–758–001.
*Applicants:* Young Gas Storage Company, Ltd.
*Description:* Compliance filing Order No. 801 System Map Compliance Update Filing to be effective 5/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5328.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–760–001.
*Applicants:* Ruby Pipeline, L.L.C.
*Description:* Compliance filing Order No. 801 System Map Compliance Update Filing to be effective 5/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5340.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–761–001.
*Applicants:* El Paso Natural Gas Company, L.L.C.
*Description:* Compliance filing Order No. 801 System Map Compliance Update Filing to be effective 5/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5352.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–762–001.
*Applicants:* Mojave Pipeline Company, L.L.C.
*Description:* Compliance filing Order No. 801 System Map Compliance Update Filing to be effective 5/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5367.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–763–001.
*Applicants:* TransColorado Gas Transmission Company L.
*Description:* Compliance filing Order No. 801 System Map Compliance Update Filing to be effective 5/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5326.
*Comments Due:* 5 p.m. ET 9/14/15.

*Docket Numbers:* RP15–764–001.
*Applicants:* Sierrita Gas Pipeline LLC.
*Description:* Compliance filing Order No. 801 System Map Compliance Update Filing to be effective 5/1/2015.
*Filed Date:* 9/4/15.
*Accession Number:* 20150904–5332.
*Comments Due:* 5 p.m. ET 9/14/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 8, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–23020 Filed 9–11–15; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OGC–2015–0612; FRL 9933–93–OGC]**

### Proposed Consent Decree, Clean Air Act Citizen Suit

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed settlement agreement; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended (''CAA''), notice is hereby given of a proposed settlement agreement to settle lawsuits filed by Sinclair Wyoming Refining Company and Sinclair Casper Refining Company (''Petitioners''), in the United States Courts of Appeal for the Tenth and District of Columbia Circuits: *Sinclair Wyoming Refining Co. et al.* v. *EPA,* No. 14–9594 (10th Cir.) and *Sinclair Wyoming Refining Co. et al.* v. *EPA,* No. 14–1209 (D.C. Cir.). On October 24, 2014, Petitioners filed petitions for review challenging EPA's August 29, 2014 denials of Sinclair's requests for extensions of its small refinery temporary exemptions for its refineries in Evansville and Sinclair, Wyoming (collectively, the ''Small Refinery Temporary Exemptions''). Under the terms of the proposed settlement agreement, Petitioners may submit a request for an extension of their Small Refinery Temporary Exemptions with respect to Petitioners' 2014 obligations under the Renewable Fuel Standards (''RFS'') Program (the ''2014 Exemption Request''). After EPA determines that the 2014 Exemption Request is complete, EPA will issue its decision to Petitioners on the 2014 Extension Request within 90 calendar days.

**DATES:** Written comments on the proposed settlement agreement must be received by October 14, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA–HQ–OGC–2015–0612, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:** Susan Stahle, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–1272; fax number (202) 564–5603; email address: *stahle.susan@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Additional Information About the Proposed Consent Decree

The proposed settlement agreement would settle Petitioners' petitions for review in the United States Courts of Appeal for the Tenth and District of Columbia Circuits challenging, under

section 307(b)(1) of the Clean Air Act, EPA's August 29, 2014 denials of Petitioners' requests for extensions of their Small Refinery Temporary Exemptions (*see Sinclair Wyoming Refining Co. et al.* v. *EPA,* No. 14–9594 (10th Cir.) and *Sinclair Wyoming Refining Co. et al.* v. *EPA,* No. 14–1209 (D.C. Cir.) (jointly, the ''Pending Cases''). The proposed settlement agreement provides that after Petitioners submit their 2014 Exemption Request, EPA will, within 14 business days after receiving the 2014 Exemption Request, either make a determination that the Request is complete or advise Sinclair in writing of any additional information needed to make the Request complete (an Incompleteness Determination). After EPA determines that the 2014 Exemption Request is complete, EPA will issue its decision to Petitioners on the 2014 Exemption Request within 90 calendar days. Within five business days of EPA issuing its decision on the 2014 Exemption Request, Petitioners will (1) voluntarily dismiss the Pending Cases with prejudice and (2) send a letter to EPA withdrawing its January 13, 2015 ''Request for Reconsideration of Petition for Partial Extension of Small Refinery RFS Exemptions'' regarding EPA's August 29, 2014 denials of Petitioners' requests for extensions of the Small Refinery Temporary Exemptions.

For a period of 30 days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to the agreement should be withdrawn, the terms of the agreement will be affirmed.

## II. Additional Information About Commenting on the Proposed Consent Decree

### *A. How can I get a copy of the consent decree?*

Direct your comments to the official public docket for this action under Docket ID No. EPA–HQ–OGC–2015–0612 which contains a copy of the settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use the *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

### *B. How and to whom do I submit comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: September 3, 2015.

**Gautam Srinivasan,**

*Acting Associate General Counsel.*

[FR Doc. 2015–23061 Filed 9–11–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9933–83–Region 9]**

## Samoa Pulp Mill Removal Site, Samoa, CA; Notice of Proposed CERCLA Settlement Agreement for Recovery of Past Response Costs

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; request for comment.

**SUMMARY:** In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement with Humboldt Bay Harbor, Conservation and Recreation District for recovery of response costs concerning the Samoa Pulp Mill Superfund Site in Samoa, California. The settlement is entered into pursuant to Section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1), and it requires the settling party to reimburse EPA based on any salvage of fixtures at the site, including the pulp mill boiler,

or on any sale of the real property that is the site. The settlement includes a covenant not to sue the settling party pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. 9606 or 9607(a). For thirty (30) days following the date of publication of this Notice in the **Federal Register**, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate the proposed settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 75 Hawthorne Street, San Francisco, CA 94105.

**DATES:** Pursuant to Section 122(i) of CERCLA, EPA will receive written comments relating to this proposed settlement until October 14, 2015.

**ADDRESSES:** The proposed settlement is available for public inspection at EPA Region IX, 75 Hawthorne Street, San Francisco, California. A copy of the proposed settlement may be obtained from J. Andrew Helmlinger, EPA Region IX, 75 Hawthorne Street, ORC–3, San Francisco, CA 94105, telephone number 415–972–3904. Comments should reference the Samoa Pulp Mill Superfund Site, Samoa, California and should be addressed to Mr. Helmlinger at the above address.

**FOR FURTHER INFORMATION CONTACT:** J. Andrew Helmlinger, Assistant Regional Counsel (ORC–3), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 972–3904; fax: (417) 947–3570; email: *helmlinger.andrew@epa.gov*.

**SUPPLEMENTARY INFORMATION:** *Parties to the Proposed Settlement:* Humboldt Bay Harbor, Conservation and Recreation District.

Dated: August 31, 2015.

**Enrique Manzanilla,**

*Director, Superfund Division, U.S. EPA, Region IX.*

[FR Doc. 2015–23062 Filed 9–11–15; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meetings

**AGENCY:** Federal Election Commission

**DATE AND TIME:** Thursday, September 17, 2015 at 10:00 a.m.

**PLACE:** 999 E Street NW., Washington, DC (Ninth Floor).

**STATUS:** This meeting will be open to the public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of Minutes for August 11, 2015
Draft Advisory Opinion 2015–03: Democracy Rules, Inc.
Draft Advisory Opinion 2015–06: Representative Maxine Waters
Audit Division Recommendation Memorandum on the Committee for Charlotte/Charlotte DNC Host Committee (CFC)
Commission Documents Public Disclosure Policies
Proposed Directive 74 on the Timely Resolution of Enforcement Matters
Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

**PERSON TO CONTACT FOR INFORMATION:** Judith Ingram, Press Officer, Telephone: (202) 694–1220.

**Shelley E. Garr,**

*Deputy Secretary of the Commission.*

[FR Doc. 2015–23145 Filed 9–10–15; 4:15 pm]

**BILLING CODE 6715–01–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 October 9, 2015.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Old Line Bancshares, Inc.,* Bowie, Maryland; to acquire 100 percent of the voting shares of Regal Bancorp, Inc., and thereby indirectly acquire voting shares of Regal Bank & Trust, both in Owings Mill, Maryland.

Board of Governors of the Federal Reserve System, September 9, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–23004 Filed 9–11–15; 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 September 29, 2015.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Ronald G. Gerken and Karol S. Gerken,* both of Sterling, Illinois, as a group acting in concert, to retain voting shares of SV Financial, Inc., and thereby indirectly retain voting shares of Sauk Valley Bank & Trust Company, both in Sterling, Illinois.

Board of Governors of the Federal Reserve System, September 9, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–23005 Filed 9–11–15; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Safety and Occupational Health Study Section, National Institute for Occupational Safety and Health

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

*Times and Dates:* 8 a.m.–5 p.m., October 14, 2015 (Closed), 8 a.m.–5 p.m., October 15, 2015 (Closed).

*Place:* Embassy Suites, 1900 Diagonal Road, Alexandria, Virginia 22314, Telephone: 703–684–5900, Fax: 703–684–0653.

*Purpose:* The Safety and Occupational Health Study Section (SOHSS) will review, discuss, and evaluate grant application(s) received in response to the National Institute for Occupational Safety and Health (NIOSH or Institute) standard grants review and funding cycles pertaining to research issues in occupational safety and health, and allied areas.

It is the intent of NIOSH to support broad-based research endeavors in keeping with the Institute's program goals. This will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects, which will lead to improvements in the delivery of occupational safety and health services, and the prevention of work-related injury and illness. It is anticipated that research funded will promote these program goals.

*Matters for Dicussion:* The meeting will convene to address matters related to the conduct of Study Section business and for the study section to consider safety and occupational health-related grant applications.

These portions of the meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, Centers for Disease Control and Prevention, pursuant to Section 10(d) Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Joanne Fairbanks, Committee Management Specialist, NIOSH, CDC, 1095 Willowdale Road, Morgantown, WV, 26506, Mailstop L1119, Telephone: (304) 285–6143.

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. 2015–22996 Filed 9–11–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Board of Scientific Counselors, Office of Public Health Preparedness and Response

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

*Times and Dates:* 9:30 a.m.–5:15 p.m., EDT, October 7, 2015; 8:15 a.m.–3:45 p.m., EDT, October 8, 2015.

*Place:* Centers for Disease Control and Prevention (CDC), Global Communications Center, Building 19, Auditorium B3, 1600 Clifton Road NE., Atlanta, Georgia 30333.

*Status:* Open to the public limited only by the space available. The meeting room will accommodate up to 90 people. Members of the public that wish to attend this meeting should pre-register by submitting the following information by email, facsimile, or phone (see *Contact Person For More Information*) no later than 12 noon (EDT) on Tuesday, September 29, 2015:

- Full Name
- Organizational Affiliation
- Complete Mailing Address
- Citizenship
- Phone Number or Email Address

*Purpose:* The Board of Scientific Counselors (BSC), OPHPR is charged with providing advice and guidance to the Secretary, Department of Health and Human Services (HHS), the Assistant Secretary for Health (ASH), the Director, Centers for Disease Control and Prevention (CDC), and the Director, Office of Public Health Preparedness and Response (OPHPR), concerning strategies and goals for the programs and research within OPHPR, monitoring the overall strategic direction and focus of the OPHPR Divisions and Offices, and administration and oversight of peer review of OPHPR scientific programs. For additional information about the Board, please visit: *http://www.cdc.gov/phpr/science/counselors.htm.*

*Matters for Discussion:* Day one of the meeting will cover briefings and BSC deliberation on the following topics: interval updates from OPHPR Divisions and Offices; key issues associated with CDC's Incident Management Training and Development Program (IMTP); healthcare preparedness and public health interface during the Ebola response; and BSC liaison representative updates to the Board highlighting organizational activities relevant to the OPHPR mission.

Day two of the meeting will cover briefings and BSC deliberation on the following topics: OPHPR strategic priorities; OPHPR impact measurement; Public Health Emergency Preparedness (PHEP) review and impact; intramural portfolio initiative; select agent regulations; and mental and behavioral health and emergency preparedness and response.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Sparkle Buissereth, Office of Science and Public Health Practice, Executive Assistant, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop D–44, Atlanta, Georgia 30333, Telephone: (404) 639–7325; Facsimile: (404)639–7977; Email: *OPHPR.BSC.Questions@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 Agency for Toxic Substances and Disease Registry.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 2015–22995 Filed 9–11–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to PAR 13–129, NIOSH Member Conflict Review.

*Time and Date:* 1 p.m.–4 p.m., EDT, October 27, 2015 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

*Matters For Discussion:* The meeting will include the initial review, discussion, and

evaluation of applications received in response to ''NIOSH Member Conflict PAR 13–129.''

*Contact Person For More Information:* Nina Turner, Ph.D., Scientific Review Officer, NIOSH, 1095 Willowdale Road, Mailstop G800, Morgantown, West Virginia 26506, Telephone: (304) 285–5976.

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. 2015–22993 Filed 9–11–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Advisory Committee to the Director, Centers for Disease Control and Prevention—Health Disparities Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned subcommittee:

*Time and Date:* 10 a.m.–5:30 p.m., EDT, October 14, 2015.

*Place:* CDC, Building 19, Rooms 245/246, 1600 Clifton Road NE., Atlanta, Georgia 30333.

*Status:* Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people. The public is welcome to participate during the public comment period, which is tentatively scheduled from 5 to 5:15 p.m. This meeting is also available by teleconference. Please dial (866) 763–0273 and enter code 6158968.

*Purpose:* The Subcommittee will provide advice to the CDC Director through the Advisory Committee to the Director (ACD) on health disparities and other strategic and health equity issues, and provide guidance on opportunities for CDC.

*Matters for Discussion:* The Health Disparities Subcommittee (HDS) members will discuss progress towards recommendations it made in 2014, as well as disparity issues related to HIV/AIDS, tuberculosis, sexually transmitted diseases, and viral hepatitis.

The agenda is subject to change as priorities dictate.

**Web Links**

*Windows Media: http://wm.onlinevideoservice.com/CDC1.*

*Flash: http://www.onlinevideoservice.com/clients/CDC/?mount=CDC3.*

*Smart Phones and Mobile devices: http://wowza01.sea.onlinevideoservice.com/live/CDC3/playlist.m3u8.*

*Windows Media: http://wm.onlinevideoservice.com/CDC1.*

*If you are unable to connect using the link, copy and paste the link into your web browser.*

*Number for Technical Support:* 404–639–3737.

*Contact Person For More Information:* Leandris Liburd, Ph.D., M.P.H., M.A., Designated Federal Officer, Health Disparities Subcommittee, Advisory Committee to the Director, CDC, 1600 Clifton Road NE., M/S K–77, Atlanta, Georgia 30333 Telephone (770) 488–8343, Email: *LEL1@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. 2015–22994 Filed 9–11–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifiers: CMS–10526]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, HHS.

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by November 13, 2015.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

**CMS–10526 Cost-Sharing Reduction Reconciliation**

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of

information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

**Information Collection**

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Cost-Sharing Reduction Reconciliation; *Use:* Under established Department of Health and Human Services (HHS) regulations, qualified health plan (QHP) issuers will receive estimated advance payments of cost-sharing reductions throughout the year. Each issuer will then be subject to a reconciliation process at the end of the benefit year to ensure that HHS reimburses each issuer only for actual cost sharing. This revised collection eliminates some data elements and requires summary plan level reporting and reporting in the 2016 reconciliation cycle on the dollar amount of 2014 cost-sharing reductions used in calculations for medical loss ratio and risk corridors programs reporting. *Form Number:* CMS–10526 (OMB Control Number: 0938–1266); *Frequency:* Annually; *Affected Public:* Private Sector, Not-for-profit institutions; *Number of Respondents:* 295; *Total Annual Responses:* 4,000,000; *Total Annual Hours:* 6,939. (For policy questions regarding this collection contact Pat Meisol at 410–786–1917.)

Dated: September 8, 2015.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2015–22959 Filed 9–11–15; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10398 (#43)]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the collection(s) of information must be received by the OMB desk officer by October 14, 2015:

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** Reports Clearance Office at (410) 786–1326.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Demonstration Programs to Improve Community Mental Health Services; *Use:* The Centers for Medicare and Medicaid Services (CMS), the Substance Abuse and Mental Health Services Administration (SAMHSA), and the Assistant Secretary of Planning and Evaluation (ASPE) intend to collect information from states selected to participate in the Section 223 Demonstration Programs to Improve Community Mental Health Services. To be completed annually by each certified community behavioral health clinic (CCBHC), the information collection's cost report would be used to determine each CCBHC's prospective payment system (PPS) rate, effective January 1, 2017, for the payment of demonstration services. The cost report would facilitate rate determinations for both PPS–1 and

PPS–2 (the two methodologies allowed by CMS and specified in CCBHC PPS guidance previously issued by CMS). The cost report would assist states in meeting the requirement for annual reporting of CCBHC cost to CMS in a manner that is consistent with the guidance's cost reporting and documentation requirements.

Information collections approved under this package's control number are reviewed/approved under OMB's generic process. As such, they are usually not subject to formal public review and comment. In this instance, however, CMS is interested in receiving public input and is posting the cost report, cost report instructions, and Supporting Statement on its Web site for public review (see **ADDRESSES** and **DATES**).

*Form Number:* CMS–10398 (#43) (OMB control number 0938–1148); *Frequency:* Yearly; *Affected Public:* Private sector (not-for-profits institutions) and State, Local, or Tribal Governments; *Number of Respondents:* 24; *Total Annual Responses:* 24; *Total Annual Hours:* 1,832. (For policy questions regarding this collection contact Mary Cieslicki at 410–786–4576).

Dated: September 9, 2015.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2015–23053 Filed 9–11–15; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Child Care Quarterly Case Record Report—ACF–801.

*OMB No.:* 0970–0167.

*Description:* Section 658K of the Child Care and Development Block Grant (CCDBG) Act (42 U.S.C. 9858, as amended by Pub. L. 113–186) requires that States and Territories submit monthly case-level data on the children and families receiving direct services under the Child Care and Development Fund (CCDF). The implementing regulations for the statutorily required reporting are at 45 CFR 98.70 and 98.71. Case-level reports, submitted quarterly or monthly (at grantee option), include monthly sample or full population case-level data. The data elements to be included in these reports are represented in the ACF–801. ACF uses disaggregate data to determine program and participant characteristics as well as costs and levels of child care services provided. This provides ACF with the information necessary to make reports to Congress, address national child care needs, offer technical assistance to grantees, meet performance measures, and conduct research.

Consistent with the recent reauthorization of the CCDBG statute, ACF requests extension of the ACF–801 including a number of changes and clarifications to the reporting requirements and instructions as set forth below.

- *Homeless Status:* Section 658K(a)(1)(B)(xi) of the CCDBG Act now requires States to report whether children receiving assistance under this subchapter are homeless children. Specifically, this data element will be required with the reporting period beginning October 2015.
- *Child Disability:* ACF proposes to add a new data element effective October 2016 indicating whether or not each child receiving services is a child with a disability, in part to track State implementation of priority for services requirements at section 658E(c)(3)(B) of the CCDBG Act (which includes children with special needs as defined by the State).
- *Military Status:* ACF proposes to add a new data element effective October 2016 to the ACF–801 to determine the family's status related to military service.
- *Family Zip Code and Provider Zip Code:* ACF proposes to add zip codes effective October 2016 to both the family and the provider records to identify the communities where CCDF families and providers are located, in part to support implementation of sections 658E(a)(2)(M) and 658E(a)(2)(Q) of the CCDBG Act that require States to address the supply and access to high-quality child care services for certain areas and populations.
- *Quality of Child Care Providers:* The existing ACF–801 allows States several ways of reporting information on the quality of each child's provider(s)—including: Quality Rating and Improvement System (QRIS) participation and rating, accreditation status, State pre-K standards, and other State-defined quality measure. To date, States have been required to report on at least one of the quality elements for a portion of the provider population. ACF is proposing that, effective with the October 2017 report, States must report quality information for every child care provider. States with a QRIS, at a minimum, would be required to report QRIS participation and rating for every provider. States without QRIS would be required to report quality information for every provider using one or more of the quality elements on the form. ACF is proposing to add a new option to indicate whether or not the provider is subject to Head Start or Early Head Start standards.
- *Inspection Date:* Section 658E(c)(2)(J) of the reauthorized CCDBG Act requires States to monitor both licensed and license-exempt CCDF providers. ACF proposes to add a data element effective October 2017 indicating, for each child care provider delivering services to a CCDF child, the date of the most recent inspection for compliance with health, safety, and fire standards (including licensing standards for licensed providers).
- *Personally Identifiable Information:* Section 658K(a)(1)(E) of the CCDBG Act now prohibits the ACF–801 report from containing personally identifiable information. As a result, ACF proposes to delete Social Security Numbers (SSNs) from the report. Specifically, this change will be required with the reporting period beginning October 2015. Note that the form will still require a unique identifying number, other than the SSN, that is assigned by the State for each family.
- *Language:* ACF proposes to add a data element effective October 2016 indicating, the primary language spoken in the home consistent with a Head Start Program Information Report question, *i.e.,* Primary Language of Family at Home.

*Respondents:* States, the District of Columbia, and Territories including Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Marianna Islands.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| ACF–801 | 56 | 4 | 25 | 5,600 |

*Estimated Total Annual Burden Hours:* 5,600.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.* Attn: Desk Officer for the Administration for Children and Families.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2015–23022 Filed 9–11–15; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Study of Early Head Start-Child Care Partnerships.

*OMB No.:* New Collection.

*Description:* The Administration for Children and Families (ACF) in the Department of Health and Human Services (HHS) has awarded 275 Early Head Start expansion and Early Head Start-child care partnership grants in 50 states; Washington, DC; Puerto Rico; and the Northern Mariana Islands. These grants will allow new or existing Early Head Start programs to partner with local child care centers and family child care providers to expand high-quality early learning opportunities for infants and toddlers from low-income families.

ACF is proposing to conduct a descriptive study of the new partnership grantees to document the characteristics and features of partnerships and the activities that aim to improve professional development and quality of services and better meet the needs of families. The study will focus on the grantees that have received funds for Early Head Start-child care partnership grants.

The proposed data collection for the descriptive Study of Early Head Start-Child Care Partnerships will include two components: (1) Surveys of 311 partnership grantee and delegate agency directors and a randomly selected sample of 933 child care partners, and (2) in-depth follow-up case studies of 12 purposively selected partnerships.

The goal of this work is to collect descriptive information about partnership grantees and delegate agencies, child care partners, and services and quality improvement activities implemented as part of the partnerships and explore how particular partnership models operate. These data will be used to describe the national landscape of partnerships, fill a knowledge gap about partnership models implemented in the field, lay the groundwork for future research, and provide information to inform technical assistance and actions aimed at informing the Early Head Start-child care partnerships grant initiative.

*Respondents:* Partnership grantee and delegate agency directors; child care partner managers/owners; partnership staff who focus on coordinating activities among partners, monitoring compliance with the Head Start Program Performance Standards, and providing technical assistance and training; frontline staff; parents; and other state and local stakeholders (such as staff from child care resource and referral agencies or child care subsidy administrators).

ANNUAL BURDEN ESTIMATES

| Instrument | Total number of respondents | Annual number of respondents | Number of responses per respondent | Average burden hours per response | Annual burden hours |
|---|---|---|---|---|---|
| 1. Partnership grantee and delegate agency director survey | 311 | 156 | 1 | 1 | 156 |
| 2. Child care partner survey | 933 | 467 | 1 | 0.50 | 234 |
| 3. Interview topic guide: | | | | | |
| Partnership grantee and delegate agency directors | 12 | 6 | 1 | 1.5 | 9 |
| Partnership staff | 36 | 18 | 1 | 1 | 18 |
| State and local stakeholders | 48 | 24 | 1 | 1 | 24 |
| 4. Parent focus group guide | 96 | 48 | 1 | 1.5 | 72 |
| 5. Child care center director focus group guide | 96 | 48 | 1 | 1.5 | 72 |
| 6. Child care center teacher focus group guide | 96 | 48 | 1 | 1.5 | 72 |
| 7. Family child care provider focus group guide | 48 | 24 | 1 | 1.5 | 36 |
| 8. Partnership grantee and delegate agency director questionnaire | 12 | 6 | 1 | 2 | 12 |
| 9. Child care partner questionnaire | 180 | 90 | 1 | 0.33 | 30 |

*Estimated Total Annual Burden Hours:* 735.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Email: OIRA_SUBMISSION@OMB.EOP.GOV, Attn:* Desk Officer for the Administration for Children and Families.

**Robert Sargis,**

*ACF Reports Clearance Officer.*

[FR Doc. 2015–23017 Filed 9–11–15; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

**[CFDA Number: 93.612]**

### Announcement of the Award of a Single Source Emergency Grant to the Oglala Sioux Tribe in Pine Ridge, SD

**AGENCY:** Administration for Native Americans, ACF, HHS.

**ACTION:** Announcement of the award of a single source, emergency grant to the Oglala Sioux Tribe in Pine Ridge, SD to address the critically high levels of youth suicide on the reservation since December 2014.

**SUMMARY:** The Administration for Children and Families (ACF), Administration for Native Americans (ANA) announces the award of a single source emergency grant in the amount of $400,000 to the Oglala Sioux Tribe to provide empowerment activities for youth in order to address the critically high levels of youth suicide on the reservation since December 2014.

**DATES:** The timeframe for the initial award is July 31, 2015 to July 30, 2016.

**FOR FURTHER INFORMATION CONTACT:** Carmelia Strickland, Director, Division of Program Operations, Administration for Native Americans, 370 L'Enfant Promenade SW., Washington, DC 20047. Telephone: 877–922–9262; Email: *Carmelia.strickland@acf.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Administration for Native Americans (ANA), Administration for Children and Families, has awarded an emergency single source grant to the Oglala Sioux Tribe (OST) for programs whose goal is to empower youth ages 8 to 24 to make changes in their communities, to be proud of their heritage, and to inspire them to celebrate life so that they may see that there is a positive future for them. It is intended that this program will have a 24-month project period so that another 12-month budget period will be funded noncompetitively for $400,000 in FY 2016. In testimony before the Senate Committee on Indian Affairs on June 24, 2015, Oglala Sioux Tribe President John Yellowbird Steele's testimony stated that 11 young people on the Pine Ridge Reservation have been lost to suicide since December. In addition, at least another 176 of the youth have attempted suicide in that period, according to the Indian Health Service, and 229 more were treated for suicidal ideation.

The awarded project is designed to increase positive youth empowerment activities in all nine districts on the Pine Ridge Indian Reservation through the development of Student Youth Councils, peer to peer mentoring, and Lakota cultural awareness activities. The award was made under ANA's program for Social and Economic Development Strategies (SEDS). The OST has been designated as a Federal government Promise Zone, because of the severe financial and economic status in the area in which they live. The Pine Ridge Reservation is also located in Shannon County, which is often referred to as the poorest county in the United States.

**Statutory Authority:** This program is authorized under § 803(a) of the Native American Programs Act of 1974 (NAPA), 42 U.S.C. 2991b.

**Christopher Beach,**

*Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.*

[FR Doc. 2015–22957 Filed 9–11–15; 8:45 am]

**BILLING CODE 4184–34–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Community Living

### Delegation of Authority

Notice is hereby given that I have delegated to the Administrator of the Administration for Community Living, or his or her successor, the following authorities vested in the Secretary:

- The authorities vested under 42 U.S.C. 300d–52 and 300d–53, as amended by Sections 3 and 4 of the Traumatic Brain Injury Reauthorization Act of 2014 (P.L. 113–196), titled ''State Grants for Projects Regarding Traumatic Brain Injury'' and ''State Grants for Protection and Advocacy Services.''

(Prior to the passage of the Traumatic Brain Injury Reauthorization Act of 2014, exercise of these authorities was vested by statute with the Administrator, Health Resources and Services Administration.)

These authorities may be redelegated.

This delegation excludes the authority to issue regulations, to establish advisory committees and councils, and appoint their members, and to submit reports to Congress, and shall be exercised in accordance with the Department's applicable policies, procedures, and guidelines.

This delegation will concurrently supersede all existing delegations of these authorities.

I hereby affirm and ratify any actions taken by agency officials which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

This delegation is effective October 1, 2015.

Dated: August 31, 2015.

**Sylvia M. Burwell,**

*Secretary.*

[FR Doc. 2015–23122 Filed 9–11–15; 8:45 am]

**BILLING CODE 4154–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0007]**

### Fee for Using a Tropical Disease Priority Review Voucher in Fiscal Year 2016

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is announcing the fee rates for using a

tropical disease priority review voucher for fiscal year (FY) 2016. The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Food and Drug Administration Amendments Act of 2007 (FDAAA), authorizes FDA to determine and collect priority review user fees for certain applications for approval of drug or biological products when those applications use a tropical disease priority review voucher awarded by the Secretary of Health and Human Services. These vouchers are awarded to the sponsors of certain tropical disease product applications, submitted after September 27, 2007, upon FDA approval of such applications. The amount of the fee submitted to FDA with applications using a tropical disease priority review voucher is determined each fiscal year based on the difference between the average cost incurred by FDA in the review of a human drug application subject to priority review in the previous fiscal year, and the average cost incurred in the review of an application that is not subject to priority review in the previous fiscal year. This notice establishes the tropical disease priority review fee rate for FY 2016.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Marcarelli, Office of Financial Management, Food and Drug Administration, 8455 Colesville Rd., COLE–14202F, Silver Spring, MD, 20993–0002, 301–796–7223.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Section 1102 of FDAAA (Pub. L. 110–85) added section 524 to the FD&C Act (21 U.S.C. 360n). In section 524, Congress encouraged development of new drug and biological products for prevention and treatment of certain tropical diseases by offering additional incentives for obtaining FDA approval of such products. Under section 524, the sponsor of an eligible human drug application submitted after September 27, 2007, for a qualified tropical disease (as defined in section 524(a)(3) of the FD&C Act), shall receive a priority review voucher upon approval of the tropical disease product application. The recipient of a tropical disease priority review voucher may either use the voucher with a future submission to FDA under section 505(b)(1) of the FD&C Act (21 U.S.C. 355(b)(1)) or section 351 of the Public Health Service Act (42 U.S.C. 262), or transfer (including by sale) the voucher to another party that may then use it. A priority review is a review conducted with a Prescription Drug User Fee Act (PDUFA) goal date of 6 months after the receipt or filing date, depending upon the type of application. Information regarding the PDUFA goals is available at: *http://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm270412.pdf.*

The applicant that uses a priority review voucher is entitled to a priority review but must pay FDA a priority review user fee in addition to any other fee required by PDUFA. FDA published a draft guidance on its Web site about how this tropical disease priority review voucher program operates (available at: *http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm080599.pdf).*

This notice establishes the tropical disease priority review fee rate for FY 2016 as $2,727,000 and outlines FDA's process for implementing the collection of the priority review user fees. This rate is effective on October 1, 2015, and will remain in effect through September 30, 2016, for applications submitted with a tropical disease priority review voucher. The payment of this priority review user fee is required in addition to the payment of any other fee that would normally apply to such an application under PDUFA before FDA will consider the application complete and acceptable for filing.

## II. Tropical Disease Priority Review User Fee for FY 2016

Under section 524(c)(2) of the FD&C Act, the amount of the tropical disease priority review user fee is determined each fiscal year based on the difference between the average cost incurred by FDA in the review of a human drug application subject to priority review in the previous fiscal year, and the average cost incurred by FDA in the review of a human drug application that is not subject to priority review in the previous fiscal year. The priority review voucher fee is intended to cover the incremental costs for FDA to do a priority review on a product that would otherwise get a standard review. The formula provides the Agency with the added resources to conduct a priority review while still ensuring a robust priority review voucher program that is consistent with the Agency's public health goal of encouraging the development of new drug and biological products.

A priority review is a review conducted with a PDUFA goal date of 6 months after the receipt or filing date, depending on the type of application. Under the PDUFA goals letter, FDA has committed to reviewing and acting on 90 percent of the applications granted priority review status within this expedited timeframe. Normally, an application for a human drug or biological product will qualify for priority review if the product is intended to treat a serious condition and, if approved, would provide a significant improvement in safety or effectiveness. An application that does not receive a priority designation will receive a standard review. Under the PDUFA goals letter, FDA committed to reviewing and acting on 90 percent of standard applications within 10 months of the receipt or filing date, depending on the type of application. A priority review involves a more intensive level of effort and a higher level of resources than a standard review.

Section 524 of the FD&C Act specifies that the fee amount should be based on the difference between the average cost incurred by the Agency in the review of a human drug application subject to a priority review in the previous fiscal year, and the average cost incurred by FDA in the review of a human drug application that is not subject to priority review in the previous fiscal year. FDA is setting fees for FY 2016, and the previous fiscal year is FY 2015. However, the FY 2015 submission cohort has not been closed out yet, and the cost data for FY 2015 are not complete. The latest year for which FDA has complete cost data is FY 2014. Furthermore, because FDA has never tracked the cost of reviewing applications that get priority review as a separate cost subset, FDA estimated this cost based on other data that the Agency has tracked. FDA uses data that the Agency estimates and publishes on its Web site each year—standard costs for review. FDA does not publish a standard cost for ''the review of a human drug application subject to priority review in the previous fiscal year.'' However, we expect all such applications would contain clinical data. The standard cost application categories with clinical data that FDA does publish each year are: (1) New drug applications (NDAs) for a new molecular entity (NME) with clinical data and (2) biologics license applications (BLAs).

The worksheets for standard costs for FY 2014, show a standard cost (rounded to the nearest thousand dollars) of $5,646,000 for a NME NDA and $5,533,000 for a BLA. Based on these standard costs, the total cost to review the 48 applications in these two categories in FY 2014 (30 NME NDAs with clinical data and 18 BLAs) was $268,974,000. (Note: these numbers exclude the President's Emergency Plan for AIDS Relief NDAs; no

investigational new drug review costs are included in this amount.) Twenty-nine of these applications (20 NDAs and 9 BLAs) received priority review, which would mean that the remaining 19 received standard reviews. Because a priority review compresses a review that ordinarily takes 10 months into 6 months, FDA estimates that a multiplier of 1.67 (10 months divided by 6 months) should be applied to non-priority review costs in estimating the effort and cost of a priority review as compared to a standard review. This multiplier is consistent with published research on this subject. In the article ''Developing Drugs for Developing Countries,'' published in ''Health Affairs,'' Volume 25, Number 2, in 2006, the comparison of historical average review times by David B. Ridley, Henry G. Grabowski, and Jeffrey L. Moe, supports a priority review multiplier in the range of 1.48 to 2.35. The multiplier derived by FDA falls well below the midpoint of this range. Using FY 2014 figures, the costs of a priority and standard review are estimated using the following formula:

$(29 \alpha \times 1.67) + (19 \alpha) = \$268{,}974{,}000$

where ''$\alpha$'' is the cost of a standard review and ''$\alpha \times 1.67$'' is the cost of a priority review. Using this formula, the cost of a standard review for NME NDAs and BLAs is calculated to be $3,989,000 (rounded to the nearest thousand dollars) and the cost of a priority review for NME NDAs and BLAs is 1.67 times that amount, or $6,662,000 (rounded to the nearest thousand dollars). The difference between these two cost estimates, or $2,673,000, represents the incremental cost of conducting a priority review rather than a standard review.

For the FY 2016 fee, FDA will need to adjust the FY 2014 incremental cost by the average amount by which FDA's average costs increased in the 3 years prior to FY 2015, to adjust the FY 2014 amount for cost increases in FY 2015. That adjustment, published in the **Federal Register** on August 3, 2015 (see 80 FR 46028 at 46029), setting FY 2016 PDUFA fees, is 2.0266 percent for the most recent year, not compounded. Increasing the FY 2014 incremental priority review cost of $2,673,000 by 2.0266 percent results in an estimated cost of $2,727,000 (rounded to the nearest thousand dollars). This is the priority review user fee amount for FY 2016 that must be submitted with a priority review voucher in FY 2016, in addition to any PDUFA fee that is required for such an application.

## III. Fee Schedule for FY 2016

The fee rate for FY 2016 is set out in table 1:

TABLE 1—TROPICAL DISEASE PRIORITY REVIEW SCHEDULE FOR FY 2016

| Fee category | Fee rate for FY 2016 |
|---|---|
| Application submitted with a tropical disease priority review voucher in addition to the normal PDUFA fee ..... | $2,727,000 |

## IV. Implementation of Tropical Disease Priority Review User Fee

Under section 524(c)(4)(A) of the FD&C Act, the priority review user fee is due upon submission of a human drug application for which the priority review voucher is used. Section 524(c)(4)(B) of the FD&C Act specifies that the application will be considered incomplete if the priority review user fee and all other applicable user fees are not paid in accordance with FDA payment procedures. In addition, FDA may not grant a waiver, exemption, reduction, or refund of any fees due and payable under this section of the FD&C Act and FDA may not collect priority review voucher fees prior to a relevant appropriation for fees for that fiscal year. Beginning with FDA's appropriation for FY 2009, the annual appropriation language states specifically that ''priority review user fees authorized by 21 U.S.C. 360n (section 524 of the FD&C Act) may be credited to this account, to remain available until expended.'' (Pub. L. 111–8, Section 5, Division A, Title VI).

The tropical disease priority review fee established in the new fee schedule must be paid for any application that is received on or after October 1, 2015, and submitted with a priority review voucher. This fee must be paid in addition to any other fee due under PDUFA. Payment must be made in U.S. currency by check, bank draft, or U.S. postal money order payable to the order of the Food and Drug Administration. The user fee identification (ID) number should be included on the check, followed by the words ''Tropical Disease Priority Review.'' Payments can be mailed to: Food and Drug Administration, P.O. Box 979107, St. Louis, MO 63197–9000.

If checks are sent by a courier that requests a street address, the courier can deliver the checks to: U.S. Bank, Attention: Government Lockbox 979107, 1005 Convention Plaza, St. Louis, MO 63101. (Note: This U.S. Bank address is for courier delivery only.) The FDA post office box number (P.O. Box 979107) must be written on the check. The tax identification number of FDA is 53–0196965.

Wire transfer payments may also be used. Please reference your unique user fee ID number when completing your transfer. The originating financial institution may charge a wire transfer fee. Please ask your financial institution about the fee and include it with your payment to ensure that your fee is fully paid. The account information is as follows: New York Federal Reserve Bank, U.S. Dept. of Treasury, TREAS NYC, 33 Liberty St., New York, NY 10045, Account Number: 75060099, Routing Number: 021030004, SWIFT: FRNYUS33, Beneficiary: FDA, 8455 Colesville Rd., Silver Spring, MD 20993–0002.

Dated: September 8, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–23006 Filed 9–11–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0001]**

### Anesthetic and Analgesic Drug Products Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee:* Anesthetic and Analgesic Drug Products Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the Agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on November 6, 2015, from 8 a.m. to 5 p.m.

*Location:* FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/*

*AboutAdvisoryCommittees/ucm408555.htm.*

*Contact Person:* Stephanie L. Begansky, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, *AADPAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

*Agenda:* The committee will discuss new drug application (NDA) 022225, sugammadex sodium injection, submitted by Organon USA Inc., a subsidiary of Merck & Co., Inc., for the proposed indication of reversal of moderate or deep neuromuscular blockade (NMB) induced by rocuronium or vecuronium.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 23, 2015. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 15, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 16, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Stephanie L. Begansky at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 8, 2015.

**Jill Hartzler Warner,**

*Associate Commissioner for Special Medical Programs.*

[FR Doc. 2015–22984 Filed 9–11–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–D–1600]**

### Enforcement Policy for Certain (Provisional) Tobacco Products That the Food and Drug Administration Finds Not Substantially Equivalent; Guidance for Industry and Tobacco Retailers; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Enforcement Policy for Certain (Provisional) Tobacco Products that FDA Finds Not Substantially Equivalent.'' This guidance provides information to tobacco retailers on FDA's enforcement policy regarding certain so-called provisional tobacco products that become subject to not substantially equivalent (NSE) orders issued under the Federal Food, Drug, and Cosmetic Act (the FD&C Act).

**DATES:** Submit either electronic or written comments on Agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies of this guidance to the Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–2000. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the guidance document may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Annette Marthaler, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–2000, email: *CTPRegulations@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Background

FDA is announcing the availability of a guidance for industry entitled ''Enforcement Policy for Certain (Provisional) Tobacco Products that FDA Finds Not Substantially Equivalent.'' This guidance provides information to tobacco retailers on FDA's enforcement policy regarding certain so-called provisional tobacco products that become subject to NSE orders issued under the FD&C Act. We received several comments to the draft guidance (79 FR 10534, February 25, 2014), and those comments were considered as the guidance was finalized.

#### II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Enforcement Policy for Certain (Provisional) Tobacco Products that FDA Finds Not Substantially Equivalent.'' It does not

establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

**III. Comments**

*A. General Information About Submitting Comments*

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document.

*B. Public Availability of Comments*

Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.* As a matter of Agency practice, FDA generally does not post comments submitted by individuals in their individual capacity on *http://www.regulations.gov.* This is determined by information indicating that the submission is written by an individual, for example, the comment is identified with the category ''Individual Consumer'' under the field titled ''Category (Required),'' on the ''Your Information'' page on *www.regulations.gov.* For this docket, however, FDA will not be following this general practice. Instead, FDA will post on *http://www.regulations.gov* comments to this docket that have been submitted by individuals in their individual capacity. If you wish to submit any information under a claim of confidentiality, please refer to 21 CFR 10.20.

*C. Information Identifying the Person Submitting the Comment*

Please note that your name, contact information, and other information identifying you will be posted on *http://www.regulations.gov* if you include that information in the body of your comments. For electronic comments submitted to *http://www.regulations.gov,* FDA will post the body of your comment on *http://www.regulations.gov* along with your State/province and country (if provided), the name of your representative (if any), and the category identifying you (*e.g.,* individual, consumer, academic, industry). For written submissions submitted to the Division of Dockets Management, FDA will post the body of your comments on *http://www.regulations.gov,* but you can put your name and/or contact information on a separate cover sheet and not in the body of your comments.

**IV. Electronic Access**

Persons with access to the Internet may obtain an electronic version of the guidance at either *http://www.regulations.gov* or *http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/default.htm.*

Dated: September 9, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–23001 Filed 9–11–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2014–N–1206]**

### Authorization of Emergency Use of an In Vitro Diagnostic Device for Detection of Ebola Zaire Virus; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the issuance of an Emergency Use Authorization (EUA) (the Authorization) for an in vitro diagnostic device for detection of the Ebola Zaire virus in response to the Ebola virus outbreak in West Africa. FDA issued this Authorization under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as requested by OraSure Technologies, Inc. The Authorization contains, among other things, conditions on the emergency use of the authorized in vitro diagnostic device. The Authorization follows the September 22, 2006, determination by then-Secretary of the Department of Homeland Security (DHS), Michael Chertoff, that the Ebola virus presents a material threat against the U.S. population sufficient to affect national security. On the basis of such determination, the Secretary of Health and Human Services (HHS) declared on August 5, 2014, that circumstances exist justifying the authorization of emergency use of in vitro diagnostic devices for detection of Ebola virus subject to the terms of any authorization issued under the FD&C Act. The Authorization, which includes an explanation of the reasons for issuance, is reprinted in this document.

**DATES:** The Authorization is effective as of July 31, 2015.

**ADDRESSES:** Submit written requests for single copies of the EUA to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

**FOR FURTHER INFORMATION CONTACT:** Carmen Maher, Acting Assistant Commissioner for Counterterrorism Policy and Acting Director, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4347, Silver Spring, MD 20993–0002, 301–796–8510 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) as amended by the Project BioShield Act of 2004 (Pub. L. 108–276) and the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help assure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by biological, chemical, nuclear, or radiological agents when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) A determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a

heightened risk to U.S. military forces of attack with a biological, chemical, radiological, or nuclear agent or agents; (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security under section 319F–2 of the Public Health Service (PHS) Act (42 U.S.C. 247d–6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under sections 505, 510(k), or 515 of the FD&C Act (21 U.S.C. 355, 360(k), and 360e) or section 351 of the PHS Act (42 U.S.C. 262). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances), FDA [1] concludes: (1) That an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that: (A) The product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and (4) that such other criteria as may be prescribed by regulation are satisfied.

No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act. Because the statute is self-executing, regulations or guidance are not required for FDA to implement the EUA authority.

## II. EUA Request for an In Vitro Diagnostic Device for Detection of the Ebola Zaire Virus

On September 22, 2006, then-Secretary of DHS, Michael Chertoff, determined that the Ebola virus presents a material threat against the U.S. population sufficient to affect national security.[2] On August 5, 2014, under section 564(b)(1) of the FD&C Act, and on the basis of such determination, the Secretary of HHS declared that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection of Ebola virus, subject to the terms of any authorization issued under section 564 of the FD&C Act. Notice of the declaration of the Secretary was published in the **Federal Register** on August 12, 2014 (79 FR 47141). On July 20, 2015, OraSure Technologies, Inc. requested, and on July 31, 2015, FDA issued, an EUA for the OraQuick® Ebola Rapid Antigen Test, subject to the terms of the Authorization.

## III. Electronic Access

An electronic version of this document and the full text of the Authorization are available on the Internet at *http://www.regulations.gov.*

## IV. The Authorization

Having concluded that the criteria for issuance of the Authorization under section 564(c) of the FD&C Act are met, FDA has authorized the emergency use of an in vitro diagnostic device for detection of the Ebola Zaire virus (detected in the West Africa outbreak in 2014) subject to the terms of the Authorization. The Authorization in its entirety (not including the authorized versions of the fact sheets and other written materials) follows and provides an explanation of the reasons for its issuance, as required by section 564(h)(1) of the FD&C Act:

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[1] The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

[2] Under section 564(b)(1) of the FD&C Act, the HHS Secretary's declaration that supports EUA issuance must be based on one of four determinations, including the identification by the DHS Secretary of a material threat under section 319F–2 of the PHS Act sufficient to affect national security or the health and security of U.S. citizens living abroad (section 564(b)(1)(D) of the FD&C Act).

DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Silver Spring, MD 20993

July 31, 2015

Tiffany Miller
Director, Regulatory Affairs
OraSure Technologies, Inc.
220 East First Street
Bethlehem, PA 18015

Dear Ms. Miller:

This letter is in response to your request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of the OraQuick® Ebola Rapid Antigen Test[1] for the presumptive detection of Ebola Zaire virus (detected in the West Africa outbreak in 2014)[2] in venipuncture whole blood or fingerstick whole blood specimens from individuals with signs and symptoms of Ebola virus infection in conjunction with epidemiological risk factors (including geographic locations with high prevalence of Ebola infection), by laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics), pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. § 360bbb-3). The OraQuick® Ebola Rapid Antigen Test is intended for circumstances when the use of a rapid Ebola virus test is determined to be more appropriate than the use of an authorized Ebola virus nucleic acid test, which has been demonstrated to be more sensitive in detecting the Ebola Zaire virus. The OraQuick® Ebola Rapid Antigen Test is not intended for use for general Ebola virus infection screening, such as airport screening or contact tracing of individuals without signs and symptoms of Ebola infection.

On September 22, 2006, then-Secretary of the Department of Homeland Security (DHS), Michael Chertoff, determined, pursuant to section 319F-2 of the Public Health Service (PHS) Act (42 U.S.C. § 247d-6b), that the Ebola virus presents a material threat against the United States population sufficient to affect national security.[3] Pursuant to section 564(b)(1) of the Act (21 U.S.C. § 360bbb-3(b)(1)), and on the basis of such determination, the Secretary of the

[1] For purposes of this authorization, the term "OraQuick® Ebola Rapid Antigen Test" includes, in addition to the OraQuick® Ebola Rapid Antigen Test Kit, the OraQuick® Ebola Rapid Antigen Test Kit Controls (quality control reagents intended for use only with the OraQuick® Ebola Rapid Antigen Test) and the OraQuick® Ebola Visual Reference Panel (intended to assist new operators in becoming proficient at reading specimens with antigen levels near the limit of detection of the device). While the OraQuick® Ebola Rapid Antigen Test Kit Controls and OraQuick® Ebola Visual Reference Panel are both sold separately, under this authorization they must be used in conjunction with the OraQuick® Ebola Rapid Antigen Test Kit.

[2] This assay is intended for the qualitative detection of antigens from Zaire Ebola virus (detected in the West Africa outbreak in 2014), but may also detect antigens from Sudan Ebola virus and Bundibugyo Ebola virus; however, it does not distinguish between these different Ebola virus species.

[3] Pursuant to section 564(b)(1) of the Act (21 U.S.C. § 360bbb-3(b)(1)), the HHS Secretary's declaration that supports EUA issuance must be based on one of four determinations, including the identification by the DHS Secretary of a material threat pursuant to section 319F-2 of the PHS Act sufficient to affect national security or the health and security of United States citizens living abroad (section 564(b)(1)(D) of the Act).

Department of Health and Human Services (HHS) declared on August 5, 2014, that circumstances exist justifying the authorization of emergency use of *in vitro* diagnostics for detection of Ebola virus, subject to the terms of any authorization issued under section 564(a) of the Act (21 U.S.C. § 360bbb-3(a)).[4]

Having concluded that the criteria for issuance of this authorization under section 564(c) of the Act (21 U.S.C. § 360bbb-3(c)) are met, I am authorizing the emergency use of the OraQuick® Ebola Rapid Antigen Test (as described in the Scope of Authorization section of this letter (section II)) in individuals with signs and symptoms of Ebola virus infection in conjunction with epidemiological risk factors (including geographic locations with high prevalence of Ebola infection) (as described in the Scope of Authorization section of this letter (section II)) for the presumptive detection of Ebola Zaire virus (detected in the West Africa outbreak in 2014).

**I. Criteria for Issuance of Authorization**

I have concluded that the emergency use of the OraQuick® Ebola Rapid Antigen Test for the presumptive detection of Ebola Zaire virus (detected in the West Africa outbreak in 2014) in the specified population meets the criteria for issuance of an authorization under section 564(c) of the Act, because I have concluded that:

1. The Ebola Zaire virus (detected in the West Africa outbreak in 2014) can cause Ebola virus disease, a serious or life-threatening disease or condition to humans infected with this virus;

2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that the OraQuick® Ebola Rapid Antigen Test may be effective in diagnosing Ebola Zaire virus (detected in the West Africa outbreak in 2014) infection, and that the known and potential benefits of the OraQuick® Ebola Rapid Antigen Test for diagnosing Ebola Zaire virus (detected in the West Africa outbreak in 2014) infection, outweigh the known and potential risks of such product; and

3. There is no adequate, approved, and available alternative to the emergency use of the OraQuick® Ebola Rapid Antigen Test for diagnosing Ebola Zaire virus (detected in the West Africa outbreak in 2014) infection.[5]

**II. Scope of Authorization**

I have concluded, pursuant to section 564(d)(1) of the Act, that the scope of this authorization is limited to the use of the authorized OraQuick® Ebola Rapid Antigen Test by laboratories and facilities adequately equipped, trained, and capable of such testing (including treatment centers and public health clinics) for the presumptive detection of Ebola Zaire virus (detected in the

[4] U.S. Department of Health and Human Services. *Declaration Regarding Emergency Use of In Vitro Diagnostics for Detection of Ebola Virus*. 79 Fed. Reg. 47141 (August 12, 2014).

[5] No other criteria of issuance have been prescribed by regulation under section 564(c)(4) of the Act.

West Africa outbreak in 2014) in individuals with signs and symptoms of Ebola virus infection in conjunction with epidemiological risk factors (including geographic locations with high prevalence of Ebola infection). The authorized OraQuick® Ebola Rapid Antigen Test is intended for circumstances when use of a rapid Ebola virus test is determined to be more appropriate than use of an authorized Ebola virus nucleic acid test, which has been demonstrated to be more sensitive in detecting the Ebola Zaire virus. The authorized OraQuick® Ebola Rapid Antigen Test is not intended for use for general Ebola infection screening, such as airport screening or contact tracing of individuals without signs and symptoms of Ebola infection.

**The Authorized OraQuick® Ebola Rapid Antigen Test**

The OraQuick® Ebola Rapid Antigen Test is a rapid single-use chromatographic lateral flow immunoassay contained within a rigid plastic device housing that is intended for the *in vitro* qualitative detection of antigens from the Ebola Zaire virus (detected in the West Africa outbreak 2014) in venipuncture whole blood, fingerstick whole blood, and other authorized specimen types from individuals with signs and symptoms of Ebola virus infection in conjunction with epidemiological risk factors (including geographic locations with high prevalence of Ebola infection). The OraQuick® Ebola Rapid Antigen Test is a point-of-care test.

The OraQuick® Ebola Rapid Antigen Test utilizes a sandwich capture lateral flow immunoassay method to detect Ebola virus antigens. This lateral flow test is composed of an assay strip with several components: the flat pad, the blocker pad, the conjugate pad, the nitrocellulose membrane (with a Test Line ("T") and a Control ("C") line), and the absorbent pad. The clinical specimen is applied to the device followed by insertion of the device into the developer solution. The execution of the assay occurs as reagents are hydrated and liquid is transported along with the specimen across the strip towards the test zone.

If Ebola viral antigens are present in the patient sample they will be bound by biotinylated anti-Ebola polyclonal antibodies eluting from the blocker pad. These complexed Ebola antigens will then form immunological sandwiches with signal generating colloidal gold labeled Ebola antibodies that are eluting from the conjugate pad. The immunological sandwich complex is subsequently captured through reaction of the biotinylated anti-Ebola antibody with the biotin binding protein streptavidin that is immobilized at the Test Line ("T") of the test strip.

The OraQuick® Ebola Rapid Antigen Test Kit is comprised of an OraQuick® Ebola Rapid Antigen Test device, a filled, capped and labeled Developer Vial, a device stand (used to hold the device during the running of the test following specimen collection), micropipettes, a quick reference guide and the package insert. The test kit has a built-in procedural control that demonstrates assay validity. A purple line in the Control ("C") area of the Result Window indicates that the fluid migrated appropriately through the Test Device. The Control line will appear on all valid tests, whether or not the sample is positive (i.e., reactive) or negative (i.e., non-reactive).

The OraQuick® Ebola Rapid Antigen Test Kit Controls must be used with the OraQuick® Ebola Rapid Antigen Test. The OraQuick® Ebola Rapid Antigen Test Kit Controls contain two vials,

one Ebola positive control vial (orange capped) and one Ebola negative control vial (white capped).

The OraQuick® Ebola Visual Reference Panel is intended to assist new operators in becoming proficient at reading specimens with antigen levels near the limit of detection of the device. It consists of three devices that have been specifically formulated and manufactured to represent positive results near the limit of detection, low positive, and negative test results. New operators must be able to correctly interpret all devices of the OraQuick® Ebola Visual Reference Panel prior to using the OraQuick® Ebola Rapid Antigen Test device with patient samples.

The above described OraQuick® Ebola Rapid Antigen Test, when labeled consistently with the labeling authorized by FDA entitled "OraQuick® Ebola Rapid Antigen Test Instructions for Use" (available at http://www.fda.gov/MedicalDevices/Safety/EmergencySituations/ucm161496.htm), which may be revised by OraSure Technologies, Inc. in consultation with FDA, is authorized to be distributed to laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics), despite the fact that it does not meet certain requirements otherwise required by federal law.

The above described OraQuick® Ebola Rapid Antigen Test is authorized to be accompanied by the following information pertaining to the emergency use, which is authorized to be made available to health care professionals and patients:

- Fact Sheet for Health Care Providers: Interpreting OraQuick® Ebola Rapid Antigen Test Results
- Fact Sheet for Patients: Understanding Results from the OraQuick® Ebola Rapid Antigen Test

As described in section IV below, OraSure Technologies, Inc. and any authorized distributor(s) are also authorized to make available additional information relating to the emergency use of the authorized OraQuick® Ebola Rapid Antigen Test that is consistent with, and does not exceed, the terms of this letter of authorization.

I have concluded, pursuant to section 564(d)(2) of the Act, that it is reasonable to believe that the known and potential benefits of the authorized OraQuick® Ebola Rapid Antigen Test in the specified population, when used for presumptive detection of Ebola Zaire virus (detected in the West Africa outbreak in 2014), outweigh the known and potential risks of such a product.

I have concluded, pursuant to section 564(d)(3) of the Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that the authorized OraQuick® Ebola Rapid Antigen Test may be effective in the diagnosis of Ebola Zaire virus (detected in the West Africa outbreak in 2014) infection pursuant to section 564(c)(2)(A) of the Act. FDA has reviewed the scientific information available to FDA including the information supporting the conclusions described in section I above, and concludes that the authorized OraQuick® Ebola Rapid Antigen Test, when used to diagnose Ebola Zaire virus (detected in the West Africa

outbreak in 2014) infection in the specified population, meets the criteria set forth in section 564(c) of the Act concerning safety and potential effectiveness.

The emergency use of the authorized OraQuick® Ebola Rapid Antigen Test under this EUA must be consistent with, and may not exceed, the terms of this letter, including the Scope of Authorization (section II) and the Conditions of Authorization (section IV). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of DHS's determination described above and the Secretary of HHS's corresponding declaration under section 564(b)(1), the OraQuick® Ebola Rapid Antigen Test described above is authorized to diagnose Ebola Zaire virus (detected in the West Africa outbreak in 2014) infection in individuals with signs and symptoms of Ebola virus infection in conjunction with epidemiological risk factors (including geographic locations with high prevalence of Ebola infection).

This EUA will cease to be effective when the HHS declaration that circumstances exist to justify the EUA is terminated under section 564(b)(2) of the Act or when the EUA is revoked under section 564(g) of the Act.

**III. Waiver of Certain Requirements**

I am waiving the following requirements for the OraQuick® Ebola Rapid Antigen Test during the duration of this EUA:

- Current good manufacturing practice requirements, including the quality system requirements under 21 CFR Part 820 with respect to the design, manufacture, packaging, labeling, storage, and distribution of the OraQuick® Ebola Rapid Antigen Test.

- Labeling requirements for cleared, approved, or investigational devices, including labeling requirements under 21 CFR 809.10 and 21 CFR 809.30, except for the intended use statement (21 CFR 809.10(a)(2), (b)(2)), adequate directions for use (21 U.S.C. 352(f)), (21 CFR 809.10(b)(5), (7), and (8)), any appropriate limitations on the use of the device including information required under 21 CFR 809.10(a)(4), and any available information regarding performance of the device, including requirements under 21 CFR 809.10(b)(12).

**IV. Conditions of Authorization**

Pursuant to section 564 of the Act, I am establishing the following conditions on this authorization:

**OraSure Technologies, Inc. and Any Authorized Distributor(s)**

A. OraSure Technologies, Inc. and any authorized distributor(s) will distribute the authorized OraQuick® Ebola Rapid Antigen Test with the authorized labeling, as may be revised by OraSure Technologies, Inc. in consultation with FDA, to laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics).

B. OraSure Technologies, Inc. and any authorized distributor(s) will provide to laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics), the authorized OraQuick® Ebola Rapid Antigen Test Fact Sheet for Health Care Providers and the authorized OraQuick® Ebola Rapid Antigen Test Fact Sheet for Patients.

C. OraSure Technologies, Inc. and any authorized distributor(s) will make available on their websites the authorized OraQuick® Ebola Rapid Antigen Test Fact Sheet for Health Care Providers and the authorized OraQuick® Ebola Rapid Antigen Test Fact Sheet for Patients.

D. OraSure Technologies, Inc. and any authorized distributor(s) will inform laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics) and relevant public health authority(ies) of this EUA, including the terms and conditions herein.

E. OraSure Technologies, Inc. and any authorized distributor(s) will ensure that first time users of the OraQuick® Ebola Rapid Antigen Test Kit will be informed about the requirement for use of the control material and the visual reference panel.

F. OraSure Technologies, Inc. and any authorized distributor(s) will ensure that laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics) using the authorized OraQuick® Ebola Rapid Antigen Test have a process in place for reporting test results to health care professionals and relevant public health authorities, as appropriate.

G. Through a process of inventory control, OraSure Technologies, Inc. and any authorized distributor(s) will maintain records of device usage.

H. OraSure Technologies, Inc. and any authorized distributor(s) will collect information on the performance of the assay, and report to FDA any suspected occurrence of false positive or false negative results of which OraSure Technologies, Inc. and any authorized distributor(s) become aware.

I. OraSure Technologies, Inc. and any authorized distributor(s) are authorized to make available additional information relating to the emergency use of the authorized OraQuick® Ebola Rapid Antigen Test that is consistent with, and does not exceed, the terms of this letter of authorization.

**OraSure Technologies, Inc.**

J. OraSure Technologies, Inc. will notify FDA of any authorized distributor(s) of the OraQuick® Ebola Rapid Antigen Test, including the name, address, and phone number of any authorized distributor(s).

K. OraSure Technologies, Inc. will provide any authorized distributor(s) with a copy of this EUA, and communicate to any authorized distributor(s) any subsequent amendments that might be made to this EUA and its authorized accompanying materials (e.g., fact sheets, instructions for use).

L. OraSure Technologies, Inc. only may request changes to the authorized OraQuick® Ebola Rapid Antigen Test Fact Sheet for Health Care Providers or the authorized OraQuick® Ebola Rapid Antigen Test Fact Sheet for Patients. Such requests will be made only by OraSure Technologies, Inc. in consultation with FDA.

M. OraSure Technologies, Inc. may request the addition of other specimen types for use with the authorized OraQuick® Ebola Rapid Antigen Test. Such requests will be made by OraSure Technologies, Inc. in consultation with, and require concurrence of, FDA.

N. OraSure Technologies, Inc. will track adverse events and report to FDA under 21 CFR Part 803.

**Laboratories and Facilities Adequately Equipped, Trained, and Capable of Testing for Ebola Infection (Including Treatment Centers and Public Health Clinics)**

O. Laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics) will include with reports of the results of the OraQuick® Ebola Rapid Antigen Test the authorized Fact Sheet for Health Care Providers and the authorized Fact Sheet for Patients. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.

P. Laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics) will have a process in place for reporting test results to health care professionals and relevant public health authorities, as appropriate.

Q. Laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics) will collect information on the performance of the assay, and report to OraSure Technologies, Inc. and any authorized distributor(s) any suspected occurrence of false positive or false negative results of which they become aware.

R. All personnel from laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics) using the assay will be appropriately trained on the OraQuick® Ebola Rapid Antigen Test and use appropriate laboratory and personal protective equipment when handling this kit.

**OraSure Technologies, Inc., Any Authorized Distributor(s), and Laboratories and Facilities Adequately Equipped, Trained, and Capable of Testing for Ebola Infection (Including Treatment Centers and Public Health Clinics)**

S. OraSure Technologies, Inc., any authorized distributor(s), and laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics) will ensure that any records associated with this EUA are maintained until notified by FDA. Such records will be made available to FDA for inspection upon request.

**Conditions Related to Advertising and Promotion**

T. All advertising and promotional descriptive printed matter relating to the use of the authorized OraQuick® Ebola Rapid Antigen Test shall be consistent with the Fact Sheets and authorized labeling, as well as the terms set forth in this EUA and the applicable requirements set forth in the Act and FDA regulations.

U. All advertising and promotional descriptive printed matter relating to the use of the authorized OraQuick® Ebola Rapid Antigen Test shall clearly and conspicuously state that:

- This test has not been FDA cleared or approved;
- This test has been authorized by FDA under an EUA for use by laboratories and facilities adequately equipped, trained, and capable of testing for Ebola infection (including treatment centers and public health clinics);
- This test has been authorized only for the detection of Ebola Zaire virus (detected in the West Africa outbreak in 2014); and
- This test is authorized only for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for detection of Ebola virus under section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

No advertising or promotional descriptive printed matter relating to the use of the authorized OraQuick® Ebola Rapid Antigen Test may represent or suggest that this test is safe or effective for the diagnosis of Ebola Zaire virus (detected in the West Africa outbreak in 2014).

The emergency use of the authorized OraQuick® Ebola Rapid Antigen Test described in this letter of authorization must comply with the conditions and all other terms of this authorization.

**V. Duration of Authorization**

This EUA will be effective until the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for detection of Ebola virus is terminated under section 564(b)(2) of the Act or the EUA is revoked under section 564(g) of the Act.

Page 9 – Ms. Miller, OraSure Technologies, Inc.

Sincerely,

Stephen M. Ostroff, M.D.
Acting Commissioner of Food and Drugs

Enclosures

Dated: September 8, 2015.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2015–23003 Filed 9–11–15; 8:45 am]

**BILLING CODE 4164–01–C**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Administration for Children and Families

### Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

**AGENCY:** Health Resources and Services Administration, HHS. Administration for Children and Families, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) and the Administration for Children and Families (ACF) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

**DATES:** Comments on this ICR should be received no later than October 14, 2015.

**ADDRESSES:** Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 594–4306.

**SUPPLEMENTARY INFORMATION:**

*Information Collection Request Title:* The Maternal, Infant, and Early Childhood Home Visiting Program Quarterly Data Request.

OMB No. 0906–xxxx—NEW.

*Abstract:* The Maternal, Infant, and Early Childhood Home Visiting Program (MIECHV), administered by HRSA in close partnership with the Administration for Children and Families (ACF), supports voluntary, evidence-based home visiting services during pregnancy and to parents with young children up to kindergarten entry. States, Territories, nonprofit organizations (in some circumstances), and Tribal entities are eligible to receive funding from the MIECHV Program and have the flexibility to tailor the program to serve the specific needs of the communities that they serve.

*Need and Proposed Use of the Information:* In order to continuously monitor and provide oversight, quality improvement guidance, and technical assistance to MIECHV grantees, HHS is seeking to collect two categories of information: Service Utilization Data and Corrective Action Benchmark Data. This information will be used to monitor and provide continued oversight for grantee performance and to target technical assistance resources to grantees.

Service Utilization Data is made up of four data categories:

(1) *Program Capacity:* HHS is seeking to collect information related to the overall home visiting service capacity (*i.e.,* number of families) that grantees are able to provide to the communities they work in, the actual capacity being utilized at certain points in time, as well as updates of home visiting enrollment in number of families.

(2) *Place-Based Services:* HHS is seeking to collect information to identify the geographic areas where home visiting services are being provided. Specifically, data on zip code and locally defined communities are being requested from MIECHV grantees in order to allow grantees an opportunity to provide data that identifies geographic areas that are most salient to their respective programs. Currently, HHS collects information related to service area zip code on an annual basis (OMB–0915–0357, expiration 7/31/2017). HHS plans to allow the grantee to describe the service community at the neighborhood, town, or city level where services are provided based on their judgment of local salience, rather than solely at the county level, which is how geographic services are currently reported.

(3) *Family Engagement:* Currently HHS collects information related to family engagement (attrition) on an annual basis (OMB–0915–0357, expiration 7/31/2017). However, HHS has learned through grants monitoring and technical assistance efforts that family engagement is an ongoing and complex issue for home visiting service providers. In order to monitor grantee performance and target technical assistance efforts most effectively, HHS proposes that, in addition to annual reporting, MIECHV grantees will report quarterly on the existing family engagement metrics they are currently required to submit to HHS. These metrics are currently defined as the number of participants currently receiving services who have completed the program, who stopped services before completion, and other participants.

(4) *Staff Recruitment and Retention:* HHS is seeking to collect information related to the number of home visitors and other support staff who are currently employed directly or through sub-contracted grant funds. Staff recruitment and retention is a key component to the successful delivery of home visiting services and to maximizing the number of cases each local implementing agency can reach. MIEHCV grantees will report quarterly on the actual number of staff and current vacancies in three categories: home visitors, home visiting supervisors, and other staff.

Corrective Action Benchmark Data (Improvement Action Benchmark Data): *Corrective Action Constructs consist of one category of data.* MIECHV grantees that have not shown improvement in four of six Benchmark areas identified in the authorizing legislation after 3 years of grant funding are required to complete corrective action plans (Improvement Action Technical Assistance Plans), subject to approval by the Secretary, in order to show how they plan to achieve improvement in deficient areas. Currently HHS collects information related to selected Benchmark areas from all MIECHV grantees on an annual basis (OMB–0915–0357, expiration 7/31/2017). In order to monitor grantee improvement toward meeting these Benchmarks, HHS is seeking to collect information from grantees on implementation of their Improvement Action Plans on a more frequent basis. HHS proposes that state, territory, and nonprofit organization grantees with Improvement Action Plans report the Benchmark measures for which they were deemed as not showing improvement on a quarterly basis. It is estimated that approximately 9 grantees per year will require this more frequent reporting. Tribal grantees that did not demonstrate improvement after 3 years will continue to develop program improvement plans as currently required.

*Likely Respondents:* MIECHV grantees.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to

a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| Service Utilization Form—State, Territory, and Tribal MIECHV Grantees | [1] 125 | 4 | 500 | 24 | 12,000 |
| Improvement Action Benchmark Form—State and Territory MIECHV Grantees | [2] 9 | 4 | 36 | 40 | 1,440 |
| Total | 125 | | 536 | | 13,440 |

[1] This figures includes two responses for jurisdictions which received both formula and competitive funding in FY 2015.
[2] Only includes MIECHV state, territory, and non-profit grantees that did not demonstrate improvement in 4 of 6 Benchmark areas after 3 years of grant funding.

Dated: September 2, 2015.

**Jackie Painter,**

*Director, Division of the Executive Secretariat, Health Resources and Services Administration.*

**Robert Sargis,**

*Reports Clearance Officer, Administration for Children and Families.*

[FR Doc. 2015–23033 Filed 9–11–15; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

**DATES:** Comments on this ICR should be received no later than October 14, 2015.

**ADDRESSES:** Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 594–4306.

**SUPPLEMENTARY INFORMATION:** Information Collection Request Title: Maternal, Infant, and Childhood Home Visiting (Home Visiting) Program for Non-Competing Continuation Progress Report OMB No. 0915–0356—Extension

A 30-day notice was previously published on July 22, 2015 for this information collection request but it contained incorrect burden figures.

Abstract: The Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program, administered by the Health Resources and Services Administration (HRSA) in close partnership with the Administration for Children and Families (ACF), supports voluntary, evidence-based home visiting services during pregnancy and to parents with young children up to kindergarten entry. Competitive grants support the efforts of eligible entities that have already made significant progress towards establishing a high quality home visiting program or embedding their home visiting program into a comprehensive, high-quality early childhood system. All fifty states, the District of Columbia, five territories, and nonprofit organizations that would provide services in jurisdictions that have not directly applied for or been approved for a grant are eligible for competitive grants and if awarded, are required to submit non-competing continuation progress reports annually. There are currently 48 entities with competitive grant awards. Some eligible entities have been awarded more than one competitive grant.

*Need and Proposed Use of the Information:* This information collection is needed for eligible entities to report progress under the Home Visiting Program annually. On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act (ACA). Section 2951 of the ACA amended Title V of the Social Security Act by adding a new section, 511, which authorized the creation of the Home Visiting Program (*http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3590enr.txt.pdf,* pages 216–2250). A portion of funding under this program is awarded to participating states and eligible jurisdictions competitively. The purpose of the competitive funding is to provide additional support to entities that have already made significant progress towards establishing a high-quality home visiting program and also want to implement innovative home visiting strategies in their states and jurisdictions.

The information collected will be used to review grantee progress on proposed project plans sufficient to permit project officers to assess whether the project is performing adequately to achieve the goals and objectives that were previously approved. This report will also provide implementation plans for the upcoming year, which project officers can assess to determine whether the plan is consistent with the grant as approved, and will result in implementation of a high-quality project that will complement the home visiting program as a whole. Progress Reports are submitted to project officers through the Electronic HandBooks (EHB). Failure to collect this information would result in the inability of the project officers to exercise due diligence in monitoring and overseeing the use of grant funds in keeping with legislative, policy, and programmatic requirements.

Grantees are required to provide a performance narrative with the following sections: Project identifier information, accomplishments and barriers, state home visiting program goals and objectives, an update on the state home visiting innovative approach and evaluations conducted under the competitive grant, implementation of the program in targeted at-risk communities, progress toward meeting legislatively-mandated reporting on benchmark areas, state home visiting quality improvement efforts, and updates on the administration of state home visiting innovation program.

Since federal fiscal year 2011, 48 eligible entities have received competitive grant awards. Grantees of the competitive grant program need to complete annual reports in order to comply with HRSA reporting requirements.

*Likely Respondents:* Grantees with Home Visiting Competitive Expansion Grants Awarded in Federal Fiscal Years 2011–2015

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

| Summary progress on the following activities | Number of respondents | Number of responses per respondent | Total responses | Hours per response | Total burden hours |
|---|---|---|---|---|---|
| Home Visiting Competitive Grant Progress Report—FY 2012, FY 2013, FY 2014 | 37 | 1 | 37 | 25 | 925 |
| Home Visiting Competitive Grant Progress Report—FY 2015 | 35 | 1 | 35 | 20 | 700 |
| Home Visiting Competitive Grant Progress Report—FY 2016 | 56 | 1 | 56 | 20 | 1,120 |
| Home Visiting Competitive Grant Progress Report—FY 2017 | 56 | 1 | 56 | 20 | 1,120 |
| Total | 184 | 4 | 184 | | 3,865 |

**Jackie Painter,**

*Director, Division of the Executive Secretariat.*

[FR Doc. 2015–22999 Filed 9–11–15; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

**[Document Identifier: HHS–OS–0937–0166–30D]**

### Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for renewal of the approved information collection assigned OMB control number 0937–0166, scheduled to expire on October 31, 2015. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

**DATES:** Comments on the ICR must be received on or before October 14, 2015.

**ADDRESSES:** Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

**FOR FURTHER INFORMATION CONTACT:** Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the OMB control number 0937–0166 and document identifier.

*Information Collection Request Title:* HHS 42 CFR part 50, subpart B; Sterilization of Persons in Federally Assisted Family Planning Projects—OMB No. 0937–0166–Extension–OASH, Office of Population Affairs—Office of Family Planning.

*Abstract:* This is a request for extension of a currently approved collection for the disclosure and record-keeping requirements codified at 42 CFR part 50, subpart B (''Sterilization of Persons in Federally Assisted Family Planning Projects''). The consent form solicits information to assure voluntary and informed consent to persons undergoing sterilization in programs of health services which are supported by federal financial assistance administered by the Public Health Service (PHS). Consent forms are signed by individuals undergoing a federally funded sterilization procedure and certified by necessary medical authorities. Forms are incorporated into the patient's medical records and the agency's records. Through periodic site audits and visits, PHS staff review completed consent forms to determine compliance with the regulation. Thus, the purpose of the consent form is twofold. First, it serves as a mechanism to ensure that a person receives information about sterilization and voluntarily consents to the procedure. Second, it facilitates compliance monitoring. The Sterilization Consent Form has been revised to reflect a new expiration date on the Required Consent Form. There are no other revisions to the form.

*Likely Respondents:* Interested persons who desire to send comments regarding this burden estimate or any other aspect of this collection of information that OS specifically requests comments.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

| Type of respondent | Information collection | Number of respondents | Number of responses per respondent | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Citizens Seeking Sterilization | Information Disclosure for *Sterilization Consent Form.* | 100,000 | 1 | 1 | 100,000 |
| Citizens Seeking Sterilization | Record-keeping for *Sterilization Consent Form.* | 100,000 | 1 | 15/60 | 25,000 |
| Total | | | | | 125,000 |

**Darius Taylor,**

*Information Collection Clearance Officer.*

[FR Doc. 2015–23024 Filed 9–11–15; 8:45 am]

**BILLING CODE 4150–34–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Psychosocial Risk and Disease Prevention.

*Date:* October 5, 2015.

*Time:* 2:00 p.m. to 2:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

*Contact Person:* John H. Newman, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 435–0628, *newmanjh@csr.nih.gov.*

*Name of Committee:* Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section; Enabling Bioanalytical and Imaging Technologies.

*Date:* October 8–9, 2015.

*Time:* 8:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

*Contact Person:* Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

*Name of Committee:* Oncology 1—Basic Translational Integrated Review Group; Cancer Etiology Study Section.

*Date:* October 8–9, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Courtyard Gaithersburg Washingtonian Ctr, 204 Boardwalk Place, Gaithersburg, MD 20878.

*Contact Person:* Svetlana Kotliarova, Ph.D., Scientific Review Officer, Center For Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, 301–594–7945, *kotliars@mail.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Musculoskeletal, Oral and Skin Sciences AREA review.

*Date:* October 14, 2015.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Yanming Bi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–451–0996, *ybi@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Risk, Prevention and Health Behavior AREA Review.

*Date:* October 14, 2015.

*Time:* 2:00 p.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* John H. Newman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 435–0628, *newmanjh@csr.nih.gov.*

*Name of Committee:* Oncology 2—Translational Clinical Integrated Review Group; Developmental Therapeutics Study Section.

*Date:* October 19–20, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

*Contact Person:* Sharon K. Gubanich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@csr.nih.gov.*

*Name of Committee:* Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.

*Date:* October 19–20, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

*Contact Person:* Jonathan K. Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2190, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

*Name of Committee:* Brain Disorders and Clinical Neuroscience Integrated Review Group; Aging Systems and Geriatrics Study Section.

*Date:* October 19–20, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015,

*Contact Person:* Inese Z. Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov.*

*Name of Committee:* Healthcare Delivery and Methodologies Integrated Review Group; Community-Level Health Promotion Study Section.

*Date:* October 19–20, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Row Hotel, 2015 Massachusetts Ave. NW., Washington, DC 20036.

*Contact Person:* Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov*.

*Name of Committee:* Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

*Date:* October 19, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Westin BWI (Baltimore), 1100 Old Elkridge Landing Road, Baltimore, MD 21090.

*Contact Person:* Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222,*nurminskayam@csr.nih.gov*.

*Name of Committee:* Healthcare Delivery and Methodologies Integrated Review Group; Community Influences on Health Behavior Study Section.

*Date:* October 19–20, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

*Contact Person:* Wenchi Liang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301–435–0681, *liangw3@csr.nih.gov*.

*Name of Committee:* Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry B Study Section.

*Date:* October 19–20, 2015.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

*Contact Person:* Kathryn M. Koeller, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov*.

*Name of Committee:* Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics A Study Section.

*Date:* October 19–20, 2015.

*Time:* 8:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Renaissance M Street Hotel, 1143 New Hampshire Avenue NW., Washington, DC 20037.

*Contact Person:* Michael M. Sveda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1114, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov*.

*Name of Committee*: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation: Flow Cytometry.

*Date*: October 19, 2015.

*Time*: 11:00 a.m. to 6:00 p.m.

*Agenda*: To review and evaluate grant applications.

*Place*: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person*: Savvas Makrides, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 2200, Bethesda, MD 20892, 301–435–2514, *makridessc@mail.nih.gov*.

*Name of Committee*: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function A Study Section.

*Date*: October 20–21, 2015.

*Time*: 8:00 a.m. to 7:00 p.m.

*Agenda*: To review and evaluate grant applications.

*Place*: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW., Washington, DC 20008.

*Contact Person*: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 404–7419, *rosenzweign@csr.nih.gov*.

*Name of Committee*: Bioengineering Sciences & Technologies Integrated Review Group; Gene and Drug Delivery Systems Study Section.

*Date*: October 21–22, 2015.

*Time*: 8:00 a.m. to 6:00 p.m.

*Agenda*: To review and evaluate grant applications.

*Place*: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

*Contact Person*: Amy L. Rubinstein, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7844, Bethesda, MD 20892, 301–408–9754, *rubinsteinal@csr.nih.gov*.

*Name of Committee*: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.

*Date*: October 21–22, 2015.

*Time*: 8:30 a.m. to 3:00 p.m.

*Agenda*: To review and evaluate grant applications.

*Place*: Doubletree Hotel Washington, 1515 Rhode Island Ave NW., Washington, DC 20005.

*Contact Person*: Barbara J. Thomas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2218, MSC 7890, Bethesda, MD 20892, 301–435–0603, *bthomas@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 8, 2015.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–22986 Filed 9–11–15; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Project Applications (P01).

*Date:* September 29, 2015.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Conference Room 4H100, 5601 Fishers Lane, Rockville, MD 20892, (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.*

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

*Date:* October 8, 2015.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Conference Room 5F100, 5601 Fishers Lane, Rockville, MD 20892, (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: September 9, 2015.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–23042 Filed 9–11–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Minority Health and Health Disparities; 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 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:* National Institute on Minority Health and Health Disparities Special Emphasis Panel; Technologies/Innovations for Improving Population Health and Eliminating Health Disparities (R41/R42, R43/R44).

*Date:* October 20, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

*Contact Person:* Xinli Nan, MD, Ph.D., Scientific Review Officer, National Institute on Minority Health and Health Disparities, National Institutes of Health, Scientific Review Branch, OERA, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 594–7784, *Xinli.nan@nih.gov*.

Dated: September 9, 2015.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–23043 Filed 9–11–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel—Cancer Therapeutics.

*Date:* September 22, 2015.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Careen K Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–3504, *tothct@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.39–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 8, 2015.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–22985 Filed 9–11–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; 30-Day Comment Request: Population Sciences Biospecimen Catalog (PSBC)

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute, the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on (June 30, 2015 P.37280) and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

*Direct Comments to OMB:* Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

*Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Danielle Carrick, Program Director, Division of Cancer Control and Population Sciences (DCCPS), National Cancer Institute, 9609 Medical Center Dr., Room 4E224, Rockville, MD 20850 or call non-toll-free number (240) 276–6749 or Email your request, including your address to: *Danielle.Carrick@nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

*Proposed Collection:* Population Sciences Biospecimen Catalog (PSBC) (NCI), 0925—NEW, National Cancer Institute(NCI), National Institutes of Health (NIH).

*Need and Use of Information Collection:* This is a request for approval of a new collection. The National Cancer Institute (NCI) Division of Cancer Control and Population Sciences (DCCPS) has previously demonstrated that approximately 60% of population based studies funded by the division use existing biospecimens from other collections, and that those studies are more cost and time efficient than studies collecting new specimens. Yet, it is difficult for researchers to identify potentially appropriate sources for biospecimens and accompanying epidemiologic and exposure data. Development of a searchable inventory of population-based biospecimen resources was a major recommendation resulting from an NCI think tank held in August 2013 (''Utilizing Existing Clinical and Population Biospecimen Resources for Discovery or Validation of

Markers for Early Cancer Detection'') and would also be directly addressing four of the key recommendations that emerged in an NCI sponsored workshop titled ''Trends in 21st Century Epidemiology: From Scientific Discoveries to Population Health'' (CEBP, 2013, issue 22, page 508). In response to this, NCI DCCPS is developing a biospecimen inventory and online searchable catalog (or ''Population Sciences Biospecimen Catalog (PSBC)''). The PSBC allows scientists in the research community and the NCI to locate specimens appropriate for their population based research projects. It is not NCI's intent to collect biospecimens; rather the collections are descriptions of the available data that can act as a resource and be shared with researchers and scientists who are interested. This submission is via data upload to the secure Web site in order to collect information to manage and improve a program and its resources for the use by all scientists.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 80.

ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Type of respondent | Number of respondents | Number of responses per respondent | Average time per response ( in hours) | Total annual burden hour |
|---|---|---|---|---|---|
| Population Sciences Biospecimen Catalog Initial Request. | Private Sector ..... | 30 | 1 | 1 | 30 |
| | State Government ..... | 30 | 1 | 1 | 30 |
| Population Sciences Biospecimen Catalog Annual Update. | Private Sector ..... | 30 | 1 | 20/60 | 10 |
| | State Government ..... | 30 | 1 | 20/60 | 10 |

Dated: September 1, 2015.

**Karla Bailey,**

*NCI Project Clearance Liaison, National Cancer Institute, NIH.*

[FR Doc. 2015–23027 Filed 9–11–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; 30-Day Comment Request; Characterization of Risk of HIV and HIV Outcomes in the Brazilian Sickle Cell Disease (SCD) Population and Comparison of SCD Outcomes Between HIV Sero-Positive and Negative SCD (NHLBI)

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June 8, 2015 (80 FR 32388) and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

*Direct Comments to OMB:* Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

**DATES:** *Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Simone Glynn, MD, Project Officer/ICD Contact, Two Rockledge Center, Suite 9142, 6701 Rockledge Drive, Bethesda, MD 20892, or call 301–435–0065, or Email your request, including your address to: *glynnsa@nhlbi.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

*Proposed Collection:* Characterization of risk of HIV and HIV outcomes in the Brazilian Sickle Cell Disease (SCD) population and comparison of SCD outcomes between HIV sero-positive and negative SCD patients 0925–NEW, National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH).

*Need and Use of Information Collection:* The National Heart, Lung, and Blood Institute (NHLBI) Recipient Epidemiology and Donor Evaluation Study-III (REDS–III) program conducts research focused on the safety of the blood supply, the patients who are in need of transfusions, and the epidemiology of transfusion-transmissible infections such as human immunodeficiency virus (HIV). Sickle cell disease (SCD) is a blood disorder that affects thousands of people in the United States and Brazil. Many patients with SCD need to be chronically transfused with red blood cells and the REDS–III research program has established in Brazil a cohort of patients with SCD to study transfusion outcomes and infectious diseases such as HIV in the SCD population.

Sickle cell disease predominantly affects persons with sub-Saharan Africa and other malaria-endemic regions ancestry because people who carry one sickle cell disease gene (you need 2 to have sickle cell disease) have a survival advantage for malaria. Sub-Saharan Africa, where most people with SCD in the world live, remains one of the regions most severely affected by HIV, with nearly 1 in every 20 adults living with the virus. In the United States, HIV also disproportionately affects persons with African ancestry. Despite the diseases' occurrence in similar populations and the fact that both HIV and SCD are independent predictors of outcomes such as stroke, there is a lack of data to evaluate if patients with SCD and HIV have different illnesses than patients who have SCD- or HIV-only. The proposed study will seek to understand the risk of HIV in the SCD population, describe HIV outcomes in patients with SCD and compare SCD complications between HIV-positive

and HIV-negative patients with SCD using the infrastructure established by the REDS–III SCD Cohort study.

The limited studies focused on HIV in SCD have suggested that HIV may not occur as frequently in patients with SCD as in people who do not have SCD. While it has been hypothesized that perhaps SCD pathophysiology has a unique effect on HIV infection or replication, none of the studies have adequately measured risk factors for HIV in patients with SCD. The first objective of the proposed study is to compare HIV risk factors between 150 patients with SCD (cases) randomly selected from the REDS–III SCD Cohort study and 150 individuals without SCD (controls) from a demographically similar population. An assessment that has been well validated in previous studies has been modified for the SCD population and will be used to collect data regarding HIV risk behaviors. The second objective of the proposed study will seek to enroll approximately 25 patients with SCD and HIV who consent to have detailed information regarding their diseases retrieved from their medical records. This will allow for an in-depth evaluation of how patients with both diseases fare. Additionally, patients who have SCD but not HIV will be compared to patients who have both diseases to better understand how one disease affects the other disease. Information on the HIV-negative patients with SCD has already been collected because they participated in the REDS–III SCD Cohort study. This study will provide critical information to guide the management and future research for patients with HIV and SCD in Brazil, the United States, and worldwide.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 325.

| Form name | Type of respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| Objective 1, Risk Factor Informed Consents. | Adult SCD cases and controls ..... | 300 | 1 | 15/60 | 75 |
| Objective 2, Risk Factor Informed Consent. | Adult previously enrolled REDS–II and III HIV SCD patients. | 25 | 1 | 15/60 | 6 |
| Objectives 1 and 2, Risk Factor Assessment. | Adult SCD cases and controls, and Adult previously enrolled REDS–II and III HIV SCD patients. | 325 | 1 | 45/60 | 244 |

Dated: September 8, 2015.

**Valery Gheen,**

*NHLBI Project Clearance Liaison, National Institutes of Health.*

[FR Doc. 2015–22975 Filed 9–11–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Population Sciences and Epidemiology Integrated Review Group, Behavioral Genetics and Epidemiology Study Section.

*Date:* October 5, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Wardman Park Washington DC Hotel, 2600 Woodley Road NW., Washington, DC 20008.

*Contact Person:* George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, PAR14–165: Clinical Studies of Mental Illness Not Involving Treatment, Development, Efficacy, or Effectiveness Trials (Collaborative R01).

*Date:* October 5, 2015.

*Time:* 8:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Wardman Park Washington DC Hotel, 2600 Woodley Road NW., Washington, DC 20008.

*Contact Person:* George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov.*

*Name of Committee:* Oncology 2—Translational Clinical Integrated Review Group, Basic Mechanisms of Cancer Therapeutics Study Section.

*Date:* October 8–9, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Renaissance New Orleans Pere Marquette Hotel, 817 Common Street, New Orleans, LA.

*Contact Person:* Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahman-sesayl@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, PAR Panel: Mouse Models for Translational Research.

*Date:* October 9, 2015.

*Time:* 12:00 p.m. to 5:30 p.m..

*Agenda:* To review and evaluate grant applications.

*Place:* Renaissance Pere Marquette Hotel, New Orleans, 817 Common Street, New Orleans, LA 70112.

*Contact Person:* Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahmanl@csr.nih.gov.*

*Name of Committee:* Cell Biology Integrated Review Group, Intercellular Interactions Study Section.

*Date:* October 13–14, 2015.

*Time:* 8:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov.*

*Name of Committee:* Immunology Integrated Review Group, Cellular and Molecular Immunology—B Study Section.

*Date:* October 15–16, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sheraton Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

*Contact Person:* Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Fellowships: Sensory and Motor Neurosciences, Cognition and Perception.

*Date:* October 15–16, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites Alexandria—Old Town, 1900 Diagonal Road, Alexandria, VA 22314.

*Contact Person:* Sharon S. Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7846, Bethesda, MD 20892, 301–237–1487, *lowss@csr.nih.gov.*

*Name of Committee:* Vascular and Hematology Integrated Review Group, Hemostasis and Thrombosis Study Section.

*Date:* October 15, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Warwick Seattle Hotel, 401 Lenora Street, Seattle, WA 98121.

*Contact Person:* Bukhtiar H. Shah, Ph.D., DVM, Scientific Review Officer, Vascular and Hematology IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, (301) 806–7314, *shahb@csr.nih.gov.*

*Name of Committee:* Cell Biology Integrated Review Group, Biology of the Visual System Study Section.

*Date:* October 19–20, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Michael H. Chaitin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov.*

*Name of Committee:* Oncology 2—Translational Clinical Integrated Review Group, Cancer Immunopathology and Immunotherapy Study Section.

*Date:* October 19–20, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Crown Plaza Dallas Downtown, 1015 Elm Street, Dallas, TX 75202.

*Contact Person:* Denise R Shaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov.*

*Name of Committee:* Infectious Diseases and Microbiology Integrated Review Group, Host Interactions with Bacterial Pathogens Study Section.

*Date:* October 20, 2015.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road, NW., Washington, DC 20008.

*Contact Person:* Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov.*

*Name of Committee:* Digestive, Kidney and Urological Systems Integrated Review Group, Systemic Injury by Environmental Exposure.

*Date:* October 21–22, 2015.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA 94102.

*Contact Person:* Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, PAR13–325: Development of Appropriate Pediatric Formulations and Pediatric Drug Delivery Systems.

*Date:* October 21, 2015.

*Time:* 9:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 9, 2015.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–23041 Filed 9–11–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of General Medical Sciences Special Emphasis Panel; Support of NIGMS Program Project Grants.

*Date:* October 13, 2015.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.12N, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Margaret J. Weidman, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12N, Bethesda, MD 20892, 301–594–2048, *weidmanma@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: September 9, 2015.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2015–23026 Filed 9–11–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R3–EC–2015–N157; FVHC98120300940–XXX–FF03E16000]**

### Draft Restoration Plan and Programmatic Environmental Impact Statement for Restoration Resulting From the Kalamazoo River Natural Resource Damage Assessment

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The U.S. Fish and Wildlife Service (USFWS), the National Oceanic and Atmospheric Administration (NOAA), the Michigan Department of

Environmental Quality, the Michigan Department of Natural Resources, and the Michigan Attorney General, collectively acting as Trustees for natural resources, announce the availability of the *Draft Restoration Plan and Programmatic Environmental Impact Statement for Restoration Resulting from the Kalamazoo River Natural Resource Damage Assessment.* Publication of this notice begins the public comment period for this Draft Restoration Plan and Programmatic Environmental Impact Statement (Draft RP/PEIS). The purpose of the Draft RP/PEIS is to present the Trustees' proposed approach to restoration to compensate the public for losses to natural resources resulting from the release of polychlorinated biphenyls (PCBs) and to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of implementing the alternative programmatic approaches to restoration in the Kalamazoo River watershed.

**DATES:** Written comments must be received by October 29, 2015.

**ADDRESSES:** *Submitting Comments:* Written comments for the Trustees to consider should be sent to Lisa Williams, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, East Lansing, MI 48823. Comments may also be submitted electronically to *kzoorivernrda@fws.gov,* with ''Kalamazoo River RP/PEIS'' in the subject line. For more information, see Public Comments under **SUPPLEMENTARY INFORMATION.**

*Viewing the Administrative Record:* Contact Judith Alfano, at (517) 373–7402 or *alfanoj@michigan.gov;* selected documents are also available at *http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver.*

*Viewing EPA's Comments on the PEIS:* For how to view comments on the PEIS from the Environmental Protection Agency (EPA), or for information on EPA's role in the EIS process, see EPA's Role in the EIS Process under **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Lisa Williams, USFWS, by email at *lisa_williams@fws.gov* or by phone at (517) 351–8324, or Julie Sims, NOAA Restoration Center, by email at *julie.sims@noaa.gov* or by phone at (734) 741–2385.

**SUPPLEMENTARY INFORMATION:** The U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA), the Michigan Department of Environmental Quality (MDEQ), the Michigan Department of Natural Resources, and the Michigan Attorney General, collectively acting as Trustees for natural resources, have prepared this Draft Restoration Plan and Programmatic Environmental Impact Statement (Draft RP/PEIS) for restoration in the Kalamazoo River watershed pursuant to both CERCLA NRDA regulations and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347 *et seq.;* NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR parts 1500–1508. NEPA requires Federal agencies to conduct environmental reviews of proposed actions to consider the potential impacts on the environment.

In the Draft RP/PEIS, the Trustees describe restoration projects that could compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). These include both general types of restoration projects as well as two specific projects to restore aquatic connectivity on the Kalamazoo River by removing dams in and near Otsego, Michigan. The public is invited to provide comments to the Trustees on the Draft RP/PEIS, including the proposed restoration projects and techniques, the programmatic restoration alternatives, and the potential impacts of the alternatives on the environment.

Industrial activities in the Kalamazoo area have released PCBs into the environment. Recycling of carbonless copy paper at several area paper mills was the primary source of PCB release. Waste from the recycling of such paper conducted at Kalamazoo-area paper mills also contained PCBs, and the waste was disposed of by several methods that resulted in releases of PCBs into the environment. These PCBs have contaminated sediments, the water column, and biota in and adjacent to downstream sections of Portage Creek, the Kalamazoo River, and Lake Michigan.

Based on the risks that PCBs pose to the environment and to human health, the U.S. Environmental Protection Agency (EPA) listed the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site on the National Priorities List on August 30, 1990. PCBs are listed as hazardous substances under CERCLA. EPA and MDEQ currently describe the site being addressed by the Superfund remedial investigation as including: (1) Five disposal areas and six paper mill properties; (2) a 3-mile stretch of Portage Creek from Cork Street in the City of Kalamazoo to where the creek meets the Kalamazoo River; and (3) an approximately 80-mile stretch of the Kalamazoo River, from Morrow Dam to Lake Michigan, with adjacent floodplains, wetlands, and in-stream sediments.

As defined in the Stage 1 Assessment Report (MDEQ *et al.* 2005; available at *http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver*), the Trustees are using the term Kalamazoo River Environment (KRE) to represent the entire natural resource damage assessment area. The KRE encompasses the area being addressed by the Superfund remedial investigations for the site's operable units, along with any area where hazardous substances released at or from the Superfund site have come to be located, and areas where natural resources or the services they provide may have been affected by the site-related hazardous substances releases (MDEQ *et al.* 2005).

The Trustees expect to have opportunities to settle natural resource damage claims for the KRE with willing parties. The Draft RP/PEIS will provide an ecological framework, with public input, to maximize the benefits of specific restoration projects to the affected resources in the KRE that might be included in or funded by future settlements or past bankruptcy settlements. The Draft RP/PEIS will provide criteria and guidance for Trustees to use in selecting feasible restoration projects.

In compliance with 40 CFR part 1505 *et seq.,* the Trustees will include in the NRDA Administrative Record (Record) documents that the Trustees rely upon during the development of the Draft RP/PEIS. The hard copy Record is on file at MDEQ (contact Judith Alfano; see **FOR FURTHER INFORMATION CONTACT**).

## CERCLA

Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA; 42 U.S.C. 9601 *et seq.*), parties responsible for releasing hazardous substances into the environment are liable both for the costs of responding to the release (by cleaning up, containing, or otherwise remediating the release) and for damages arising from injuries to publicly owned or managed natural resources resulting from the release. CERCLA's Natural Resource Damage Assessment (NRDA) regulations (43 CFR 11) describe the process of assessing the nature and extent of the resulting injury, destruction, or loss of natural resources and the services they provide. Carrying out of the NRDA process also includes determining the compensation required to make the public whole for such injuries, destruction, or loss. CERCLA

authorizes certain Federal and State agencies and Indian tribes to act on behalf of the public as Trustees for affected natural resources. Under CERCLA, these agencies and tribes are authorized to assess natural resource injuries and to seek compensation, referred to as damages, from responsible parties, including the costs of performing the damage assessment. The Trustees are required to use recovered damages for the following purposes only: To restore, replace, or acquire the equivalent of the injured or lost resources and services.

**EPA's Role in the EIS Process**

In addition to this **Federal Register** notice, EPA is publishing a notice announcing the PEIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.;* CAA).

The EPA is charged under the CAA to review all Federal agencies' EISs and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions in the EISs. EPA also serves as the repository (EIS database) for EISs prepared by Federal agencies and provides notice of their availability in the **Federal Register**. The EIS database provides information about EISs prepared by Federal agencies, as well as EPA's comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**.

For more information, see *http://www.epa.gov/compliance/nepa/eisdata.html.* You may search for EPA comments on EISs, along with EISs themselves, at *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

**Public Comments**

Comments are specifically requested regarding the alternatives, proposed restoration techniques and projects, scope of analysis, and assessment of impacts. Please see the **ADDRESSES** section for how to submit information.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 24, 2015.

**Charles Wooley,**

*Acting Regional Director, Midwest Region, U.S. Fish and Wildlife Service.*

[FR Doc. 2015–23016 Filed 9–11–15; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[156A2100DD/AAKC001030/A0A501010.999900 253G]**

### Renewal of Agency Information Collection for Leases and Permits

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for Leases and Permits, 25 CFR 162. The information collection is currently authorized by OMB Control Number 1076–0155. This information collection expires November 30, 2015.

**DATES:** Submit comments on or before November 13, 2015.

**ADDRESSES:** You may submit comments on the information collection to Ms. Sharlene Roundface, Office of Trust Services, Bureau of Indian Affairs, 1849 C Street NW., Mailstop 3642—MIB, Washington, DC 20240; email: *Sharlene.Roundface@bia.gov*.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sharlene Roundface, telephone: (202) 208–5831.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Bureau of Indian Affairs (BIA) is seeking renewal of the approval for information collection conducted under 25 CFR 162, Leases and Permits, for the review and approval of leases and permits on land the United States holds in trust or restricted status for individual Indians and Indian tribes. This information collection allows BIA to review applications for leases and permits, modifications, and assignments, and to determine:

(a) Whether or not a lease may be approved or granted;

(b) The value of each lease;

(c) The appropriate compensation to landowners; and

(d) Provisions for violations of trespass.

A response is required to obtain or retain a benefit.

**II. Request for Comments**

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**III. Data**

*OMB Control Number:* 1076–0155.

*Title:* Leases and Permits, 25 CFR 162.

*Brief Description of Collection:* Generally, trust and restricted land may be leased by Indian landowners with the approval of the Secretary of the Interior, except when specified by statute. Submission of this information allows BIA to review applications for obtaining, modifying and assigning leases and permits of land that the United States holds in trust or restricted status for individual Indians and Indian tribes. The information is used to determine approval of a lease, amendment, assignment, sublease, mortgage or related document. Response is required to obtain or retain a benefit.

*Type of Review:* Extension without change of currently approved collection.

*Respondents:* Individual Indians and Indian tribes seeking to lease their trust or restricted land and businesses that lease trust and restricted land.

*Estimated Number of Respondents:* 127,110.

*Frequency of Response:* One approval per lease, other collections occur fewer than once per lease, on average, upon

request for modification or assignment or upon a trespass violation.

*Estimated Time per Response:* Ranges from 15 minutes to 3 hours.

*Estimated Total Annual Hour Burden:* 108,975 hours.

*Estimated Total Annual Non-Hour Dollar Cost:* $1,813,000.

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2015–22962 Filed 9–11–15; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[156A2100DD/AAKC001030/ A0A501010.999900 253G]**

### Renewal of Agency Information Collection for Class III Gaming; Tribal Revenue Allocation Plans; Gaming on Trust Lands

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Assistant Secretary—Indian Affairs is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for Class III Gaming Procedures authorized by OMB Control Number 1076–0149, Tribal Revenue Allocation Plans authorized by OMB Control Number 1076–0152, and Gaming on Trust Lands Acquired After October 17, 1988 authorized by OMB Control Number 1076–0158. These information collections expire January 31, 2016.

**DATES:** Submit comments on or before November 13, 2015.

**ADDRESSES:** You may submit comments on the information collection to Paula Hart, U.S. Department of the Interior, Office of Indian Gaming, 1849 C Street NW., Mail Stop 3657, Washington, DC 20240; email: *indiangaming@bia.gov.*

**FOR FURTHER INFORMATION CONTACT:** Paula Hart, (202) 219–4066.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The Assistant Secretary—Indian Affairs is seeking comments on the Class III Gaming Procedures, Tribal Revenue Allocation Plans, and Gaming on Trust Lands Acquired After October 17, 1988, as we prepare to renew these collections are required by the Paperwork Reduction Act of 1995. This information is necessary for the Office of Indian Gaming, to ensure that the applicable requirements for the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.,* are met with regard to Class III gaming procedures, tribal revenue allocation plans, and applications for gaming on trust lands acquired after October 17, 1988.

#### II. Request for Comments

The Assistant Secretary—Indian Affairs requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### III. Data

*OMB Control Number:* 1076–0149.

*Title:* Class III Gaming Procedures, 25 CFR 291.

*Brief Description of Collection:* The collection of information will ensure that the provisions of IGRA and other applicable requirements are met when federally recognized tribes submit Class III procedures for review and approval by the Secretary of the Interior. Sections 291.4, 291.10, 291.12 and 291.15 of 25 CFR part 291, Class III Gaming Procedures, specify the information collection requirement. An Indian tribe must ask the Secretary to issue Class III gaming procedures. The information to be collected includes: The name of the tribe, the name of the State, tribal documents, State documents, regulatory schemes, the proposed procedures, and other documents deemed necessary.

*Type of Review:* Extension without change of currently approved collection.

*Respondents:* Federally recognized Indian tribes.

*Number of Respondents:* 12.

*Estimated Time per Response:* 320 hours.

*Estimated Total Annual Hour Burden:* 3,840 hours.

*Estimated Total Annual Non-Hour Dollar Cost:* $0.

*OMB Control Number:* 1076–0152.

*Title:* Tribal Revenue Allocation Plans, 25 CFR 290.

*Brief Description of Collection:* An Indian tribe must ask the Secretary to approve a tribal revenue allocation plan. In order for Indian tribes to distribute net gaming revenues in the form of per capita payments, information is needed by the BIA to ensure that tribal revenue allocation plans include (1) Assurances that certain statutory requirements are met, (2) a breakdown of the specific uses to which net gaming revenues will be allocated, (3) eligibility requirements for participation, (4) tax liability notification, and (5) the assurance of the protection and preservation of the per capita share of minors and legal incompetents. Sections 290.12, 290.17, 290.24 and 290.26 of 25 CFR part 290, Tribal Revenue Allocation Plans, specify the information collection requirement. The information to be collected includes: the name of the tribe, tribal documents, the allocation plan, and other documents deemed necessary.

*Type of Review:* Extension without change of currently approved collection.

*Respondents:* Federally recognized Indian tribes.

*Number of Respondents:* 20.

*Estimated Time per Response:* 100 hours.

*Estimated Total Annual Hour Burden:* 2,000 hours.

*Estimated Total Annual Non-Hour Dollar Cost:* $0.

*OMB Control Number:* 1076–0158.

*Title:* Gaming on Trust Lands Acquired After October 17, 1988, 25 CFR 292.

*Brief Description of Collection:* The collection of information will ensure that the provisions of IGRA, Federal law, and the trust obligations of the United States are met when federally recognized tribes submit an application under 25 CFR part 292. The applications covered by this OMB Control No. are those seeking a Secretarial determination that a gaming establishment on land acquired in trust after October 17, 1988 would be in the

best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community.

*Type of Review:* Extension without change of currently approved collection.

*Respondents:* Federally recognized Indian tribes.

*Number of Respondents:* 2.

*Estimated Time per Response:* 1,000 hours.

*Frequency of Response:* Once.

*Estimated Total Annual Burden:* 2,000 hours.

*Estimated Total Annual Non-Hour Dollar Cost:* $0.

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2015–22960 Filed 9–11–15; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[156A2100DD/AAKC001030/ A0A501010.999900 253G]**

### Revision of Agency Information Collection for Indian Reservation Roads

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of submission to OMB.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is submitting to the Office of Management and Budget (OMB) a request for approval for the collection of information for Indian Reservation Roads (IRR). The information collection is currently authorized by OMB Control Number 1076–0161, which expires September 30, 2015.

**DATES:** Interested persons are invited to submit comments on or before October 14, 2015.

**ADDRESSES:** You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to: Mr. LeRoy Gishi, Chief, Division of Transportation, Bureau of Indian Affairs, 1849 C Street NW., MS–4513–MIB, Washington, DC 20240; facsimile: (202) 208–4696; email: *LeRoy.Gishi@bia.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. LeRoy Gishi, (202) 513–7711. You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The Bureau of Indian Affairs is currently in the process of revising the regulations governing the Indian Reservations Roads (IRR) program. The proposed rule was published in the **Federal Register** on December 19, 2014 (79 FR 76192), which will update the Indian Reservation Roads program to the Tribal Transportation Program. The request for approval for this information collection does not include the suggestions and feedback on the proposed regulations, but instead will allow current participants to submit information required under the current regulations, pending the finalization and effective date of any revisions. In addition, there is a reduction in burden hours due to the elimination of the IRR High Priority Projects program under 23 U.S.C. 202(b)(3)(ii). All other programs identified under 25 CFR part 170 are valid. For this reason, the BIA is requesting approval for the revision to the information collection conducted under 25 CFR part 170.

This collection allows federally recognized tribal governments to participate in the Indian Reservation Roads (IRR) program as defined in 25 U.S.C. 202. The information collection determines the allocation of the IRR program funds to Indian tribes as described in 25 U.S.C. 202(b).

#### II. Request for Comments

On June 10, 2015, BIA published a notice announcing the renewal of this information collection and provided a 60-day comment period in the **Federal Register** (80 FR 32976). There were no comments received in response to this notice.

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### III. Data

*OMB Control Number:* 1076–0161.

*Title:* Indian Reservation Roads, 25 CFR part 170.

*Brief Description of Collection:* Some of the information such as the road inventory updates (25 CFR 170.443), the development of a long range transportation plan (25 CFR 170.411 and 170.412), the development of a tribal transportation improvement program and priority list (25 CFR 170.420 and 170.421) are mandatory for consideration of projects and for program funding form the formula. Some of the information, such as public hearing requirements, is necessary for public notification and involvement (25 CFR 170.437 and 170.439). While other information, such as data appeals (25 CFR 170.231) and requests for design exceptions (25 CFR 170.456), are voluntary.

*Type of Review:* Revision of currently approved collection.

*Respondents:* Federally recognized Indian tribal governments who have transportation needs associated with the IRR Program as described in 25 CFR part 170.

*Number of Respondents:* 1,369.

*Frequency of Response:* Annually or on an as needed basis.

*Estimated Time per Response:* Reports require from 30 minutes to 40 hours to complete. An average would be 16 hours.

*Estimated Total Annual Hour Burden:* 18,028 hours.

*Estimated Total Annual Non-Hour Dollar Cost:* $0.

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2015–22992 Filed 9–11–15; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[156A2100DD/AAKC001030/A0A501010.999900 253G]**

### Renewal of Agency Information Collection for Student Transportation Form

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for Student Transportation Form. This information collection is currently authorized by OMB Control Number 1076–0134, which expires September 30, 2015.

**DATES:** Interested persons are invited to submit comments on or before October 14, 2015.

**ADDRESSES:** You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov*. Please send a copy of your comments to: Dr. Joe Herrin, Bureau of Indian Education, 1951 Constitution Avenue, MS–312–SIB, Washington, DC 20240; facsimile: (202) 208–3271; email: *Joe.Herrin@BIE.edu*.

**FOR FURTHER INFORMATION CONTACT:** Dr. Joe Herrin, phone: (202) 208–7658. You may review the information collection request online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by OMB.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The BIE is requesting renewal of OMB approval for the Student Transportation Form. The Student Transportation regulations in 25 CFR part 39, subpart G, contain the program eligibility and criteria that govern the allocation of transportation funds. Information collected from the schools will be used to determine the rate per mile. The information collection provides transportation mileage for Bureau-funded schools, which determines the allocation of transportation funds. This information is collected using a web-based system, Office of Indian Education Programs (OIEP) MultiWeb Intranet/WebET Intranet. Response is required to obtain a benefit.

#### II. Request for Comments

On June 10, 2015, the BIE published a notice announcing the renewal of this information collection and provided a 60-day comment period in the **Federal Register** (80 FR 32975). There were no comments received in response to this notice.

The BIE requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### III. Data

*OMB Control Number:* 1076–0134.

*Title:* Student Transportation Form, 25 CFR 39.

*Brief Description of Collection:* This annual collection provides pertinent data concerning the school's bus transportation mileage and related long distance travel mileage to determine funding levels for school transportation. This information is collected using the web-based system, OIEP MultiWeb Intranet/WebET Intranet and the Indian School Equalization Program (ISEP) Student Transportation form.

*Type of Review:* Extension without change of currently approved collection.

*Respondents:* Contract and Grant schools; Bureau-operated schools.

*Number of Respondents:* 183 per year, on average.

*Total Number of Responses:* 183 per year, on average.

*Frequency of Response:* Once per year.

*Estimated Time per Response:* 2 hours.

*Estimated Total Annual Hour Burden:* 366 hours.

*Estimated Total Annual Non-Hour Dollar Cost:* $0.

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2015–22961 Filed 9–11–15; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLWYD03000.L51100000.GN0000.LVEMK10CW580–WYW–184415]**

### Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Lost Creek Uranium In-Situ Recovery Project Amendments, Sweetwater County, WY

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Rawlins Field Office, Rawlins, Wyoming, intends to prepare an Environmental Impact Statement (EIS), and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

**DATES:** This notice initiates the public scoping process for the EIS. Comments on issues may be submitted in writing until 45 days after the date of publication in the **Federal Register**. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers and the BLM Web site at: *http://www.blm.gov/wy/st/en/info/NEPA/documents/rfo/lostcreek.html.* In order to be included in the Draft EIS, all comments must be received prior to the close of the 45-day scoping period or 15 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation upon publication of the Draft EIS.

**ADDRESSES:** You may submit comments related to the Lost Creek Uranium *In-Situ* Recovery Project Amendments by any of the following methods:

- *Web site: http://www.blm.gov/wy/st/en/info/NEPA/documents/rfo/lostcreek.html.*
- *Email: Lost_Crk_Mine_WY@blm.gov.*
- *Fax:* 307–328–4224.
- *Mail:* John Russell, Project Manager, BLM Rawlins Field Office, 1300 North Third Street, P.O. Box 2407, Rawlins, WY 82301–2407
- Documents pertinent to this proposal may be examined at the BLM Rawlins Field Office.

**FOR FURTHER INFORMATION CONTACT:** John Russell, Project Manager, telephone 307–328–4224; address Bureau of Land Management, Rawlins Field Office, 1300 N. Third Street, P.O. Box 2407, Rawlins, Wyoming 82301; email *Lost_Crk_Mine_WY@blm.gov.* Contact Mr. Russell to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The applicant, Lost Creek ISR, LLC, (LCI), a wholly owned subsidiary of Ur-Energy Inc., has requested to modify their Lost Creek Uranium *In-Situ* Recovery Project, 43 CFR 3809 Plan of Operations, approved October 5, 2012. The proposed plan amendments (Lost Creek East, KM Horizon, and secondary objectives received September 29, 2014) would expand uranium production by in-situ recovery methods and increase associated milling facilities, located in T. 25 N., R. 92 W.; and T. 25 N., R. 93 W., 6th P.M., Sweetwater County, Wyoming.

The Lost Creek East amendment would add approximately 5,750 acres to the existing Lost Creek Project area of approximately 4,254 acres for a new total project area of approximately 10,000 acres. LCI's proposed KM Horizon amendment would allow in-situ mining of uranium from the KM horizon, and increases the extent of mining in the existing HJ horizon within the existing project area, approved October 5, 2012. Development of the proposed amendments would result in approximately 650 acres of new surface disturbance including 5 new mine units, additional Class 1 deep disposal well pads, roads, pipelines, power lines, header houses, and mud pits. LCI also requested the BLM approve an increase of the overall production rate from 1.0 million pounds of uranium per year to 2.2 million pounds of uranium per year. This includes an increase of 0.2 million pounds of uranium per year from the facility well fields, plus an increase of 1 million pounds of uranium per year from the toll milling resin or slurry from other off-site facilities. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EIS. At present, the BLM has identified the following preliminary issues: (1) Potential impacts to range, water, recreation, wild horses, and wildlife resources (*e.g.,* Greater Sage-Grouse, Wyoming Pocket Gopher); (2) the need to identify opportunities to apply mitigation hierarchy strategies for on-site, regional, and compensatory mitigation efforts; and, (3) the need to apply landscape-level conservation and management actions that are appropriate to the size of the project in order to achieve resource objectives.

The BLM will use NEPA public participation requirements to assist the agency in satisfying the public involvement requirements under section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed plan amendments will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed plan amendments that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

The Nuclear Regulatory Commission and the State of Wyoming will be cooperating agencies for this project. Others are pending. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you 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.

**Authority:** 40 CFR 1501.7.

**Larry Claypool,**

*Acting, State Director.*

[FR Doc. 2015–23059 Filed 9–11–15; 8:45 am]

**BILLING CODE 4310–22–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[15XL.LLIDT01000.L10200000.DR0000. LXSSD0080000.241A 4500080108]**

### Notice of Availability of Record of Decision for the Jarbidge Resource Management Plan Final Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Approved Resource Management Plan (RMP) for the Jarbidge Field Office located in the Twin Falls District (Idaho and Nevada). The Idaho State Director signed the ROD on September 2, 2015, which constitutes the final decision of the BLM and makes the Approved RMP effective immediately.

**ADDRESSES:** Copies of the ROD/Approved RMP are available upon request from the Field Manager, Jarbidge Field Office, Bureau of Land Management, 2536 Kimberly Road, Twin Falls, Idaho 83301 and online at *http://www.blm.gov/id/st/en/prog/nepa_register/jarbidge-rmp-revision.html.* Copies of the ROD/Approved RMP are also available for public inspection at 2536 Kimberly Road, Twin Falls, Idaho 83301.

**FOR FURTHER INFORMATION CONTACT:** Elliot Traher, Jarbidge Field Manager, or Heidi Whitlach, Jarbidge RMP Project Manager, telephone 208–736–2350; address Jarbidge Field Office, 2536 Kimberly Road, Twin Falls, Idaho 83301; email *blm_id_jarbidgermp@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Approved RMP was developed with public participation through a collaborative planning process in accordance with the Federal Land Policy and Management Act of 1976, as amended, and the National Environmental Policy Act of 1969, as amended. The Approved RMP addresses the management of resources and resource uses on about 1,371,000 acres of public land surface; 1,497,000 acres of Federal mineral estate; and 1,463,000 acres of livestock grazing (including 1,371,000 acres of public land surface and an additional 92,000 acres on the US Air Force Saylor Creek Training Range) in Elmore, Owyhee, and Twin Falls Counties in Idaho and Elko County in Nevada. The Approved RMP describes the landscape-level conservation and management actions needed to meet desired resource conditions and regional mitigation objectives for vegetation, wild horses, livestock grazing, recreation, energy development, and Areas of Critical Environmental Concern (ACECs).

In the Draft RMP/Environmental Impact Statement (EIS), Alternative IV–B was selected as the BLM's Preferred Alternative. As a result of public comment, internal review, and cooperating agency coordination on the Draft RMP/EIS, Alternative IV–B was adjusted to become Alternative VI (Proposed RMP) and analyzed in the Proposed RMP/Final EIS. The Proposed RMP/Final EIS was published in the**Federal Register**on August 22, 2014 (79 FR 49774).

The BLM received 8 protest letters during the 30-day protest period. The BLM Director denied all protest issues as reported in the Director's Protest Resolution Report, which can be reviewed at the following Web site:http://www.blm.gov/wo/st/en/prog/planning/planning_overview/protest_resolution/protestreports.html.

While the Approved RMP contains some conservation management measures for greater sage-grouse habitat, final decisions on how to manage habitat within the Jarbidge Field Office will be made in the Records of Decision for the Idaho/Southwest (SW) Montana Greater Sage-Grouse Plan Amendment and the Nevada/Northeast (NE) California Greater Sage-Grouse Plan Amendment. The Idaho/SW Montana and Nevada/NE California Greater Sage-grouse Plan Amendment EISs will fully analyze applicable greater sage-grouse conservation measures, consistent with BLM Instruction Memorandum No. 2012–044. The BLM expects to make a comprehensive set of decisions for managing greater sage-grouse on lands administered by the Jarbidge Field Office in the Records of Decision for the Idaho/SW Montana and Nevada/NE California Greater Sage-Grouse Plan Amendments.

During the Governor's consistency review process, the Idaho Governor's Office identified discrepancies between the Jarbidge Proposed RMP and laws, plans, policies and programs of the State of Idaho. The discrepancies mostly concerned greater sage-grouse direction and conservation actions in the Proposed RMP and Governor C.L. ''Butch'' Otter's ''Alternative for Federal Lands for Greater Sage-grouse Management in Idaho'' and the Idaho Department of Lands Greater Sage-grouse Conservation Plan for State Endowment Lands. The issues raised by the State of Idaho were responded to by letter from the BLM Idaho State Director. The Governor's Office did not appeal the State Director's decision to the BLM Director. The Nevada Governor's Office did not submit a response to the BLM during the Governor's consistency review period.

**Authority:** 40 CFR 1506.6.

**Timothy M. Murphy,**

*BLM Idaho State Director.*

[FR Doc. 2015–23060 Filed 9–11–15; 8:45 am]

**BILLING CODE 4310–GG–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

**[MMAA 104000]**

### Notice of Availability of the Proposed Notice of Sale for Central Gulf of Mexico Planning Area Outer Continental Shelf Oil and Gas Lease Sale 241

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of availability of the proposed notice of sale for CPA sale 241.

**SUMMARY:** BOEM announces the availability of the Proposed Notice of Sale (NOS) for the proposed Central Gulf of Mexico Planning Area (CPA) Outer Continental Shelf (OCS) Oil and Gas Lease Sale 241 (CPA Sale 241). This Notice is published pursuant to 30 CFR 556.29(c) as a matter of information to the public. With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides affected States the opportunity to review the Proposed NOS. The Proposed NOS sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rental rates.

**DATES:** Affected States may comment on the size, timing, and location of proposed CPA Sale 241 within 60 days following their receipt of the Proposed NOS. The Final NOS will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening currently is scheduled for March 23, 2016.

**SUPPLEMENTARY INFORMATION:** The Proposed NOS for CPA Sale 241 and a Proposed NOS Package containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519. The Proposed NOS and Proposed NOS Package also are available on BOEM's Web site at *http://www.boem.gov/Sale-241/.*

*Agency Contact:* David Diamond, Chief, Leasing Division, *David.Diamond@boem.gov.*

Dated: September 3, 2015.

**Abigail Ross Hopper,**

*Director, Bureau of Ocean Energy Management.*

[FR Doc. 2015–23104 Filed 9–11–15; 8:45 am]

**BILLING CODE 4310– MR–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

**[MMAA 104000]**

### Notice of Availability of the Proposed Notice of Sale for Eastern Gulf of Mexico Planning Area Outer Continental Shelf Oil and Gas Lease Sale 226

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of availability of the proposed notice of sale for EPA sale 226.

**SUMMARY:** BOEM announces the availability of the Proposed Notice of Sale (NOS) for the proposed Eastern Gulf of Mexico Planning Area (EPA) Outer Continental Shelf (OCS) Oil and Gas Lease Sale 226 (EPA Sale 226). This Notice is published pursuant to 30 CFR 556.29(c) as a matter of information to the public. With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides affected States the opportunity to review the Proposed NOS. The Proposed NOS sets forth the proposed terms and conditions of the

sale, including minimum bids, royalty rates, and rental rates.

**DATES:** Affected States may comment on the size, timing, and location of proposed EPA Sale 226 within 60 days following their receipt of the Proposed NOS. The Final NOS will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for March 23, 2016.

**SUPPLEMENTARY INFORMATION:** The Proposed NOS for EPA Sale 226 and a Proposed NOS Package containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519. The Proposed NOS and Proposed NOS Package also are available on BOEM's Web site at *http://www.boem.gov/Sale-226/.*

*Agency Contact:* David Diamond, Chief, Leasing Division, *david.diamond@boem.gov.*

Dated: September 3, 2015.

**Abigail Ross Hopper,**

*Director, Bureau of Ocean Energy Management.*

[FR Doc. 2015–23105 Filed 9–11–15; 8:45 am]

**BILLING CODE 4310–MR–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: (15–075)]**

### Notice of Information Collection

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

**DATES:** All comments should be submitted within 30 calendar days from the date of this publication.

**ADDRESSES:** Interested persons are invited to submit written comments regarding the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 7th Street NW., Washington, DC 20543. Attention: Desk Officer for NASA.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Fran Teel, NASA PRA Officer, NASA Headquarters, 300 E Street SW., Mail Code JF000, Washington, DC 20546, (202) 358–2225 or *frances.c.teel@nasa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The National Aeronautics and Space Administration (NASA) Office of Diversity and Equal Opportunity, in accordance with title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and 42 U.S.C. 2000e–16; 29 CFR 1614.106 and 1614.108, is authorized to collect information on issues and allegations of a complaint of discrimination based on race, color, sex (including sexual harassment, religion, national origin, disability (physical or mental), reprisal, sexual orientation, gender identity, status as a parent or genetic information. This requirement for assurance of non-discrimination is long-standing and derives from civil rights implementing regulations. This information collection includes complaint investigations.

#### II. Method of Collection

Electronic Form.

#### III. Data

*Title:* NASA Complaint of Discrimination Form.

*OMB Number:* 2700–XXXX.

*Type of review:* Existing collection in use without an OMB control number.

*Affected Public:* Individuals.

*Estimated Number of Respondents:* 85.

*Estimated Annual Responses:* 80 per year.

*Estimated Time per Response:* 30 minutes.

*Estimated Total Annual Burden Hours:* 60 hours.

*Estimated Total Annual Cost:* $500.00.

#### IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

**Frances Teel,**

*NASA PRA Clearance Officer.*

[FR Doc. 2015–23000 Filed 9–11–15; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL SCIENCE FOUNDATION

### Management Fee Policy

**AGENCY:** National Science Foundation.

**ACTION:** Notice.

**SUMMARY:** On December 30, 2014, the National Science Foundation (NSF) published at 79 FR 78497 a notice and request for comments on NSF's revised policy on management fee. The payment of a small but appropriate management fee has been a long standing practice at NSF in limited circumstances related to the construction and operation of major facility projects. NSF has strengthened both the criteria used to establish such fees and the controls that may be necessary to ensure that uses of fees are consistent with those established criteria. These efforts resulted in the revised policy that was sent for public comment. On June 16, 2015, NSF received OMB approval under the Paperwork Reduction Act for the Large Facilities Manual (3145–0239) which included NSF's final policy on management fee under Section 4.2.2.2.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Plimpton on (703) 292–7556 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

**SUPPLEMENTARY INFORMATION:** The following final Management Fee Policy can be found in NSF's Large Facilities Manual:

#### 4.2.2.2 Management Fee

Management fee is an amount of money paid to a recipient in excess of a cooperative agreement's or cooperative support agreement's allowable costs. Generally, NSF does not permit the payment of fee (profit) to organizations under financial assistance. However, a management fee may be authorized for awards in the limited circumstances of construction or operations of a large facility as the responsible organization is likely to incur certain legitimate business expenses that may not be reimbursable under the governing cost principles. NSF provides for a

management fee in these limited circumstances, as appropriate, recognizing that the awardee would only incur such expenses as a result of its support of the NSF-funded activity.

Prior Approval of Management Fees—A management fee proposal must be submitted to NSF that provides sufficient visibility into each expense category to identify its intended purpose. Agreement on management fee amounts shall be completed and a specific dollar amount established prior to the initiation of work under an award, or any subsequent period not authorized as part of the initial award. Any amount negotiated shall be expressly set forth in the terms and conditions of the award. Awardees may draw down the management fee in proportion to the amount incurred during the performance period. Fee established for a period longer than one year shall be subject to adjustment in the event of a significant change to the budget or work scope.

The following expense categories will be used in the negotiation and award of a management fee:

- Working capital necessary to fund operations under an award—An amount for working capital may be necessary to ensure a level of retained earnings available to the organization in order to secure credit and borrowing to assure the financial health of the organization.
- Facilities capital necessary to acquire assets for performance—An amount for facilities capital may be necessary to allow the organization to acquire major assets and to address expenses that require immediate substantive financial outlays but that are only reimbursed through depreciation or amortization over a period of years.
- Other ordinary and necessary expenses for business operations that are not otherwise reimbursable under the governing cost principles—An amount for other expenses that are ordinary and necessary but not otherwise reimbursable may be necessary to provide a reasonable allowance for management initiative and investments that will directly or indirectly benefit the NSF-funded activity. Inclusion of amounts under this category warrants careful consideration of the benefits that may be obtained when providing management fee. Examples of potential appropriate needs include expenses related to contract terminations and losses, certain appropriate educational and public outreach activities, and financial incentives to obtain and retain high caliber staff.
- Prohibited Use of Management Fees—Although not an exhaustive list, the following are examples of expenses that are not appropriate uses of a management fee:

○ Alcoholic beverages
○ Tickets to concerts, sporting and other events
○ Vacation or other travel for non-business purposes
○ Social or sporting club memberships
○ Meals or social activities for non-business purposes
○ Meals or social activities for business purposes that are so extravagant as to constitute entertainment
○ Luxury or personal items
○ Lobbying as set forth at 2 CFR 200.450 and FAR 31.205–22, as appropriate to the recipient type

In addition, costs incurred under the award that are otherwise allowable under the governing cost principles must be classified as direct or indirect charges to the award and shall not be included as proposed management fee elements.

Documentation Requirements on Use of Management Fees—Even though the management fee represents an amount in excess of allowable cost and is therefore not subject to the governing cost principles, NSF, as a matter of policy, has determined that review of appropriate use of such funds is necessary. Information available on actual uses of management fee previously awarded by NSF in the preceding five-year period under any award shall be included in the proposing organization's fee proposal. As a term and condition of the award, the awardee will be required to provide information (typically annually) on the actual use(s) of the management fee. NSF will conduct reviews of this information regarding the extent to which the awardee fee proposals have proven reliable when compared with actual uses of management fee (both as to the fee amount as well as the planned uses of the fee). Unexplained failure to reasonably adhere to planned uses of fee will result in reduction of future management fee amounts under the award.

Dated: September 9, 2015.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2015–23015 Filed 9–11–15; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–336 and EA–13–188; NRC–2015–0217]**

### In the Matter of Dominion Nuclear Connecticut, Inc. (Millstone Power Station Unit 2)

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Confirmatory order; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) and the Dominion Nuclear Connecticut, Inc. (DNC) engaged in mediation as part of the NRC's Alternative Dispute Resolution Program which resulted in a settlement agreement as reflected in the confirmatory order relating to Millstone Unit 2.

**DATES:** *Effective Date:* August 26, 2015.

**ADDRESSES:** Please refer to Docket ID NRC–2015–0217 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0217. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For questions about this Order, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Richard Guzman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1030, email: *Richard.Guzman@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** The text of the Order is attached.

Dated at Rockville, Maryland, this 3rd day of September 2015.

For the Nuclear Regulatory Commission.

**Dave J. Vito,**

*Acting Chief, Concerns Resolution Branch, Office of Enforcement.*

**UNITED STATES OF AMERICA**

**NUCLEAR REGULATORY COMMISSION**

In the Matter of Dominion Nuclear Connecticut, Inc. (Millstone Power Station Unit 2)

Docket No. 50–336
License No. DPR–65
EA–13–188

**CONFIRMATORY ORDER MODIFYING LICENSE**

**(EFFECTIVE IMMEDIATELY)**

**I.**

Dominion Nuclear Connecticut, Inc. (DNC or Licensee) is the holder of Facility Operating License No. DPR–65 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) part 50 on September 26, 1975. The license authorizes the operation of Millstone Power Station (Millstone) Unit 2 in accordance with conditions specified therein. Millstone Power Station Unit 2 is located in the vicinity of Waterford, Connecticut.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation process which included one meeting on July 14, 2015, and two follow up teleconferences on July 16, 2015 and July 24, 2015.

**II.**

On May 23, 2013, the NRC's Office of Investigations (OI) completed an investigation to determine if DNC staff at Millstone deliberately violated NRC requirements in section 50.59 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Changes, Tests, and Experiments,'' when implementing changes to documents related to the Millstone Unit 2 chemical and volume control system (CVCS) charging pumps and spent fuel decay time limits. The investigation also evaluated whether DNC staff deliberately submitted inaccurate and incomplete information to the NRC pertaining to these changes.

Based on the evidence developed during this investigation, the NRC concluded that three apparent violations occurred, two of which were considered for escalated enforcement action. The first apparent violation (AV) involved changes made by DNC to Section 14.6.1 of the Millstone Unit 2 Updated Final Safety Analysis Report (UFSAR) that removed credit for the CVCS charging pump flow in the mitigation of the design basis accident involving the inadvertent opening of pressurizer power operated relief valves (PORVs), without obtaining prior NRC approval. The NRC found that willfulness was associated with this apparent violation. DNC does not agree that willfulness was associated with this apparent violation.

The second AV involved the failure by DNC to provide complete and accurate information to the NRC in reports and other documents pertaining to the aforementioned UFSAR change, including a failure to notify the Commission of information having significant implications for public health and safety. Willfulness was not associated with this apparent violation.

The third AV involved changes made by DNC to Chapter 9 of the Millstone Unit 2 UFSAR and Section 3/4.9.3 of the Technical Specification Bases that decreased the required amount of irradiated fuel decay time from 150 to 100 hours prior to fuel movement in the reactor vessel, without obtaining prior NRC approval. Willfulness was not associated with this apparent violation.

In a letter dated April 29, 2015, the NRC provided DNC the results of the investigation, informed DNC that escalated enforcement action was being considered for two of the three apparent violations, and offered DNC the opportunity to attend a predecisional enforcement conference or to participate in ADR in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC and DNC. The neutral mediator would assist the NRC and DNC in reaching an agreement, if possible. DNC chose to participate in ADR. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

**III.**

In response to the NRC's offer, DNC requested use of the NRC ADR process to resolve differences it had with the NRC. During that ADR process, a preliminary settlement agreement was reached the terms of which are set forth in Section IV below.

Based on those commitments, the NRC agreed not to take further enforcement action on the three apparent violations identified in the NRC April 29, 2015, letter.

On August 20, 2015, DNC consented to issuing this Confirmatory Order with the commitments, as described in Section IV below. DNC further agreed that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing.

I find that the DNC's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the plant's safety is reasonably assured. In view of the foregoing, I have determined that public health and safety require that DNC's commitments be confirmed by this Confirmatory Order. Based on the above and DNC's consent, this Confirmatory Order is effective upon issuance. By no later than thirty (30) days after the completion of the commitments in Section IV, DNC is required to notify the NRC in writing and summarize its actions.

**IV.**

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 50, IT IS HEREBY ORDERED THAT LICENSE NO. DPR–65 IS MODIFIED AS FOLLOWS:

*Compliance.*

1. Within sixty (60) calendar days of the date of this Confirmatory Order, DNC will:

a. Revise, as necessary, Standing Order 14–016 dated May 11, 2014, to incorporate applicable Millstone Unit 2 Technical Specifications (TSs); limiting conditions of operations (LCOs); actions; and surveillances that reflect the safety analysis of the inadvertent opening of the PORVs prior to implementation of Amendment No. 283. This revision of the standing order will be made available for NRC review prior to implementation.

b. Complete an operability evaluation for the use of charging pumps in accordance with Standing Order 14–016, as revised by paragraph 1.a., associated with the inadvertent opening of PORVs and make the operability evaluation available to NRC for review; and

c. Evaluate the effect of three pump charging pump operation (*i.e.,* three charging pumps auto start and provide flow) with the current plant configuration. If the evaluation concludes no adverse effect, revised Standing Order 14–016 will be changed to require that three charging pumps auto start and provide flow. This evaluation will be made available for NRC review.

2. By no later than February 15, 2016, DNC will submit a license amendment request to the NRC addressing the use of charging pumps in the analysis of the inadvertent opening of PORVs. If DNC

does not submit a license amendment request by February 15, 2016, the Millstone Unit 2 design and licensing basis for the operation of charging pumps to mitigate the inadvertent opening of PORVs that was in place prior to Amendment No. 283 (dated September 9, 2004) will be reinstated by this Confirmatory Order, and DNC will take all actions necessary to conform Millstone Unit 2 to the reinstated design and licensing basis.

3. DNC's Standing Order 14–016 (Rev. 0, dated May 11, 2014), as revised in accordance with paragraph 1 above, will remain in place until the NRC makes a final determination on the license amendment request submitted under paragraph 2 above.

4. If the NRC denies the license amendment request submitted under paragraph 2 above, or the licensee withdraws the license amendment request, the Millstone Unit 2 design and licensing basis for the operation of charging pumps to mitigate the inadvertent opening of PORVs that was in place prior to implementation of Amendment No. 283 (dated September 9, 2004) will be reinstated by this Confirmatory Order, and DNC will take all actions necessary to conform Millstone Unit 2 to the reinstated design and licensing basis.

5. By no later than February 15, 2016, DNC will submit a license amendment request seeking NRC approval of the spent fuel pool heat load analysis and any associated technical specification changes. This will be treated as a high priority review by the NRC.

6. DNC's Standing Order 14–021 (Rev. 0 dated July 9, 2014) will remain in place until the NRC makes a final determination on the license amendment request submitted under paragraph 5 above.

7. If the NRC denies the license amendment request submitted under paragraph 5 above, or the licensee withdraws the license amendment request, TS 3/4.9.3.1 in the Millstone Unit 2 license will be revised by this Confirmatory Order to require 150 hours of decay time before moving irradiated fuel from the reactor to the spent fuel pool, and changes made by Licensing Basis Document Change Request 10–MP2–007 (dated June 22, 2010) to Chapter 9 of the Millstone Unit 2 UFSAR and to the TS Bases will be replaced by the prior content of those documents. DNC will take all actions necessary to conform Millstone Unit 2 to the requirements of the revised TS and UFSAR.

*Assessment.*

8. By no later than June 30, 2016, DNC will complete a self-assessment of its 10 CFR 50.59 program and procedures (including applicability, screening and evaluations) including a review of procedures, implementation, initial training, continuing training, and safety review committee activities. A majority of the self-assessment team will be comprised of a combination of non-Dominion industry experts and peers. The assessment will also address the Millstone Nuclear Oversight organization's responsibilities and the effectiveness of the execution of those responsibilities regarding the 10 CFR 50.59 program.

a. DNC shall make available to the NRC, upon request, the results of the assessment and any corrective actions DNC will take to address the results.

b. DNC will complete corrective actions resulting from findings of the assessment consistent with the requirements of the Millstone Corrective Action Program.

9. DNC has conducted two apparent cause evaluations to address the issues included in this Confirmatory Order.

a. The results of these evaluations will be made available to the NRC for review.

10. By no later than March 1, 2016, DNC will complete a common cause evaluation of 10 CFR 50.59 issues that have been identified after July 1, 2012, with emphasis on any underlying culture-related issues that specifically may exist in the Millstone Power Station Engineering and Licensing groups and the Facility Safety Review Committee. The team will include a member trained in cultural issues. Interviews of a sample of the staff members from the above groups will be included in the evaluation. In regard to this evaluation, DNC shall:

a. Make the results of the evaluation available to the NRC.

b. Communicate to Millstone Power Station employees the results of the evaluation within three (3) months of receiving the evaluation results.

c. Review the results of the common cause evaluation and initiate corrective actions as appropriate within 30 days of receiving evaluation results.

*Extent of Condition.*

11. By no later than June 30, 2016, DNC will complete a formal sampling program, using MIL Standard 105 or similar, of products (applicability determinations, screenings, and evaluations) completed using the DNC 10 CFR 50.59 programs and procedures.

a. The reviewers conducting the sampling program will be third party independent reviewers.

b. Applicability determinations, screenings, and evaluations will be sampled as separate populations.

c. For each population, the sampling time period will begin in 2002 and end as of the date of this Confirmatory Order.

d. DNC will enter any identified deficiencies into DNC's corrective action program.

e. Pursuant to Section 3.3 of the NRC Enforcement Policy, the NRC will consider exercising enforcement discretion to refrain from issuing a Notice of Violation or civil penalty for any non-willful Severity Level II, III, or IV violation identified as part of the sampling program described above, if the violation meets all of the following criteria:

(1) the violation has the same or similar cause as the apparent violations of 10 CFR 50.59 that are the subject of this Confirmatory Order;

(2) the violation is a newly-found violation that occurred prior to issuance of this Confirmatory Order;

(3) the violation does not substantially change the safety significance or the character of the regulatory concerns arising out of the apparent violations that underlie this Confirmatory Order; and

(4) the violation is corrected, by both immediate corrective action(s) and long-term comprehensive corrective action(s), within a reasonable time following identification.

f. The NRC will also consider discretion for any DNC-identified performance deficiencies that meet the criteria listed in paragraph 11.e and are categorized as a Green or White finding under the NRC's Reactor Oversight Program.

*Communication.*

12. By no later than thirty (30) calendar days after the issuance of this Confirmatory Order, DNC's Chief Nuclear Officer will issue a fleet-wide communication (written or recorded) to reinforce the importance of providing complete and accurate information to the NRC, including requirements for updating out-of-date information, and the potential consequences of a failure to comply with these requirements. The communication, whether written or recorded, and any associated materials or references, will be made available to the NRC.

13. By no later than December 31, 2016, DNC will provide a presentation at an industry forum to discuss the events that led to this Confirmatory Order, the lessons learned, and actions taken. The presentation and any associated material will be made available to the NRC.

*Training.*

14. DNC will review its plant access training and revise it as necessary to

ensure that it includes training on compliance with NRC requirements, including, but not limited to, 10 CFR 50.5 and 50.9. Any revisions will be made available to the NRC.

15. Notwithstanding that NRC and DNC disagree about whether a willful violation occurred, DNC will develop and provide focused training to Dominion corporate Engineering and Licensing personnel who perform work for Millstone and to DNC Engineering and Licensing personnel, to ensure awareness of the importance of complying with regulatory requirements, and the potential consequences of a failure to comply, including what constitutes a willful violation of NRC requirements. DNC will provide this training by April 1, 2016, and will repeat it 12 months after the initial training session. The training and any associated training materials will be made available to the NRC.

16. DNC will develop and provide focused training to Dominion corporate Engineering and Licensing personnel performing work for Millstone and to DNC Engineering and Licensing personnel, covering the requirements of 10 CFR 50.9, emphasizing the importance of providing complete and accurate information to the NRC and of informing the NRC promptly upon discovery of inaccurate information or omissions associated with pending NRC licensing actions or other information submitted to the NRC. DNC will provide this training by April 1, 2016. The training and any associated training materials will be made available to the NRC.

*Other Considerations.*

17. The NRC agrees not to pursue any further enforcement action relating to the notice of apparent violations (Case no. EA–13–188, Inspection Report 05000336/2015201, Office of Investigations Report No. 1–2012–008), dated April 29, 2015.

18. This Confirmatory Order will not be considered an escalated enforcement action by the NRC for future assessment of violations occurring at Millstone Power Station Unit 2.

19. In the event of the transfer of the operating license of Millstone Power Station Unit 2 to another entity, the commitments hereunder shall survive any transfer of ownership and will be binding on the new licensee.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

**V.**

Any person adversely affected by this Confirmatory Order, other than DNC, may request a hearing within 30 days of issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. Further information on the Web-based submission form is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Electronic Filing Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than DNC) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date of issuance without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland, this 26th day of August 2015.

For the Nuclear Regulatory Commission.

Scott A. Morris,

*Director, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation*

[FR Doc. 2015–22951 Filed 9–11–15; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0001]**

### Sunshine Act Meeting Notice

**DATE:** September 14, 21, 28, October 5, 12, 19, 2015.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of September 14, 2015**

There are no meetings scheduled for the week of September 14, 2015.

**Week of September 21, 2015—Tentative**

*Tuesday, September 22, 2015*

9:30 a.m. Discussion of Management and Personnel Issues (Closed—Ex. 2 & 6).

*Thursday, September 24, 2015*

9:30 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting); (Contact: Donna Williams: 301–415–1322).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of September 28, 2015—Tentative**

*Monday, September 28, 2015*

1:30 p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852.

*Thursday, October 1, 2015*

9:00 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Spent Fuel Storage and Transportation Business Lines (Public Meeting); (Contact: Damaris Marcano: 301–415–7328).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of October 5, 2015—Tentative**

There are no meetings scheduled for the week of October 5, 2015.

**Week of October 12, 2015—Tentative**

There are no meetings scheduled for the week of October 12, 2015.

**Week of October 19, 2015—Tentative**

*Monday, October 19, 2015*

9:30 a.m. Briefing on Security Issues (Closed—Ex. 1).

*Wednesday, October 21, 2015*

9:00 a.m. Joint Meeting of the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission (Public Meeting); (Contact: Tania Martinez-Navedo: 301–415–6561).

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at 301–415–0442 or via email at *Glenn.Ellmers@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: September 10, 2015.

**Glenn Ellmers,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2015–23173 Filed 9–10–15; 4:15 pm]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–442, OMB Control No. 3235–0498]**

## 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 17a–12/Form X–17A–5 Part IIB.

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 existing collection of information provided for in Rule 17a–12 (17 CFR 240.17a–12) and Part IIB of Form X–17A–5 (17 CFR 249.617) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17a–12 is the reporting rule tailored specifically for over-the-counter (''OTC'') derivatives dealers registered with the Commission, and Part IIB of Form X–17A–5, the Financial and Operational Combined Uniform Single (''FOCUS'') Report, is the basic document for reporting the financial and operational condition of OTC derivatives dealers. Rule 17a–12 requires registered OTC derivatives dealers to file Part IIB of the FOCUS Report quarterly. Rule 17a–12 also requires that OTC derivatives dealers file audited financial statements annually.

There are currently four registered OTC derivatives dealers. The staff expects that one additional firm will register as an OTC derivatives dealer within the next three years. The staff estimates that the average amount of time necessary to prepare and file the quarterly reports required by the rule is eighty hours per OTC derivatives dealer [1] and that the average amount of time to prepare and file the annual audit report is 100 hours per OTC derivatives dealer per year, for a total reporting burden of 180 hours per OTC derivatives dealer annually. Thus the staff estimates that the total industry-wide reporting burden to comply with the requirements of Rule 17a–12 is 900 hours per year ($180 \times 5$). Further, the Commission estimates that the total internal compliance cost associated with this requirement is approximately $255,000 per year.[2] The average annual reporting cost per broker-dealer for an independent public accountant to examine the financial statements is approximately $46,300 per broker-dealer. Thus, the total industry-wide annual reporting cost is approximately $231,500 ($46,300 × 5).

Written comments are invited on: (a) 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; (b) the accuracy of the Commission'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. 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_Mailbox@sec.gov.*

[1] Based upon an average of 4 responses per year and an average of 20 hours spent preparing each response.

[2] Based on staff experience, an OTC derivatives dealer likely would have a Compliance Manager gather the necessary information and prepare and file the quarterly reports and annual audit report and supporting schedules. According to the Securities Industry and Financial Markets Association Report on Management and Professional Earnings in the Securities Industry dated October 2013, which provides base salary and bonus information for middle-management and professional positions within the securities industry, the hourly cost of a compliance manager, which the Commission staff has modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, is approximately $283/hour. $283/hour times 900 hours = $254,700, rounded to $255,000.

Dated: September 8, 2015.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–22976 Filed 9–11–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–75856; File No. SR–MIAX–2015–53]**

## Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

September 8, 2015.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 28, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its Fee Schedule to increase the transaction fee rebate for Priority Customer [3] orders submitted by Members that meet certain percentage thresholds of national customer volume in multiply-listed option classes listed on MIAX in the Priority Customer Rebate Program (the ''Program'').[4]

Priority Customer Rebate Program

Currently, the Exchange credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member that is executed electronically on the Exchange in all multiply-listed option classes (excluding Qualified Contingent Cross Orders,[5] mini-options,[6] Priority Customer-to-Priority Customer Orders, PRIME Auction Or Cancel Responses, PRIME Contra-side Orders, PRIME Orders for which both the Agency and Contra-side Order are Priority Customers,[7] and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400), provided the Member meets certain tiered percentage thresholds in a month as described in the Priority Customer Rebate Program table.[8] For each Priority Customer order transmitted by that Member and executed electronically on the Exchange, MIAX will continue to credit each member at the per contract rate for option classes that are not in MIAX Select Symbols (as defined below). For each Priority Customer order transmitted by that Member and executed electronically on the Exchange in MIAX Select Symbols (as defined below), MIAX will continue to credit each Member at the separate per contract rate for MIAX Select Symbols.[9] For each Priority Customer order submitted into the PRIME Auction as a PRIME Agency Order, MIAX will continue to credit each member at the separate per contract rate for PRIME Agency Orders.[10] The volume thresholds are calculated based on the customer volume over the course of the month. Volume will be recorded for and credits will be delivered to the Member Firm that submits the order to the Exchange.

The amount of the rebate is calculated beginning with the first executed contract at the applicable threshold per contract credit with rebate payments made at the highest achieved volume tier for each contract traded in that month. For example, under the current Program, a Member that executes a number of Priority Customer contracts above 1.75% of the national customer volume in multiply-listed options during a particular calendar month currently receives a credit of $0.17 for each Priority Customer contract (other than Select Symbols) executed during that month, even though there are lower incremental percentages for lower volume tiers leading up to the 1.75% volume threshold. In addition, all contracts (other than Select Symbols) traded in a particular month in excess of 1.75% of the national volume receive a supplemental rebate of $0.03 per contract.

The current Priority Customer Rebate Program table designates the following monthly volume tiers and corresponding per contract credits:

| Percentage thresholds of national customer volume in multiply-listed options classes listed on MIAX (monthly) | Per contract credit (non-select symbols) | Per contract credit in MIAX select symbols | Per contract credit for PRIME agency order |
|---|---|---|---|
| Tier 1—0.00%–0.50% | $0.00 | $0.00 | $0.10 |
| Tier 2—Above 0.50%–1.00% | 0.10 | 0.10 | 0.10 |
| Tier 3—Above 1.00%–1.75%–1.75% [sic] | 0.15 | 0.20 | 0.10 |
| Tier 4—Above 1.75% | 0.17 | 0.20 | 0.10 |

The $0.17 per contract credit described in Tier 4 is applied to each contract traded in non-Select Symbols in that month, beginning with the first contract executed in a particular month if the Tier 4 volume threshold is achieved. In addition to the $0.17 rebate, a supplemental rebate of $0.03 per contract is applied to contracts executed in excess of 1.75% of the monthly national volume in non-Select Symbols.

Proposal

The Exchange proposes to increase the per contract credit for transactions in non-Select Symbols for Tier 4. As stated above, all contracts (other than Select Symbols) traded in a particular month when the Tier 4 volume threshold of 1.75% of the national monthly customer volume is exceeded receive a credit of $0.17 per contract for qualifying Priority Customer transactions on MIAX. The Exchange

[3] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). *See* Exchange Rule 100.

[4] *See* Securities Exchange Act Release Nos. 75631 (August 5 [sic], 2015), 80 FR 48382 (August 6 [sic], 2015) (SR–MIAX–2015–51); 74758 (April 17, 2015), 80 FR 22756 (April 23, 2015) (SR–MIAX–2015–27); 74007 (January 9 [sic], 2015), 80 FR 1537 (January 12, 2015) (SR–MIAX–2014–69); 72799 (August 8, 2014), 79 FR 47698 (August 14, 2014) (SR–MIAX–2014–40); 72355 (June 10, 2014), 79 FR 34368 (June 16, 2014) (SR–MIAX–2014–25); 71698 (March 12, 2014), 79 FR 15185 (March 18, 2014) (SR–MIAX–2014–12); 71283 (January 10, 2014), 79 FR 2914 (January 16, 2014) (SR–MIAX–2013–63); 71009 (December 6, 2013), 78 FR 75629 (December 12, 2013) (SR–MIAX–2013–56).

[5] A Qualified Contingent Cross Order is comprised of an originating order to buy or sell at least 1,000 contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade, as that term is defined in Interpretations and Policies .01 below, coupled with a contra-side order or orders totaling an equal number of contracts. A Qualified Contingent Cross Order is not valid during the opening rotation process described in Rule 503. *See* Exchange Rule 516(j).

[6] A mini-option is a series of option contracts with a 10 share deliverable on a stock, Exchange Traded Fund share, Trust Issued Receipt, or other Equity Index-Linked Security. *See* Exchange Rule 404, Interpretations and Policies .08.

[7] The MIAX Price Improvement Mechanism (''PRIME'') is a process by which a Member may electronically submit for execution (''Auction'') an order it represents as agent (''Agency Order'') against principal interest, and/or an Agency Order against solicited interest. For a complete description of PRIME and of PRIME order types and responses, *see* Exchange Rule 515A.

[8] *See* Fee Schedule Section (1)(a)(iii).

[9] *See* Securities Exchange [sic] Release Nos. 75631 (August 5 [sic], 2015), 80 FR 48382 (August 6 [sic], 2015) (SR–MIAX–2015–51); 74291 (February 18, 2015), 80 FR 9841 (February 24, 2015) (SR–MIAX–2015–09); 74288 (February 18, 2015), 80 FR 9837 (February 24, 2015) (SR–MIAX–2015–08); 71700 (March 12, 2014), 79 FR 15188 (March 18, 2014) (SR–MIAX–2014–13); 72356 (June 10, 2014), 79 FR 34384 (June 16, 2014) (SR–MIAX–2014–26); 72567 (July 8, 2014), 79 FR 40818 (July 14, 2014) (SR–MIAX–2014–34); 73328 (October 9, 2014), 79 FR 62230 (October 16, 2014) (SR–MIAX–2014–50).

[10] *See* Securities Exchange [sic] Release No. 72943 (August 28, 2014), 79 FR 52785 (September 4, 2014) (SR–MIAX–2014–45).

proposes to increase this per contract credit for Priority Customer transactions in non-Select Symbols in Tier 4 to $0.21. Contracts executed in non-Select Symbols in excess of 1.75% of national monthly customer volume currently receive a supplemental rebate of $0.03 per contract. The Exchange proposes to eliminate this additional $0.03 rebate per contract.

The Exchange also proposes to increase the per contract credit for transactions in MIAX Select Symbols for tiers 3 and 4. Currently, the Exchange credits $0.20 per contract for qualifying Priority Customer transactions in MIAX Select Symbols in tiers 3 and 4. The Exchange proposes to increase the per contract credit for transactions in MIAX Select Symbols to $0.21 for the tier 3 and 4 volume thresholds.

Specifically, the new per contract credits will be as set forth in the following table:

| Percentage thresholds of national customer volume in multiply-listed options classes listed on MIAX (monthly) | Per contract credit (non-select symbols) | Per contract credit in MIAX select symbols | Per contract credit for PRIME agency order |
|---|---|---|---|
| Tier 1—0.00%–0.50% | $0.00 | $0.00 | $0.10 |
| Tier 2—Above 0.50%–1.00% | 0.10 | 0.10 | 0.10 |
| Tier 3—Above 1.00%–1.75% | 0.15 | 0.21 | 0.10 |
| Tier 4—Above 1.75% | 0.21 | 0.21 | 0.10 |

The Exchange believes that the proposed new monthly credits should provide incentives for Members to direct greater Priority Customer trade volume to the Exchange.

MIAX Select Symbols

The proposed new monthly per contract credits will apply to MIAX Select Symbols,[11] with the per contract credit increasing for certain monthly volume thresholds. The monthly per contract rebate will increase to $0.21 for all contracts executed in Select Symbols in tiers 3 and 4.

MIAX Non-Select Symbols

Proposed new monthly per contract credits will apply to non-Select Symbols with the per contract credit increasing for certain monthly volume thresholds. The monthly per contract credit will increase to $0.21 for all contracts executed in non-Select Symbols in tier 4. The Exchange also proposes to eliminate the current additional rebate of $0.03 per contract for non-Select Symbol contracts executed in excess of the Tier 4 monthly volume of 1.75% of the national customer volume. Under the proposal, all contracts (other than Select Symbols) traded in a particular month when the Tier 4 volume threshold of 1.75% of the national monthly customer volume is exceeded will receive a credit of $0.21, and contracts executed in non-Select Symbols in excess of 1.75% of national monthly customer volume will no longer receive a supplemental rebate of $0.03 per contract. The Exchange believes that this new, increased rebate which is calculated beginning with the first executed contract at the applicable threshold per contract credit with rebate payments made at $0.21 for each contract trade or [sic] that month obviates the need for the supplemental rebate.

All other aspects of the Program will remain unchanged. The Exchange is not proposing any change to the per contract credit for PRIME Agency Orders. Consistent with the current Fee Schedule, the Exchange will continue to aggregate the contracts resulting from Priority Customer orders transmitted and executed electronically on the Exchange from affiliated Members for purposes of the thresholds above, provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A. In the event of a MIAX System outage or other interruption of electronic trading on MIAX, the Exchange will adjust the national customer volume in multiply-listed options for the duration of the outage. A Member may request to receive its credit under the Priority Customer Rebate Program as a separate direct payment.

The purpose of the proposed rule change is to encourage Members to direct greater Priority Customer trade volume to the Exchange and to compete with other options exchanges that have a similar rebate.[12] The Exchange believes that increased Priority Customer volume will attract more liquidity to the Exchange, which benefits all market participants. Increased retail customer order flow should attract professional liquidity providers (Market Makers), which in turn should make the MIAX marketplace an attractive venue where Market Makers will submit narrow quotations with greater size, deepening and enhancing the quality of the MIAX marketplace. This should provide more trading opportunities and tighter spreads for other market participants and result in a corresponding increase in order flow from such other market participants.

The specific volume thresholds of the Program's tiers are set based upon business determinations and an analysis of current volume levels. The volume thresholds are intended to incentivize firms to increase the number of Priority Customer orders they send to the Exchange so that they can achieve the next threshold, and to encourage new participants to send Priority Customer orders as well. Increasing the number of orders sent to the Exchange will in turn provide tighter and more liquid markets, and therefore attract more business overall. Similarly, the different credit rates at the different tier levels are based on an analysis of current revenue and volume levels and are intended to provide increasing ''rewards'' to MIAX participants for increasing the volume of Priority Customer orders sent to, and Priority Customer contracts executed on, the Exchange. The specific amounts of the tiers and rates are set in order to encourage suppliers of Priority Customer order flow to reach for higher tiers.

The credits paid out as part of the program will be drawn from the general revenues of the Exchange.[13] The Exchange calculates volume thresholds on a monthly basis.

[11] The term ''MIAX Select Symbols'' means options overlying AA, AAL, AAPL, AIG, AMAT, AMD, AMZN, BA, BABA, BBRY, BIDU, BP, C, CAT, CBS, CELG, CLF, CVX, DAL, EBAY, EEM, FB, FCX, GE, GILD, GLD, GM, GOOGL, GPRO, HAL, HTZ, INTC, IWM, JCP, JNJ, JPM, KMI, KO, MO, MRK, NFLX, NOK, NQ, ORCL, PBR, PFE, PG, QCOM, QQQ, RIG, S, SPY, SUNE, T, TSLA, USO, VALE, VXX, WBA, WFC, WMB, WY, X, XHB, XLE, XLF, XLP, XOM, XOP and YHOO. *See* Fee Schedule, note 13.

[12] See, *e.g.,* Securities Exchange Act Release No. 75702 (August 14, 2015), 80 FR 50685 (August 20, 2015) (SR–PHLX–2015–68).

[13] Despite providing credits under the Program, the Exchange represents that it will continue to have adequate resources to fund its regulatory program and fulfill its responsibilities as a self-regulatory organization while the Program is in effect.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act [14] in general, and furthers the objectives of Section 6(b)(4) of the Act [15] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposal is equitable and not unfairly discriminatory. The Program and the proposed increase in the per contract rebate is reasonably designed because it will encourage providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to receive an increasing per contract credit with each volume tier achieved. The Exchange believes that the proposed increase in the per contract rate should improve market quality for all market participants. The proposed changes to the rebate program are fair and equitable and not unreasonably discriminatory because they apply equally to all Priority Customer orders. All similarly situated Priority Customer orders are subject to the same rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory. Furthermore, the proposed increase in credits is equitable and not unfairly discriminatory because the proposed rates and changes encourage Members to direct increased amounts of Priority Customer contracts to the Exchange. Market participants want to trade with Priority Customer order flow. To the extent Priority Customer order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger sized quotations in the effort to trade with such Priority Customer order flow. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change would increase both intermarket and intramarket competition by encouraging Members to direct their Priority Customer orders to the Exchange, which should enhance the quality of quoting and increase the volume of contracts traded on MIAX. Respecting the competitive position of non-Priority Customers, the Exchange believes that this rebate program should provide additional liquidity that enhances the quality of its markets and increases the number of trading opportunities on MIAX for all participants, including non-Priority Customers, who will be able to compete for such opportunities. This should benefit all market participants and improve competition on the Exchange.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it increases rebates and thus encourages market participants to direct their customer order flow, to provide liquidity, and to attract additional transaction volume to the Exchange. Given the robust competition for volume among options markets, many of which offer the same products, enhancing the existing volume based customer rebate program to attract order flow is consistent with the goals of the Act. The Exchange believes that the proposal will enhance competition, because market participants will have another additional pricing consideration in determining where to execute orders and post liquidity if they factor the benefits of the proposed rebate program into the determination.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2015–53 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–MIAX–2015–53. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2015–53, and should be submitted on or before October 5, 2015.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–22977 Filed 9–11–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SMALL BUSINESS ADMINISTRATION

### Regulatory Fairness Hearing; Region IX—Springerville, Arizona; Cancellation

**AGENCY:** U.S. Small Business Administration (SBA).

**ACTION:** Notice of open hearing of Region IX Small Business Owners and Business Leaders in Springerville, Arizona, cancellation.

*Federal Register Citation of Previous Announcement:* 80 FR 49296, August 17, 2015.

*Previously Announced Time and Date of The Meeting:* Wednesday, September 9, 2015, 8:30 a.m.–5:00 p.m. (MST).

*Changes in the Meeting: Hearing Canceled:* Due to budgetary constraints and logistical issues, the hearing on Wednesday, September 9, 2015, in Springerville, AZ from 8:30 a.m. to 5:00 p.m. (MST) must be postponed to a later date.

*Contact Person for More Information:* José Méndez, Case Management Specialist, Office of the National Ombudsman, 409 3rd Street SW., Suite 7125, Washington, DC 20416, by fax (202) 481–5719, by email at *ombudsman-events@sba.gov,* by phone (202) 205–6178.

Dated: September 3, 2015.

**Miguel J. L'Heureux,**

*SBA Committee Management Officer.*

[FR Doc. 2015–22981 Filed 9–11–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF STATE

**[Public Notice 9267]**

### 60-Day Notice of Proposed Information Collection: Application Under the Hague Convention on the Civil Aspects of International Child Abduction

**ACTION:** Notice of request for public comment.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

**DATES:** The Department will accept comments from the public up to November 13, 2015.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering Docket Number: DOS–2015–0035 in the search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: mailto:Shawkm@state.gov.*
- *Regular Mail:* Send written comments to: U.S. Department of State, CA/OCS/PMO, SA–17, 10th Floor, Washington, DC 20036.
- *Fax:* 202–736–9111.
- *Hand Delivery or Courier:* U.S. Department of State, CA/OCS/PMO, 600 19th St. NW., 10th Floor, Washington, DC 20036.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Kaye Shaw, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PMO), U.S. Department of State, SA–17, 10th Floor, Washington, DC 20036 or at *mailto:shawkm@state.gov.*

**SUPPLEMENTARY INFORMATION:**

- *Title of Information Collection:* Application Under the Hague Convention on the Civil Aspects of International Child Abduction.
- *OMB Control Number:* 1405–0076.
- *Type of Request:* Extension.
- *Originating Office:* CA/OCS/L.
- *Form Number:* DS–3013, 3013–s.
- *Respondents:* Person seeking return of or access to child.
- *Estimated Number of Respondents:* 565.
- *Estimated Number of Responses:* 565.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 565 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the requests for information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

*Abstract of proposed collection:* The Application Under the Hague Convention on the Civil Aspects of International Child Abduction (DS–3013 and DS 3013–s) is used by parents or legal guardians who are requesting the State Department's assistance in seeking the return of, or access to, a child or children alleged to have been wrongfully removed from or retained outside of the child's habitual residence and currently located in another country that is also party to the Hague Convention on the Civil Aspects of International Child Abduction (the Convention). The application requests information regarding the identities of the applicant, the child or children, and the person alleged to have wrongfully removed or retained the child or children. In addition, the application requires that the applicant provide the circumstances of the alleged wrongful removal or retention and the legal justification for the request for return or access. The State Department, as the U.S. Central Authority for the Convention, uses this information to establish, if possible, the applicants' claims under the Convention; to inform applicants about available remedies under the Convention; and to provide the information necessary to the foreign Central Authority in its efforts to locate the child or children, and to facilitate return of or access to the child or children pursuant to the Convention. 42 U.S.C. 11608 is the legal authority that permits the Department to gather this information.

*Methodology:* The completed form DS–3013 and DS 3013–s may be submitted to the Office of Children's Issues by mail, by fax, or electronically accessed through *www.travel.state.gov.*

[17] 17 CFR 200.30–3(a)(12).

Dated: September 1, 2015.

**Michelle Bernier-Toth,**

*Managing Director, Bureau of Consular Affairs, Department of State.*

[FR Doc. 2015–23064 Filed 9–11–15; 8:45 am]

**BILLING CODE 4710–06–P**

## DEPARTMENT OF STATE

**[Public Notice 9268]**

### Meeting of Advisory Committee on International Communications and Information Policy

The Department of State's Advisory Committee on International Communications and Information Policy (ACICIP) will hold a public meeting on Friday, October 2, 2015 from 2:00 p.m. to 5:00 p.m. in the Loy Henderson Auditorium of the Harry S Truman (HST) Building of the U.S. Department of State. The Truman Building is located at 2201 C Street NW., Washington, DC 20520.

The committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communications services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country issues.

The meeting will be led by Ambassador Daniel A. Sepulveda, U.S. Coordinator for International Communications and Information Policy. The meeting's agenda will include discussions pertaining to various upcoming international telecommunications meetings and conferences, as well as efforts focused on technology and international development and the Information and Communications Technology (ICT) aspects of international disaster response.

Members of the public may submit suggestions and comments to the ACICIP. Comments concerning topics to be addressed in the agenda should be received by the ACICIP Executive Secretary (contact information below) at least ten working days prior to the date of the meeting. All comments must be submitted in written form and should not exceed one page. Resource limitations preclude acknowledging or replying to submissions. While the meeting is open to the public, admittance to the building is only by means of a pre-clearance. For placement on the pre-clearance list, please submit the following information no later than 5:00 p.m. on Tuesday, September 29, 2015. (Please note that this information is required by Diplomatic Security for each entrance into HST and must therefore be re-submitted for each ACICIP meeting):

I. State That You Are Requesting Pre-Clearance to a Meeting

II. Provide the Following Information

1. Name of meeting and its date and time
2. Visitor's full name
3. Visitor's organization/company affiliation
4. Date of Birth
5. Citizenship
6. Acceptable forms of identification for entry into the building include:
   - U.S. driver's license with photo
   - Passport
   - U.S. government agency ID
7. ID number on the form of ID that the visitor will show upon entry
8. Whether the visitor has a need for reasonable accommodation. Such requests received after September 17, 2015, might not be possible to fulfill. Send the above information to Joseph Burton by fax (202) 647–5957 or email *BurtonKJ@state.gov.*

Please note that registrations will be accepted to the capacity of the meeting room. All visitors for this meeting must use the 23rd Street entrance. The valid ID bearing the number provided with your pre-clearance request will be required for admittance. Non-U.S. government attendees must be escorted by Department of State personnel at all times when in the building. Personal data is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State–36) at *http://www.state.gov/documents/organization/103419.pdf* for additional information.

For further information, please contact Joseph Burton, Executive Secretary of the Committee, at (202) 647–5231 or *BurtonKJ@state.gov.*

General information about ACICIP and the mission of International Communications and Information Policy is available at: *http://www.state.gov/e/eb/adcom/acicip/index.htm.*

Dated: September 4, 2015.

**Joseph Burton,**

*ACICIP Executive Secretary, Department of State.*

[FR Doc. 2015–23065 Filed 9–11–15; 8:45 am]

**BILLING CODE 4710–07–P**

## DEPARTMENT OF STATE

**[Public Notice: 9265]**

### U.S. Advisory Panel to the U.S. Section of the North Pacific Anadromous Fish Commission; Notice of Renewal

The Department of State has renewed the Charter of the U.S. Advisory Panel to the U.S. Section of the North Pacific Anadromous Fish Commission (NPAFC) for another two years.

The NPAFC was established by the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed on February 12, 1992, by Canada, Japan, the Russian Federation, and the United States, and entered into force on February 16, 1993. The U.S. Advisory Panel will continue to work with the U.S. Section to promote the conservation of anadromous fish stocks, particularly salmon, throughout their migratory range in the North Pacific Ocean, as well as ecologically related species.

The U.S. Section of the Commission is composed of three Commissioners who are appointed by the President. Each Commissioner is appointed for a term not to exceed 4 years, but is eligible for reappointment. The Secretary of State, in consultation with the Secretary of Commerce, may designate alternate commissioners. The Advisory Panel to the U.S. Section is composed of 14 members, 11 of whom are appointed by the Secretary of State in consultation with the Secretary of Commerce. Advisory Panel members serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

The Advisory Panel will continue to follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will continue to be open to the public unless a determination is made in accordance with section 10 of the Federal Advisory Committee Act and 5 U.S.C. 552b(c) that a meeting or a portion of the meeting should be closed to the public. For further information on the renewal of the Advisory Panel, please contact Michael Clark, Office of Marine Conservation in the Department of State, (202) 647–3010.

Dated: August 20, 2015.

**David A. Balton,**

*Deputy Assistant Secretary for Oceans and Fisheries, Department of State.*

[FR Doc. 2015–23063 Filed 9–11–15; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Sixteenth Meeting: NextGen Advisory Committee (NAC)

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

**ACTION:** Notice of Sixteenth NextGen Advisory committee meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of the sixteenth NextGen Advisory Committee meeting.

**DATES:** The meeting will be held October 8th from 9:00 a.m.–3:00 p.m.

**ADDRESSES:** The meeting will be held at FedEx Express Headquarters, 3855 Airways Boulevard, Module D, 3rd Floor, Memphis, TN 38116, Tel: (202) 330–0652.

**FOR FURTHER INFORMATION CONTACT:** The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Andy Cebula, NAC Secretary, RTCA, Inc., *acebula@rtca.org,* (202) 330–0652.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the NextGen Advisory Committee. The agenda will include the following:

**Thursday, October 8, 2015**

1. Opening of Meeting/Introduction of NAC Members—Chairman Richard Anderson, Chief Executive Officer, Delta Air Lines, Inc.
2. Official Statement of Designated Federal Official—The Honorable Mike Whitaker, FAA Deputy Administrator
3. Review and Approval of June 5, 2015 Meeting Summary
4. Chairman's Report—Chairman Anderson
5. FAA Report—Mr. Whitaker
6. NextGen Integration Working Group (NIWG) Reports & Discussion—DataComm, Multiple Runway Operations, Performance Based Navigation, Surface
7. Metrics: Measuring Effects of Implementations—Overview of Reporting Process; FAA Actions on Performance Reporting; Industry Performance Tracking–vendor presentation
8. ADS–B—Status of implementation; Spaced based deployment, oceanic surveillance, common weather picture
9. Performance Based Navigation (PBN) National Airspace System Navigation Strategy
10. NextGen Plan
11. Summary of meeting and next steps—DFO and NAC Chairman Closing Comments
12. Other business
13. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Contact Betty Reschenberg at (901) 224–5470 or *bareschenberg@fedex.com* to register. In order for US Citizens to pre-register, please provide your first and last name (as it appears on your state Driver's License or Identification); employer's name and address; and phone number. In order to Non-US Citizens to pre-register, please provide your full name (as it appears on your passport); country of citizenship; passport and Visa numbers, type and expiration date; employer name and address; and phone number. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 10, 2015.

**Latasha Robinson,**

*Management & Program Analyst, Next Generation, Enterprise Support Services Division, Federal Aviation Administration.*

[FR Doc. 2015–23071 Filed 9–11–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0382]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from 14 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 14 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

**DATES:** The exemptions are effective September 14, 2015. The exemptions expire on September 14, 2017.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter to FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**A. Electronic Access**

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records

notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

**B. Background**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 14 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving''* (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/regulations/medical/reports-how-medical-conditions-impact-driving,* under Seizure Disorders, and are in the docket for this notice.

*MEP Criteria for Evaluation*

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

*Epilepsy diagnosis.* If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

*Single unprovoked seizure.* If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

*Single provoked seizure.* If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

- *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.
- *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

*Medical Review Board Recommendations and Agency Decision*

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

**C. Exemptions**

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 14 individuals. Under current FMCSA regulations, all of the 14 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 14 drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the 14 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 14 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications follows this section. For applicants who were denied an exemption, a notice was previously published.

**D. Comments**

*Docket #FMCSA–2014–0382*

On April 13, 2015, FMCSA published a notice of receipt of exemption applications and requested public comment on 19 individuals (80 FR 19730; Docket number FMCSA–2015–08392). The comment period ended on May 13, 2015. No commenters responded to this **Federal Register** notice. Of the 19 applicants, five were denied. The Agency has determined that the following 14 applicants should be granted an exemption.

Daryl Charles Anderson

Mr. Anderson is a 61 year-old class A CDL holder in Michigan. He has a history of a seizure disorder and has remained seizure free since 1989. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Anderson receiving an exemption.

Ronald J. Bennett

Mr. Bennett is a 58 year-old class B CDL holder in New York. He has a history of epilepsy and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Bennett receiving an exemption.

Don Carrol Darbyshire

Mr. Darbyshire is a 51 year-old class B CDL holder in Iowa. He has a history of epilepsy and has remained seizure free since 1993. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Darbyshire receiving an exemption.

Monte James DeRocini

Mr. DeRocini is a 53 year-old class A CDL holder in Pennsylvania. He has a history of a single seizure in 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. DeRocini receiving an exemption.

Martin L. Ford

Mr. Ford is a 57 year-old class C CDL holder in Mississippi. He has a history of seizures and has remained seizure free since 2003. He takes anti-seizure medication with the dosage and frequency remaining the same since 2008. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Ford receiving an exemption.

Roger Green

Mr. Green is a 60 year-old class A CDL holder in Pennsylvania. He has a history of a seizure disorder and has remained seizure free since 1971. He takes anti-seizure medication with the dosage and frequency remaining the same since 2004. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Green receiving an exemption.

Susie B. Harvey

Ms. Harvey is a 64 year-old class B CDL holder in Virginia. She has a history of epilepsy and has remained seizure free since 1985. She takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, she would like to drive a CMV. Her physician states that he is supportive of Ms. Harvey receiving an exemption.

Timothy G. Huntley

Mr. Huntley is a 40 year-old class B CDL holder in Maine. He has a history of a seizure disorder and has remained seizure free since 2000. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Huntley receiving an exemption.

Chance Joseph O'Mary

Mr. O'Mary is a 29 year-old class A CDL holder in Alaska. He has a history of a seizure disorder and has remained seizure free since 2005. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. O'Mary receiving an exemption.

Robert D. Richter, Sr.

Mr. Richter is a 58 year-old driver in Pennsylvania. He has a history of a seizure disorder and has remained seizure free since 1976. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he

would like to drive a CMV. His physician states that he is supportive of Mr. Richter receiving an exemption.

Michael Scott Shumake

Mr. Shumake is a 37 year-old driver in Virginia. He has a history of a seizure disorder and has remained seizure free since 2000. He takes anti-seizure medication with the dosage and frequency remaining the same since 2001. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Shumake receiving an exemption.

Charles Ray Taylor

Mr. Taylor is a 49 year-old class A CDL holder in Mississippi. He has a history of a single seizure in 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Taylor receiving an exemption.

Karin Hawley Wagasy

Ms. Wagasy is a 58 year-old driver in Tennessee. She has a history of a seizure disorder and has remained seizure free since 1975. She takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, she would like to drive a CMV. Her physician states that he is supportive of Ms. Wagasy receiving an exemption.

Trever A. Williams

Mr. Williams is a 44 year-old class A CDL holder in Minnesota. He has a history of a single seizure in 1983 which occurred postoperatively, after a surgical procedure to remove a foreign body from his head. He takes anti-seizure medication with the dosage and frequency remaining the same since 2006. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Williams receiving an exemption.

**E. Basis for Exemption**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

*Conclusion*

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 14 individuals based on a thorough evaluation of each driver's safety experience and medical condition. Safety analysis of information relating to these 14 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 14 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 14 drivers for a period of 2 years with annual medical certification required: Daryl Charles Anderson (MI); Ronald J. Bennett (NY); Don Carrol Darbyshire (IA); Monte James DeRocini (PA); Martin L. Ford (MS); Roger Green (PA); Susie B. Harvey (VA); Timothy G. Huntley (ME); Chance Joseph O'Mary (AK); Robert D. Richter, Sr. (PA); Michael Scott Shumake (VA); Charles Ray Taylor (MS); Karin Hawley Wagasy (TN); and Trever A. Williams (MN) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 2, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–23035 Filed 9–11–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0379]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from 6 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 6 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

**DATES:** The exemptions are effective September 14, 2015. The exemptions expire on September 14, 2017.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter to FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**A. Electronic Access**

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

**B. Background**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 6 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving*'' (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/regulations/medical/reports-how-medical-conditions-impact-driving,* under Seizure Disorders, and are in the docket for this notice.

*MEP Criteria for Evaluation*

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

*Epilepsy diagnosis.* If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

*Single unprovoked seizure.* If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

*Single provoked seizure.* If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

- *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.
- *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

*Medical Review Board Recommendations and Agency Decision*

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

**C. Exemptions**

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 6 individuals. Under current FMCSA regulations, all of the 6 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 6 drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the 6 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 6 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received follows this section. For applicants who were denied an exemption, a notice was previously published.

**D. Comments**

*Docket #FMCSA–2014–0379*

On November 24, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on 12 individuals (79 FR 69981; Docket number FMCSA–2014–27755). The comment period ended on December 24, 2014. Two commenters responded to this notice expressing support for the epilepsy standard and the duty to keep our roads safe. Of the 12 applicants, six were denied. The Agency has determined that the following six applicants should be granted an exemption.

Theodore C. Banet

Mr. Banet is a 43 year-old driver in Pennsylvania. He has a history of epilepsy and has remained seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted an exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Banet receiving an exemption.

David S. Campbell

Mr. Campbell is a 70 year-old driver in Massachusetts. He has a history of seizures and has remained seizure free since 2005. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted an exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Campbell receiving an exemption.

Lewis R. Holbrook

Mr. Holbrook is a 43 year-old driver in North Carolina. He has a history of a seizure disorder and has remained seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since 2005. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Holbrook receiving an exemption.

Dominick Rezza

Mr. Rezza is a 58 year-old class A CDL holder in Texas. He has a history of a seizure disorder and has remained seizure free since 1995. He takes anti-seizure medication with the dosage and frequency remaining the same since 1996. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Rezza receiving an exemption.

Edgar A. Snapp

Mr. Snapp is a 52 year-old class B CDL holder in Indiana. He has a history of a seizure disorder and has remained seizure free since 1988. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Snapp receiving an exemption.

Gregory W. Young

Mr. Young is a 50 year-old class A CDL holder in South Carolina. He has a history of seizure and has remained seizure free since 1983. He takes anti-seizure medication with the dosage and frequency remaining the same since 2004. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Young receiving an exemption.

**E. Basis for Exemption**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

*Conclusion*

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 6 individuals based on a thorough evaluation of each driver's safety experience, and medical condition. Safety analysis of information relating to these 6 applicants meets the burden of showing

that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 6 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 6 drivers for a period of 2 years with annual medical certification required: Theodore Banet (PA); David Campbell (MA); Lewis Holbrook (NC); Dominick Rezza (TX); Edgar Snapp (IN); and Gregory Young (SC) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 3, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–23036 Filed 9–11–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2015–0116]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from 9 individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 9 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

**DATES:** The exemptions are effective September 14, 2015. The exemptions expire on September 14, 2017.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter to FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

#### A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov*.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

#### B. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 9 individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving*'' (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/regulations/medical/reports-how-medical-conditions-impact-driving,* under Seizure Disorders, and are in the docket for this notice.

*MEP Criteria for Evaluation*

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

*Epilepsy diagnosis.* If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

*Single unprovoked seizure.* If there is a *single unprovoked seizure* (*i.e.,* there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

*Single provoked seizure.* If there is a *single provoked seizure* (*i.e.,* there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

• *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.

• *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

*Medical Review Board Recommendations and Agency Decision*

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

**C. Exemptions**

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to 9 individuals. Under current FMCSA regulations, all of the 9 drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered qualified physically to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these 9 drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the 9 drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 9 applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received follows this section. For applicants who were denied an exemption, a notice was previously published.

**D. Comments**

*Docket # FMCSA–2015–0116*

On July 13, 2015, FMCSA published a notice of receipt of exemption

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

applications and requested public comment on 21 individuals (80 FR 40127; Docket number FMCSA–2015–17022). The comment period ended on August 12, 2015. Ten commenters responded to this notice, seven of whom specifically expressed support for applicant Daniel Dellaserra. Paula Johnson expressed support for her son Kristopher Fraser because he has been seizure free for over eight years, compliant with his treatment, and desires to advance in his career. Michael Muise, a certified medical examiner expressed support for drivers with seizure disorders driving commercially if controlled with medication similar to diabetics on insulin. The Agency has determined that the following 9 applicants should be granted an exemption.

William Howard Brown

Mr. Brown is a 58 year-old class A CDL holder in North Carolina. He has a history of epilepsy and has remained seizure free since 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Brown receiving an exemption.

Daniel Dellaserra

Mr. Dellaserra is a 54 year-old class A CDL holder in California. He has a history of seizures and has remained seizure free since 1998. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Dellaserra receiving an exemption.

Thomas A. Granese

Mr. Granese is a 70 year-old class A CDL holder in Massachusetts. He has a history of seizure disorder and has remained seizure free since 2003. He takes anti-seizure medication with the dosage and frequency remaining the same since 2010. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Granese receiving an exemption.

Paul E. Granger

Mr. Granger is a 50 year-old chauffeur license holder in Michigan. He has a history of a seizure disorder and has remained seizure free since 1987. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, she would like to drive a CMV. His physician states that he is supportive of Mr. Granger receiving an exemption.

Charles Terrell Gray

Mr. Gray is a 69 year-old driver in Oklahoma. He has a history of a single unprovoked seizure and has remained seizure free since 1993. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Gray receiving an exemption.

David Allen Griggs

Mr. Griggs is a 55 year-old class A CDL holder in Minnesota. He has a history of a seizure disorder and has remained seizure free since 1987. He takes anti-seizure medication with the dosage and frequency remaining the same since April 2013. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Griggs receiving an exemption.

Dennis Edward Klamm

Mr. Klamm is a 52 year-old class C CDL holder in Minnesota. He has a history of a seizure disorder and has remained seizure free since 1987. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Klamm receiving an exemption.

Christina L. Petti

Ms. Petti is a 45 year-old class B CDL holder in New Jersey. She has a history of a seizure disorder and has remained seizure free since 1985. She takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, she would like to drive a CMV. Her physician states that he is supportive of Ms. Petti receiving an exemption.

Christopher L. Phillips

Mr. Phillips is a 46 year-old class A CDL holder in Pennsylvania. He has a history of a seizure disorder and has remained seizure free since 1989. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Phillips receiving an exemption.

**E. Basis for Exemption**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

*Conclusion*

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to 9 individuals based on a thorough evaluation of each driver's safety experience, and medical condition. Safety analysis of information relating to these 9 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain 9 highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 9 drivers for a period of 2 years with annual medical certification required: William Howard Brown (NC); Daniel Dellaserra (CA); Thomas A. Granese (MA); Paul E. Granger (MI); Charles Terrell Gray (OK); David Allen Griggs (MN); Dennis Edward Klamm (MN); Christina L. Petti (NJ); and Christopher L. Phillips (PA) from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures. If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 3, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–23034 Filed 9–11–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. AB 57 (Sub-No. 62X]**

### Soo Line Railroad Company—Abandonment Exemption—in Hennepin County, Minn.

Soo Line Railroad Company d/b/a Canadian Pacific (Soo Line) has filed a verified notice of exemption under 49 CFR 1152 subpart F–*Exempt Abandonments* to abandon a 0.4-mile line of railroad between milepost 0.59 +/− (approximately 100 feet southeast of the bridge that crosses Interstate 94) and milepost 0.99 +/− at or near Essex Street, SE. (East side spur) in Hennepin County, Minn. (the Line). The Line traverses United States Postal Service Zip Code 55414.

Soo Line has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic can be and has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 14, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 24, 2015. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 5, 2015, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Soo Line's representative: W. Karl Hansen, Stinson Leonard Street LLP, 150 South Fifth Street, Suite 2300, Minneapolis, Minn. 55402.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Soo Line has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 18, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Soo Line shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by Soo Line's filing of a notice of consummation by September 14, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

Decided: September 9, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2015–23047 Filed 9–11–15; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 4876–A

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4876–A, Election to Be Treated as an Interest Charge DISC.

**DATES:** Written comments should be received on or before November 13, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Martha Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Kerry Dennis, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Election To Be Treated as an Interest Charge DISC.

*OMB Number:* 1545–0190.

*Form Number:* 4876–A.

*Abstract:* A domestic corporation and its shareholders must elect to be an interest charge domestic international sales corporation (IC–DISC). Form 4876–A is used to make the election. The IRS uses the information to determine if the corporation qualifies to be an IC–DISC.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Responses:* 1,000.

*Estimated Time per Response:* 6 hrs., 22 minutes.

*Estimated Total Annual Burden Hours:* 6,360.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 19, 2015.

**Martha Brinson,**

*IRS Tax Analyst.*

[FR Doc. 2015–22968 Filed 9–11–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning limitations on percentage depletion in the case of oil and gas wells.

**DATES:** Written comments should be received on or before November 13, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Martha Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulation should be directed to Kerry Dennis, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Limitations on Percentage Depletion in the Case of Oil and Gas Wells.

*OMB Number:* 1545–1251.

*Regulation Project Number:* TD 8437.

*Abstract:* This regulation concerns oil and gas property held by partnerships. Because the depletion allowance with respect to production from domestic oil and gas properties is computed by the partners and not by the partnership, section 1.613A–3(e)(6)(i) of the regulation requires each partner to separately keep records of the partner's share of the adjusted basis in each oil and gas property of the partnership.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 1,500,000.

*Estimated Time per Respondent:* 2 minutes.

*Estimated Total Annual Burden Hours:* 49,950.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 19, 2015.

**Martha Brinson,**

*IRS Tax Analyst.*

[FR Doc. 2015–22965 Filed 9–11–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 13751

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13751, Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts.

**DATES:** Written comments should be received on or before November 13, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Martha Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or

copies of the form and instructions should be directed to Kerry Dennis at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts.

*OMB Number:* 1545–1969.

*Form Number:* 13751.

*Abstract:* The information requested on Form 13751 will be used to determine the eligibility for participation in the settlement initiative of taxpayers related through TEFRA partnerships to ineligible applicants. Such determinations will involve partnership items and partnership-level determinations, as well as the calculation of tax liabilities resolved under this initiative, including penalties and interest.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, Business or other for-profit organizations, not-for-profit institutions.

*Estimated Number of Respondents:* 100.

*Estimated Time per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 19, 2015.

**Martha Brinson,**

*IRS Tax Analyst.*

[FR Doc. 2015–22967 Filed 9–11–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Revenue Procedure 2009–16

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2008–16, Section 168(k)(4) Election Procedures.

**DATES:** Written comments should be received on or before November 13, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for copies of the revenue procedure should be directed to Sara Covington, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Sara.L.Covington@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Section 168(k)(4) Election Procedures.

*OMB Number:* 1545–2133.

*Revenue Procedure Number:* Revenue Procedure 2009–16.

*Abstract:* This revenue procedure provides the time and manner for (1) corporations to make the election to apply section 168(k)(4) of the Code, (2) corporations to make the allocation of the bonus depreciation amount resulting from the section 168(k)(4) election, (3) corporate partners who make the section 168(k)(4) election to notify partnerships, and (3) U.S. automobile manufacturing partnerships (such as, Chrysler) to make the election to apply section 3081(b) of the Act.

*Current Actions:* Extension of a previously approved collection.

*Affected Public:* Businesses and for-profit institutions.

*Estimated Number of Respondents:* 5,400.

*Estimated Time per Respondent:* 30 minutes (varies .25 to 1 hr.).

*Estimated Total Annual Burden Hours:* 2,700.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2015.

**Sara Covington,**

*IRS Tax Analyst.*

[FR Doc. 2015–22963 Filed 9–11–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Revenue Procedure 2015–36

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning master and prototype and volume submitter plans.

**DATES:** Written comments should be received on or before November 13, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Martha Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the revenue procedure should be directed to Kerry Dennis, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Kerry.Dennis@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Master and Prototype and Volume Submitter Plans.

*OMB Number:* 1545–1674.

*Revenue Procedure Number:* Revenue Procedure 2015–36 (modifies Rev. Proc. 2011–49).

*Abstract:* The master and prototype and volume submitter revenue procedure sets forth the procedures for sponsors of master and prototype and volume submitter pension, profit-sharing and annuity plans to request an opinion letter or an advisory letter from the Internal Revenue Service that the form of a master or prototype plan or volume submitter plan meets the requirements of section 401(a) of the Internal Revenue Code. The information requested is in addition to the information required to be submitted with Forms 4461 (*Application for Approval of Master or Prototype Defined Contribution Plan*), 4461–A (*Application for Approval of Master or Prototype Defined Benefit Plan*) and 4461–B (*Application for Approval of Master or Prototype or Plan (Mass Submitter Adopting Sponsor))*. This information is needed in order to enable the Employee Plans function of the Service's Tax Exempt and Government Entities Division to issue an opinion letter or an advisory letter.

*Current Actions:* There are no changes being made to the revenue procedure at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and state, local or tribal governments.

*Estimated Number of Responses:* 340,765.

*Estimated Time per Response:* 2 hour, 54 minutes.

*Estimated Total Annual Burden Hours:* 988,290.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 19, 2015.

**Martha Brinson,**

*IRS Tax Analyst.*

[FR Doc. 2015–22971 Filed 9–11–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 5495

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5495, Request for Discharge From Personal Liability Under Internal Revenue Code section 2204 or 6905.

**DATES:** Written comments should be received on or before November 13, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

**SUPPLEMENTARY INFORMATION:** *Title:* Request for Discharge From Personal Liability Under Internal Revenue Code Section 2204 or 6905.

*OMB Number:* 1545–0432.

*Form Number:* Form 5495.

*Abstract:* Form 5495 provides guidance under sections 2204 and 6905 for executors of estates and fiduciaries of decedent's trusts. The form, filed after regular filing of an Estate, Gift, or Income tax return for a decedent, is used by the executor or fiduciary to request discharge from personal liability for any deficiency for the tax and periods shown on the form.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or Households.

*Estimated Number of Respondents:* 25,000.

*Estimated Time per Respondent:* 12 hours 16 minutes.

*Estimated Total Annual Burden Hours:* 306,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request For Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 20, 2015.

**Sara Covington,**

*IRS Tax Analyst.*

[FR Doc. 2015–22964 Filed 9–11–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Notice 2009–89 (as Modified by 2012–54) and Form 8936

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning qualified plug-in electric vehicle credit.

**DATES:** Written comments should be received on or before November 13, 2015 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Martha Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Kerry Dennis, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov* .

**SUPPLEMENTARY INFORMATION:**

*Title:* Qualified Plug-in Electric Vehicle Credit (Notice 2009–89, as modified by Notice 2012–54).

*OMB Number:* 1545–2137.

*Form Number:* 8936.

*Abstract:* Notice 2009–54 sets forth interim guidance, pending the issuance of regulations, relating to the qualified plug-in electric drive motor vehicle credit under section 30D of the Internal Revenue Code, as in effect for vehicles acquired after December 31, 2009. Notice 2012–54 modifies Notice 2009–89, by providing a new address to which a vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) must send vehicle certifications and quarterly reports under Notice 2009–89.

Form 8936, is used for tax years beginning after 2008, to figure the credit for qualified plug-in electric drive motor vehicles placed in service during your tax year. The credit attributable to depreciable property (vehicles used for business or investment purposes) is treated as a general business credit. Any credit not attributable to depreciable property is treated as a personal credit.

*Current Actions:* There is no change in the paperwork burden previously approved by OMB.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individual, Businesses and other for-profit organizations.

**Notice 2012–54**

*Estimated Number of Respondents:* 12.

*Estimated Time per Respondent:* 24 hours.

*Estimated Total Annual Burden Hours:* 280.

**Form 8936**

*Estimated Number of Respondents:* 50,000.

*Estimated Time per Respondent:* 5 hours, 21 minutes.

*Estimated Total Annual Burden Hours:* 267,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 19, 2015.

**Martha Brinson,**

*IRS Tax Analyst.*

[FR Doc. 2015–22969 Filed 9–11–15; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee on Former Prisoners of War; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Advisory Committee on Former Prisoners of War (FPOW) will meet on October 5–7, 2015. The first two meetings will be held on October 5–6 from 9:00 a.m. to 4:00 p.m. at the Audie Murphy VA Medical Center, 7400

Merton Minter Blvd., San Antonio, TX. The third meeting will be held on October 7 from 9:00 a.m. to 12:00 p.m. at the Courtyard Marriott, 8585 Marriott Dr., San Antonio, TX. The meetings are open to the public.

The purpose of the Committee is to advise the Secretary of VA on the administration of benefits under title 38, United States Code, for Veterans who are FPOWs. The Committee also makes recommendations on the needs of FPOW Veterans for compensation, health care, and rehabilitation.

The Committee will hear from its Chairman and will receive briefings by representatives from the Veterans Benefits Administration and the Veterans Health Administration. On October 6, at 3:30 p.m., the Committee will host an open public forum and FPOW panel to gain information from FPOWs about their experiences, issues, and recommendations for health benefits and claims processing. Participation is limited to FPOWs. On October 7, the Committee will begin drafting their 2016 recommendations and decide the location of their next meeting in the spring.

FPOWs who wish to speak at the public forum are invited to submit a 1–2 page summary of their comments at the end of the meeting for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Mr. Eric Robinson, Designated Federal Officer, Advisory Committee on Former Prisoners of War, (and Program Analyst, Compensation Service), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (212), or by email at *eric.robinson3@va.gov.* Any member of the public seeking additional information should contact Mr. Robinson by email or call (202) 443–6016.

Dated: September 9, 2015.

**Jelessa Burney,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2015–23023 Filed 9–11–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0764]**

### Agency Information Collection (Survey of Health Care Experiences Dental Patient Satisfaction Survey) Activities Under OMB Review

**AGENCY:** Veterans Health 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 Health Administration (VHA), 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 and includes the actual data collection instrument.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before October 14, 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. 2900–0764 (SURVEY OF HEALTHCARE EXPERIENCES DENTAL PATIENT SATISFACTION SURVEY) in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**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. 2900–0764 (Survey of Health Care Experiences Dental Patient Satisfaction Survey) in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Public Law 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, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA'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.

**SUPPLEMENTARY INFORMATION:**

*Titles:*

1. Survey of Health Care Experiences Dental Patient Satisfaction Survey.

2. *OMB Control Number:* 2900–0764.

*Type of Review:* Extension of a currently approved collection.

*Abstracts:*

The mission of the Veterans Health Administration (VHA) is to provide high quality medical and dental care to eligible veterans. Executive Order 12862, dated September 11, 1993, calls for the establishment and implementation of customer service standards, and for agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with current services''. At present, VA does not specifically evaluate patient satisfaction for over 400,000 veterans receiving dental services each year.

The Dental Patient satisfaction survey is comprised primarily of questions taken from two validated and extensively tested surveys. The first survey is the VA Nation-wide Customer Satisfaction Survey: Survey of Health Experience of Patients (SHEP); this has OMB approval under clearance number 2900–0712. The second survey, Dental Consumer Assessment of Healthcare Provider and Systems (DCAHPS), was developed by the Agency for Healthcare Research and Quality (AHRQ). The psychometric properties of this survey are well documented and the survey has been used extensively in measuring patient satisfaction for TRICARE dental services.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:*

a. Survey of Health Care Experiences Dental Patient Satisfaction Survey, VA Form 10–10070—9,146 hours.

*Estimated Average Burden per Respondent:*

a. Survey of Health Care Experiences Dental Patient Satisfaction Survey, VA Form 10–10070—15 minutes.

*Frequency of Response:* Annually.

*Estimated Annual Responses:*

a. Survey of Health Care Experiences Dental Patient Satisfaction Survey, VA Form 10–10070—36,585.

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. 2015–23025 Filed 9–11–15; 8:45 am]

**BILLING CODE 8320–01–P**


# FEDERAL REGISTER

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Part II

## Securities and Exchange Commission

17 CFR Part 240
Access to Data Obtained by Security-Based Swap Data Repositories and Exemption From Indemnification Requirement; Proposed Rule

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 240**

**[Release No. 34–75845; File No. S7–15–15]**

**RIN 3235–AL74**

## Access to Data Obtained by Security-Based Swap Data Repositories and Exemption From Indemnification Requirement

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to section 763(i) of Title VII (''Title VII'') of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''), the Securities and Exchange Commission (''Commission'') is proposing amendments to rule 13n–4 under the Securities Exchange Act of 1934 (''Exchange Act'') related to regulatory access to security-based swap data held by security-based swap data repositories. The proposed rule amendments would implement the conditional Exchange Act requirement that security-based swap data repositories make data available to certain regulators and other authorities, and would set forth a conditional exemption from the statutory indemnification requirement associated with that regulatory access provision.

**DATES:** Submit comments on or before October 29, 2015.

**ADDRESSES:** Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–15–15 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

*Paper Comments*

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–15–15. This file number should be included on the subject line if email is used. To help us 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/proposed.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the SEC's Web site. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

**FOR FURTHER INFORMATION CONTACT:** Carol McGee, Assistant Director, or Joshua Kans, Senior Special Counsel, at (202) 551–5870; Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010.

**SUPPLEMENTARY INFORMATION:** The Commission is proposing to add paragraphs (b)(9) and (b)(10) to Exchange Act rule 13n–4 to implement the statutory requirement that security-based swap data repositories conditionally provide data to certain regulators and other authorities. The Commission also is proposing to add paragraph (d) to rule 13n–4 to provide a conditional exemption from the associated statutory indemnification requirement.

## I. Background

### *A. Statutory Requirements for Access to Security-Based Swap Data Repository Information*

Title VII of the Dodd-Frank Act amended the Exchange Act to provide a comprehensive regulatory framework for security-based swaps, including the regulation of security-based swap data repositories.[1]

Those amendments, among other things, require that security-based swap data repositories make data available to certain regulators and other entities. In particular, the amendments conditionally require that security-based swap data repositories ''on a confidential basis pursuant to section 24, upon request, and after notifying the Commission of the request, make available all data obtained by the security-based swap data repository, including individual counterparty trade and position data.'' [2] The repositories must make that data available to: ''each appropriate prudential regulator''; [3] the Financial Stability Oversight Council (''FSOC''); the Commodity Futures Trading Commission (''CFTC''); the Department of Justice; and ''any other person that the Commission determines to be appropriate,'' including foreign financial supervisors (including foreign futures authorities), foreign central banks and foreign ministries.[4]

This access to data is conditional, however. In part, before a repository shares such data, the repository ''shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided.'' [5] Moreover, before such data is shared, ''each entity shall agree to indemnify the security-based swap data repository and the Commission for any expenses arising from litigation relating to the information provided under section 24.'' [6]

### *B. Prior Proposals and Comments Received*

1. 2010 proposal

In 2010, the Commission proposed several rules to implement statutory provisions related to the registration process, duties and core principles applicable to security-based swap data repositories.[7] That proposal, among other things, encompassed rules that

[1] Public Law 111–203, section 761(a) (adding Exchange Act section 3(a)(75) (defining ''security-based swap data repository'')) and section 763(i) (adding Exchange Act section 13(n) (establishing a regulatory regime for security-based swap data repositories)).

References in this release to the terms ''data repository,'' ''trade repository,'' ''repository'' or ''SDR'' generally address security-based swap data repositories unless stated otherwise.

[2] Exchange Act section 13(n)(5)(G), 15 U.S.C. 78m(n)(5)(G). The confidentiality requirements addressed by Exchange Act section 24, 15 U.S.C. 78x, are addressed below. *See* note 84, *infra.*

[3] As discussed below, the term ''prudential regulator'' encompasses the Board of Governors of the Federal Reserve System and certain other regulators, with regard to certain categories of regulated entities. *See* note 44, *infra.*

[4] Exchange Act section 13(n)(5)(G), 15 U.S.C. 78m(n)(5)(G).

[5] Exchange Act section 13(n)(5)(H)(i), 15 U.S.C. 78m(n)(5)(H)(i).

[6] Exchange Act section 13(n)(5)(H)(ii), 15 U.S.C. 78m(n)(5)(H)(ii).

[7] *See* Security-Based Swap Data Repository Registration, Duties, and Core Principles, Exchange Act Release No. 63347 (Nov. 19, 2010), 75 FR 77306 (Dec. 10, 2010), *corrected at* 75 FR 79320 (Dec. 20, 2010) *and* 76 FR 2287 (Jan. 13, 2011) (''SDR Proposing Release'').

incorporated the statutory language that set forth the data access provisions.[8]

In proposing those rules, the Commission recognized that ''regulators may be legally prohibited or otherwise restricted from agreeing to indemnify third parties, including SDRs as well as the Commission,'' and that the ''indemnification provision could chill requests for access to data obtained by SDRs, thereby hindering the ability of others to fulfill their regulatory mandates and responsibilities.'' [9] The Commission added that it expected that a repository ''would not go beyond the minimum requirements of the statute so as not to preclude [recipient entities described by the statute] from obtaining the data maintained by an SDR.'' [10] The Commission further noted that the Commission itself had the authority to share nonpublic information with, among others, certain domestic and foreign regulatory authorities.[11]

In response, four commenters addressed the data access provisions.[12] Those commenters generally supported providing relevant authorities with access to security-based swap data maintained by repositories when the access is within the scope of those authorities' mandates, but expressed particular concerns relating to the indemnification requirement and to the scope of authorities' access to data. Two commenters concurred that relevant authorities likely would be unable to agree to indemnify data repositories or the Commission.[13] One commenter expressed the concern that the statutory requirement is vague and could result in a data repository providing access to persons without proper authority.[14] Another commenter recommended that the Commission adopt rules to help streamline the indemnification requirement for an ''efficient exchange of information.'' [15]

2. 2013 Cross-Border Proposal

a. Proposed Exemption to Indemnification Requirement

In 2013, the Commission proposed a number of rules related to the cross-border application of the Title VII security-based swap requirements. At that time, recognizing the significance of commenter concerns and understanding that certain authorities may be unable to agree to indemnify a data repository and the Commission, the Commission preliminarily concluded that the indemnification requirement could frustrate the purposes of the statutory requirement that repositories make available data to relevant authorities. The Commission further took the view that the indemnification requirement should not be applied rigidly so as to frustrate the statutory purposes of data repositories, and hinder relevant authorities' ability to fulfill their regulatory mandates and legal responsibilities.[16]

To address these concerns, the Commission proposed an exemption to provide that a data repository ''is not required'' to comply with the indemnification requirement, conditioned on: (1) An entity requesting the information ''to fulfill a regulatory mandate and/or legal responsibility''; (2) the request pertaining ''to a person or financial product subject to the jurisdiction, supervision or oversight of the entity''; and (3) the entity having entered into a supervisory and enforcement memorandum of understanding (''MOU'') or other arrangement addressing the confidentiality of the information provided and any other matter as determined by the Commission.[17] The Commission took the preliminary view that the proposed exemption was consistent with commenters' views, including one commenter's suggestion that the indemnification requirement not apply when relevant authorities carry out their responsibilities in accordance with international agreements and while maintaining the

[8] *See* SDR Proposing Release, 75 FR 77368 (paragraphs (b)(9) and (b)(10) of proposed Exchange Act rule 13n-4 incorporated relevant language of Exchange Act sections 13(n)(5)(G) and (H).

[9] 75 FR 77318–19.

[10] 75 FR 77319.

[11] *Id.*

[12] Cleary Gottlieb comment (Sept. 20, 2011) at 31–32 (comment was provided in response to a joint SEC–CFTC roundtable regarding the cross-border application of Title VII, and can be found at *http://www.sec.gov/comments/4-636/4-636.shtml*), DTCC comment (Nov. 15, 2010) at 3, ESMA comment (Jan. 17, 2011) at 2 and Managed Funds Association comment (Jan. 24, 2011) at 3.

[13] Prior to the proposed rules, one of those commenters described the indemnification requirement as contravening the purpose of data repositories and jeopardizing market stability by diminishing regulators' ability to carry out oversight functions. *See* DTCC comment (Nov. 15, 2010) at 3. This comment and other comments that addressed data repository issues in response to a general request for comments regarding the implementation of Title VII are located on the Commission's Web site at *http://www.sec.gov/comments/df-title-vii/swap-data-repositories/swap-data-repositories.shtml.*

Subsequently, in response to the proposed rules, that commenter further: (1) Stated that the indemnification requirement should not apply where relevant authorities carry out their regulatory responsibilities in accordance with international agreements and while maintaining the confidentiality of data provided to them; (2) suggested that the Commission provide model indemnification language; and (3) urged that ''any indemnity should be limited in scope to minimize the potential reduction in value of registered SDRs to the regulatory community.'' *See* DTCC comment (Jan. 24, 2011) at 12. These and other comments addressing the proposed implementation of the data access provisions (as well as other aspects of the Commission's 2010 proposal regarding security-based swap data repository registration, duties and core principles) are located on the Commission's Web site at *http://www.sec.gov/comments/s7-35-10/s73510.shtml.*

Another commenter stated that because indemnification would not be feasible, ''it would be problematic for [the Commission and the CFTC] to require non-U.S. SDRs to register with the Commissions,'' and that the indemnification requirement could impede effective regulatory coordination. *See* Cleary Gottlieb comment (Sept. 20, 2011) at 31–32.

That commenter further stated that when a non-U.S. data repository registers with the Commission ''but is also subject to regulatory oversight by an appropriate non-U.S. regulator,'' the SEC should adopt the CFTC's interpretation ''that the non-U.S. regulator is not as a result subject to Dodd-Frank's notice and indemnification provisions.'' *See id.* The Commission since then has issued final rules and interpretations regarding the cross-border application of the registration requirement for security-based swap data repositories, which exempts certain non-U.S. data repositories subject to regulation abroad from having to comply with requirements otherwise applicable to repositories. *See* Exchange Act Release No. 74246 (Feb. 11, 2015), 80 FR 14438, 14450–51, 14516–17, 14556 (Mar. 19, 2015) (''SDR Adopting Release'') (generally stating that a non-U.S. person that performs the functions of a security-based swap data repository within the United States is required to register with the Commission absent an exemption, and adopting Exchange Act rule 13n–12 to provide an exemption from data repository requirements for certain non-U.S. persons when regulators with supervisory authority over those non-U.S. persons have entered into a memorandum of understanding (''MOU'') or other arrangement with the Commission regarding the confidentiality of data collected and maintained by such non-U.S. person, access by the Commission to such data, and any other matters determined by the Commission). Also, under the preliminary interpretation discussed below, the conditions to the Exchange Act data access requirements would not restrict access when a repository registered with the Commission also is registered or licensed with a foreign authority that obtains the data pursuant to foreign law. *See* part IV.A, *infra.*

[14] That commenter particularly expressed concern regarding the possibility of ''unfettered access'' to security-based swap information by regulators, including foreign financial supervisors, foreign central banks and foreign ministries, ''beyond their regulatory authority and mandate.'' *See* Managed Funds Association comment (Jan. 24, 2011) at 3. That comment further recommended that the Commission take an approach similar to that taken by rules proposed by the CFTC, requiring any regulator requesting access to such data to certify the statutory authority for the request and detail the basis for the request. *See id.* at 3–4. The CFTC subsequently adopted that certification requirement as a final rule, but did not adopt the proposed requirement that the regulator also detail the basis for the request. *See* note 31, *infra,* and accompanying text.

[15] That commenter also reiterated the notion that relevant authorities must ensure the confidentiality of security-based swap data provided to them, and that the indemnification requirement ''undermines the key principle of trust according to which exchange of information [among relevant authorities] should occur.'' *See* ESMA comment (Jan. 17, 2011) at 2.

[16] *See* Exchange Act Release No. 69490 (May 1, 2013), 78 FR 30968, 31048–49 (May 23, 2013) (''Cross-Border Proposing Release'').

[17] *See id.* at 31209 (paragraph (d) of proposed Exchange Act rule 13n–4).

confidentiality of data provided to them.[18]

The Commission further stated that the exemption's proposed condition that the request be for the purpose of fulfilling a relevant authority's regulatory mandate or legal responsibility was aligned with statutory requirements to protect the security-based swap information maintained by a repository, including proprietary and highly sensitive data, from unauthorized disclosure, misappropriation or misuse.[19] The Commission also expressed the preliminary view that the proposed condition that the Commission enter into an MOU or other arrangement with a relevant authority represented an effective way to streamline the indemnification requirement for an ''efficient exchange of information'' to help protect the confidentiality of information and further the purposes of the Dodd-Frank Act.[20]

b. Additional guidance

In the Cross-Border Proposing Release, the Commission also addressed the application of the statutory requirement that repositories notify the Commission regarding data requests. The Commission stated its preliminarily belief that repositories could satisfy that requirement by providing the Commission with notice of an initial request by a relevant authority, and maintaining records of the initial request and all subsequent requests.[21] The Commission further expressed preliminary views regarding the process for determining which additional authorities may obtain information from data repositories pursuant to these data access provisions.[22]

c. Comments

In response to this proposal, the Commission received one comment that addressed the data access provisions, including the indemnification requirement. That commenter stated that the proposal ''did not erase the need for a legislative solution to clarify the scope and applicability'' of the indemnification requirement.[23] The commenter further recommended that the Commission incorporate, as part of the exemption, a ''safe harbor provision from liability for information shared pursuant to global information sharing agreements.'' [24]

The commenter also objected to the prospect that repositories would be required to notify the Commission of an initial information request, stating that such a requirement could lead authorities to hesitate to make requests if that would trigger notice, ''particularly if such request is pursuant to an investigation.'' The commenter instead recommended that the Commission consider the notification requirement to be satisfied if the request is made ''pursuant to an established information sharing agreement.'' [25]

3. Final Rules Reserving Action on the Data Access Provisions

In February 2015, the Commission adopted a number of final rules governing the registration process, duties and core principles applicable to security-based swap data repositories.[26] Those final rules, however, neither addressed the statutory data access requirements applicable to data repositories, nor provided an exception to the indemnification requirement. The Commission instead stated that final resolution of the issue would benefit from further consideration and public comment.[27]

*C. Treatment of These Issues in the Swaps Context*

The Dodd-Frank Act also revised the Commodity Exchange Act (''CEA'') to impose comparable data access requirements—including confidentiality and indemnification conditions—upon swap data repositories that are subject to CFTC jurisdiction.[28]

1. Certification of Scope of Jurisdiction

To implement those requirements, the CFTC adopted rules that in part identify the domestic [29] and foreign regulators [30] to which a swap data repository must make swap data available. The rules provide that when those regulators seek access to data maintained by a swap data repository, they must file a request with the swap data repository and certify that they are acting within the scope of their jurisdiction.[31]

2. Scope of Confidentiality and Indemnification Requirements

The CFTC implementing rules generally require domestic and foreign regulators to execute confidentiality and indemnification agreements with the swap data repository prior to receipt of any requested swap data.[32] The CFTC,

[18] *See id.* at 31049 (addressing DTCC comment from Jan. 24, 2011). The Commission also stated that the proposal was consistent with commenter suggestions that the exemption be ''location agnostic'' (by treating relevant domestic and foreign authorities similarly), and that the exemption was intended to help preserve the ''spirit of cooperation and coordination'' between regulators around the world. *See id.*

[19] *See id.* at 31049–50.

[20] *See id.* at 31050. The Commission moreover expressed the preliminary view that, in determining whether to enter into such an MOU or other arrangement, the Commission would consider, among other things, whether: (1) ''The relevant authority needs security-based swap information from an SDR to fulfill its regulatory mandate or legal responsibilities; (2) the relevant authority agrees to protect the confidentiality of the security-based swap information provided to it; (3) the relevant authority agrees to provide the Commission with reciprocal assistance in securities matters within the Commission's jurisdiction; and (4) a supervisory and enforcement MOU or other arrangement would be in the public interest.'' *See id.* at 31049–50.

[21] *See id.* at 31046–47.

[22] *See id.* at 31047–48 (indicating that the Commission would make such determinations by order, and that the Commission would consider a variety of factors, including whether there is a supervisory and enforcement MOU between the Commission and the relevant authority, and whether the relevant authority has a legitimate need for the information).

[23] *See* DTCC cross-border comment (Aug. 21, 2013) at 6–7 (expressing concern that the indemnification provision would continue to limit data sharing across jurisdictions, leading foreign regulators to seek to establish ''national'' repositories that would fragment data among jurisdictions). That comment and other comments responding to the cross-border proposal are located on the Commission's Web site at: *http://www.sec.gov/comments/s7-02-13/s70213.shtml.*

[24] *See* DTCC cross-border comment at 8.

[25] *See id.* at 7.

[26] *See* SDR Adopting Release.

[27] *See id.,* 80 FR 14487–88 (further noting that repositories will have to comply with all statutory requirements, including the indemnification requirement, when the current exemptive relief from requirements applicable to repositories expires). As a result, in adopting those final rules the Commission reserved paragraphs (b)(9) and (b)(10) of Exchange Act rule 13n–4 (which as proposed would have addressed the data access obligations of registered security-based swap data repositories), and did not adopt the indemnification exemption proposed as paragraph (d) of rule 13n–4.

[28] *See* CEA sections 21(c)(7), (d), 7 U.S.C. 24a(c)(7), (d).

[29] The CFTC has defined ''Appropriate Domestic Regulator'' to mean: (i) The SEC; (ii) each prudential regulator ''with respect to requests related to any of such regulator's statutory authorities, without limitation to the activities listed for each regulator'' in the statutory definition; (iii) the Financial Stability Oversight Council; (iv) the Department of Justice; (v) any Federal Reserve Bank; (vi) the Office of Financial Research; and (vii) any other person the CFTC deems appropriate. *See* 17 CFR 49.17(b)(1).

[30] The CFTC has defined ''Appropriate Foreign Regulator'' to mean foreign regulators ''with an existing memorandum of understanding or other similar type of information sharing arrangement'' executed with the CFTC, and/or foreign regulators ''without an MOU as determined on a case-by-case basis'' by the CFTC. *See* 17 CFR 49.17(b)(2).

[31] *See* 17 CFR 49.17(d)(1). In this regard, the CFTC did not adopt proposed requirements to require regulators to set forth the basis for their requests in sufficient detail, and to require a swap data repository to provide access only if it is satisfied that the regulator is acting within the scope of its authority. *See* 76 FR 54538, 54553 (Sept. 1, 2011).

[32] *See* 17 CFR 49.17(d)(6), 49.18(b).

however, also recognized that it might be difficult for certain regulators to implement those confidentiality and indemnification requirements.[33] Accordingly, the CFTC provided that a domestic regulator with regulatory jurisdiction over a swap data repository registered with it pursuant to separate statutory authority may access such data without the need to enter into confidentiality or indemnification agreements if: (i) The domestic regulator executes an MOU or similar information sharing arrangement with the CFTC; and (ii) the CFTC designates the domestic regulator to receive direct electronic access.[34]

The CFTC implementing rules further provided that a foreign regulator with supervisory responsibility over a swap data repository registered with the foreign regulator pursuant to foreign law and/or regulation would not need to enter into such confidentiality or indemnification agreements.[35] In addition, the CFTC noted that the confidentiality and indemnification requirements would not apply when the CFTC itself shares information in its possession with foreign authorities.[36]

The CFTC subsequently issued an interpretative statement that the indemnification and confidentiality provisions under the CEA generally apply only to such data reported pursuant to the CEA and CFTC regulations, and that those confidentiality and indemnification provisions ''should not operate to inhibit or prevent foreign regulatory authorities from accessing data in which they have an independent regulatory interest (even if that data also has been reported pursuant to the CEA and [CFTC] regulations).'' [37] The CFTC further stated that a registered swap data repository would not be subject to the indemnification and confidentiality provisions under the CEA if the swap data repository is ''registered, recognized or otherwise authorized in a foreign jurisdiction's regulatory regime,'' when the data sought to be accessed by the foreign regulatory authority has been reported to the swap data repository ''pursuant to the foreign jurisdiction's regulatory regime.'' [38]

*D. The Current Proposal*

The Commission today is proposing rules related to the data access obligation applicable to security-based swap data repositories, including rules to provide a conditional exemption from the indemnification requirement. This new proposal builds upon the earlier proposals, but with certain changes.

Among other aspects, as discussed below, the proposal would provide for the statutory confidentiality agreement requirement to be satisfied via the use of MOUs or other agreements between the Commission and the entity accessing data from a security-based swap data repository. The proposal also encompasses an indemnification exemption that would be effective when the relevant conditions are met, in contrast to the earlier proposed approach of conditionally allowing a data repository to elect whether to waive the indemnification requirement.

Taken as a whole, the proposal would provide that when the conditions to the data access provisions are satisfied—including as applicable the conditions to the indemnification exemption—a repository would be required to provide security-based swap data to relevant authorities.

## II. Proposed Data Access Rules

The Commission is proposing rules, to implement the data access provisions of Exchange Act sections 13(n)(5)(G) and (H),[39] that address commenter concerns and reflect the Commission's further consideration of the issues. Under the proposal:

- Security-based swap data repositories generally would be required, on a confidential basis after notifying the Commission, to make available security-based swap data, including individual counterparty trade and position data, to certain entities that are identified in the proposed rules and any other persons that are determined by the Commission to be appropriate.[40]
- The data access requirement would be subject to a confidentiality provision that conditions the data access requirement on there being an agreement between the Commission and the entity (in the form of an MOU or otherwise) that addresses the confidentiality of the information received.[41]
- In addition, as discussed below, there would be a conditional exemption to the statutory provision that conditions the data access on the recipient of the data agreeing to indemnify the repository and the Commission for expenses arising from litigation related to the information provided.[42]

*A. Data Access Requirement*

1. Application to Prudential Regulators and Federal Reserve Banks

The Exchange Act specifically states that a repository is conditionally obligated to make information available to, among others, ''each appropriate prudential regulator.'' [43] The proposed rules would specifically identify, as being eligible to access data, each of the entities encompassed within the statutory ''prudential regulator'' definition: The Board of Governors of the Federal Reserve System (''Board''), the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation (''FDIC''), the Farm Credit Administration, and the Federal Housing Finance Agency.[44]

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[33] *See* 76 FR 54554.

[34] *See* 17 CFR 49.17(d)(2), 49.18(c); 76 FR 54554 (also referencing a separate statutory provision, CEA section 21(c)(4)(A), 7 U.S.C. 24a(c)(4)(A), that requires swap data repositories to provide ''direct electronic access'' to the CFTC and its designees).

There are differences between the Commission's proposed approach, discussed below, and the approach the CFTC has taken in adopting rules to implement the data access requirement under the CEA. In part, while the CFTC rule requires that entities accessing swap data certify that they are acting within the scope of their jurisdiction, the Commission's proposal instead anticipates considering an entity's interest in the security-based swap information when determining whether to determine that entity may access security-based swap information. *See* part II.A.3.a, *infra.* Also, the Commission's proposed exemption from the indemnification requirement is conditioned in part on an entity requesting security-based swap information in connection with a regulatory mandate, or legal responsibility or authority. *See* part III.B.1.a, *infra.*

[35] *See* 17 CFR 49.17(d)(3), 49.18(c); 76 FR 54555 n.166 (adding that the CFTC does not interpret the notification and indemnification provisions to apply ''in circumstances in which an Appropriate Foreign Regulator possesses independent sovereign legal authority to obtain access to the information and data held and maintained by an SDR'').

[36] *See* 76 FR 54554.

[37] *See* Swap Data Repositories: Interpretative Statement Regarding the Confidentiality and Indemnification Provisions of the Commodity Exchange Act, 77 FR 65177, 65180–81 (Oct. 25, 2012).

[38] *See id.* The CFTC added that this principle applies even if the applicable data also is reported pursuant to CFTC rules, and that foreign and domestic regulatory authorities also may receive data from the CFTC (rather than the swap data repository) without execution of a confidentiality and indemnification agreement. *See id.* at 65181.

[39] 15 U.S.C. 78m(n)(5)(G) and (H).

[40] *See* proposed Exchange Act rule 13n–4(b)(9).

[41] *See* proposed Exchange Act rule 13n–4(b)(10).

[42] *See* proposed Exchange Act rule 13n–4(b)(ii).

[43] *See* Exchange Act section 13(n)(5)(G)(i), 15 U.S.C. 78m(n)(5)(G)(i).

[44] *See* proposed Exchange Act rule 13n–4(b)(9)(i)–(v).

Exchange Act section 3(a)(74), 15 U.S.C. 78c(a)(74), defines ''prudential regulator'' by reference to the CEA. The CEA, in turn, defines ''prudential regulator'' to encompass: (a) The Board, (b) the Office of the Comptroller of the Currency, (c) the FDIC, (d) the Farm Credit Administration or (e) the Federal Housing Finance Agency—in each case with respect to swap dealers, major swap participants, security-based swap dealers or major security-based swap participants (cumulatively, ''dealers'' or ''major participants'') that fall within the regulator's authority. *See* CEA section 1a(39); 7 U.S.C. 1a(39).

Continued

Under this approach of specifically identifying each of those regulators, rather than generally referring to ''appropriate prudential regulators,'' the ability of those regulators to access security-based swap data would not vary depending on whether entities regulated by the regulators are acting as security-based swap dealers, as major security-based swap participants, or in some other capacity.[45] For similar reasons, under this approach those regulators' access also would not vary depending on whether the regulator acts in a ''prudential'' capacity in connection with the information.[46]

The proposed rules also would include ''any Federal Reserve Bank'' among the entities conditionally eligible to access security-based swap data from repositories,[47] in accordance with the Exchange Act provision that extends data access to ''any other person that the Commission determines to be appropriate.'' [48] Consistent with the standards the Commission expects to consider in connection with determining other entities to be authorized to access such data—including consideration of a relevant authority's interest in accessing security-based swap data based on its regulatory mandate, or legal responsibility or authority [49]—the Commission preliminarily believes that it is appropriate for the Federal Reserve Banks to be able to access such data. The Commission particularly understands that the Federal Reserve Banks occupy important oversight roles under delegated authority from the Board, including supervision of banks that are under the Board's authority, and gathering and analyzing information to inform the Federal Open Market Committee regarding financial conditions.[50] We further understand that the Federal Reserve Banks, as well as the Board, would use data from security-based swap data repositories to fulfill statutory responsibilities related to prudential supervision and financial stability.[51] The Commission accordingly believes preliminarily that the Federal Reserve Banks' access to security-based swap data held by repositories would appropriately fall within their regulatory mandate and legal responsibility or authority, and that the Federal Reserve Banks should conditionally have access to the security-based swap data.[52]

A Federal Reserve Bank's ability to access such data would be subject to conditions related to confidentiality and indemnification (as would the ability of any other entity that is identified by statute or determined by the Commission to access such data).[53]

2. FSOC, CFTC, Department of Justice and Office of Financial Research

The Exchange Act also states that FSOC, CFTC, and the Department of Justice may access security-based swap data.[54] The proposed rules accordingly would identify those entities as being conditionally authorized to access such data.[55]

The proposed rules further would make the Office of Financial Research (''OFR'') conditionally eligible to access such data,[56] in accordance with the Exchange Act provision that that extends data access to ''any other person

For example, the definition provides that the Board is a prudential regulator with regard to, among others, certain dealers and major participants that are: State-chartered banks and agencies, foreign banks that do not operate insured branches, or members of bank holding companies. Also, for example, the definition provides that the Office of the Comptroller of the Currency is a prudential regulator with regard to, among others, certain dealers or major participants that are national banks, federally chartered branches or agencies of foreign banks or federal saving associations.

[45] This approach particularly addresses the fact that the statutory ''prudential regulator'' definition noted above specifically refers to those regulators in connection with dealers and major participants that fall within their authority. In the Commission's preliminary view the application of the data access provision should not vary depending on whether an entity regulated by the regulator is acting as a dealer or major participant, or in some other capacity. Such a reading would not further the purposes of Title VII, and the Dodd-Frank Act more generally, including facilitating regulator access to security-based swap information to help address the risks associated with those instruments. Accordingly, the proposed rule does not limit those regulators' access to security-based swap information based on the capacity in which a regulated entity is acting.

[46] Those regulators' ability to access security-based swap data accordingly would not be limited to situations in which they act in the capacity of a prudential supervisor. Thus, for example, the FDIC would conditionally be authorized to access security-based swap data from a repository in connection with all of its statutory capacities, including its prudential supervisory capacity as well as other capacities such as the FDIC's resolution authority pursuant to the Federal Deposit Insurance Act and the Orderly Liquidation Authority provisions of Title II of the Dodd-Frank Act.

[47] *See* proposed Exchange Act rule 13n–4(b)(9)(i).

[48] *See* Exchange Act section 13(n)(5)(G)(v), 15 U.S.C. 78m(n)(5)(G)(v). The CFTC has identified the Federal Reserve Banks as being ''appropriate domestic regulators'' that may access swap data from swap data repositories. *See* note 29 *supra.*

[49] *See* part II.A.3, *infra.*

[50] Section 11(k) of the Federal Reserve Act grants the Board authority ''to delegate, by published order or rule . . . any of its functions, other than those relating to rulemaking or pertaining to monetary and credit policies to . . . members or employees of the Board, or Federal Reserve banks.'' 12 U.S.C. 248(k). The Federal Reserve Banks carry out the Board's activities including the supervision, examination and regulation of financial institutions as directed by the Board and under its supervision. *See* the Board's Rules of Organization, sec. 3(j) FRRS 8–008 (providing that the Director of the Board's Division of Banking Supervision and Regulation ''coordinates the System's supervision of banks and bank holding companies and oversees and evaluates the Reserve Banks' examination procedures''). The Board further has delegated extensive authority to the Reserve Banks with respect to numerous supervisory matters. *See* 12 CFR 265.11 (functions delegated by the Board to the Federal Reserve Banks).

[51] We understand that the Board and the Federal Reserve Banks jointly would use the data in support of the prudential supervision of institutions under the Board's jurisdiction, such as state member banks, bank holding companies, and Edge Act corporations. *See, e.g.,* section 9 of the Federal Reserve Act, 12 U.S.C. 321–338a (supervision of state member banks); the Bank Holding Company Act, 12 U.S.C. 1841–1852 (supervision of bank holding companies); the Edge Act, 12 U.S.C. 610 *et seq.* (supervision of Edge Act corporations). We also understand that the Board and the Federal Reserve Banks would use the data in support of the implementation of monetary policy, such as through market surveillance and research. *See, e.g.,* section 12A of the Federal Reserve Act, 12 U.S.C. 263 (establishing the Federal Open Market Committee); and section 2A of the Federal Reserve Act, 12 U.S.C. 225a (setting monetary policy objectives). In addition, we understand that the Board and the Federal Reserve Banks would use the data in fulfilling the Board's responsibilities with respect to assessing, monitoring and mitigating systemic risk, such as supervision of systemically important institutions. *See, e.g.,* section 113 of the Dodd-Frank Act, 12 U.S.C. 5323 (SIFIs); and section 807 of the Dodd-Frank Act, 12 U.S.C. 5466 (designated FMUs).

[52] The Federal Reserve Banks' access to this information, like the access of the entities directly identified by the statute, would be subject to conditions related to confidentiality and indemnification as discussed below, including conditions to limit an authority's access to data by linking the scope of the exemption from the indemnification requirement to information that is related to persons or activities within an entity's regulatory mandate or its legal responsibility or authority, as specified in an MOU between the Commission and the entity. *See* parts II.C and III.C, *infra.*

In proposing to permit the Federal Reserve Banks to access security-based swap information pursuant to the data access provisions, the Commission preliminarily believes that the Federal Reserve Banks' access should not be limited to information regarding security-based swap transactions entered into by banks supervised by the Board, but should be available more generally with regard to security-based swap transaction data. This is consistent with the fact that Title VII does not limit the Board's access to data in such a way. This view also reflects the breadth of the Federal Reserve Banks' responsibilities regarding prudential supervision and financial stability, as addressed above.

[53] In this regard, the Commission notes that personnel of the Board and the Reserve Banks already are subject to a number of confidentiality requirements. *See* 18 U.S.C. 1905 (imposing criminal sanctions on U.S. government personnel who disclose non-public information except as provided by law), 18 U.S.C. 641 (imposing criminal sanctions on the unauthorized transfer of records), 5 CFR 2635.703 (Office of Government Ethics regulations prohibiting unauthorized disclosure of nonpublic information); *see also* Federal Reserve Bank Code of Conduct section 3.2 (requiring Reserve Bank employees to maintain the confidentiality of nonpublic information).

[54] *See* Exchange Act sections 13(n)(5)(G)(ii)–(iv), 15 U.S.C. 78m(n)(5)(G)(ii)–(iv).

[55] *See* proposed Exchange Act rule 13n–4(b)(9)(vi)–(viii).

[56] *See* proposed Exchange Act rule 13n–4(b)(9)(ix), (x).

that the Commission determines to be appropriate.''

The Commission preliminarily believes that such access by the OFR is appropriate in light of the OFR's regulatory mandate and legal responsibility and authority.[57] The OFR was established by Title I of the Dodd-Frank Act to support FSOC and FSOC's member agencies by identifying, monitoring and assessing potential threats to financial stability thorough the collection and analysis of financial data gathered from across the public and private sectors.[58] In connection with this statutory mandate to monitor and assess potential threats to financial stability, the OFR's access to security-based swap transaction data may be expected to help assist it in examining the manner in which derivatives exposures and counterparty risks flow through the financial system, and in otherwise assessing those risks. The Commission accordingly believes preliminarily that the OFR's access to security-based swap data held by repositories would appropriately fall within its regulatory mandate and legal responsibility and authority, and that the OFR should conditionally have access to the security-based swap data.[59]

As with the other entities that may access data pursuant to the data access provision, the OFR's ability to access such data would be subject to conditions related to confidentiality and indemnification.[60]

3. Future Commission Determination of Additional Entities

The proposal also would require that repositories provide data to any other person that the Commission determines to be appropriate. The Commission anticipates that entities that may seek such access would likely include foreign financial supervisors (including foreign futures authorities), foreign central banks and foreign ministries.[61] One or more self-regulatory organizations also potentially may seek such access. The proposal further would provide that the Commission will make such determinations through the issuance of Commission orders, and that such determinations may be conditional or unconditional.[62] A relevant authority would be able to request that the Commission make such a determination.

a. Determination Factors and Conditions

The Commission continues to expect that it would consider a variety of factors in connection with making such a determination, and that it may impose associated conditions in connection with the determination. The Commission expects to consider the factors discussed below, as well as any other factors the Commission determines to be relevant.[63]

In part, the Commission expects to consider whether there is an MOU or other arrangement[64] between the Commission and the relevant authority that is designed to protect the confidentiality of the security-based swap data provided to the authority.[65] The Commission also expects to consider whether information accessed by the applicable authority would be subject to robust confidentiality safeguards. The Commission believes that these factors are important given the proprietary and highly sensitive nature of the data maintained by the repository.[66]

In making a determination the Commission also may consider the relevant authority's interest in access to security-based swap data based on the relevant authority's regulatory mandate, or legal responsibility or authority. Limiting the amount of information accessed by an authority in this manner may help minimize the risk of unauthorized disclosure, misappropriation, or misuse of security-based swap data because each relevant authority will only have access to information within its regulatory mandate, or legal responsibility or authority.

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[57] See proposed Exchange Act rule 13n–4(b)(9)(ix). We note that the CFTC has identified the OFR as being an ''appropriate domestic regulator'' that may access swap data from swap data repositories. *See* note 29, *supra*.

[58] *See* Dodd-Frank Act section 153(a) (identifying the purpose of the OFR as: (1) Collecting data on behalf of FSOC and providing such data to FSOC and its member agencies; (2) standardizing the types and formats of data reported and collected; (3) performing applied research and essential long-term research; (4) developing tools for risk measurement and monitoring; (5) performing other related services; (6) making the results of the activities of the Office available to financial regulatory agencies; and (7) assisting those member agencies in determining the types and formats of data authorized by the Dodd-Frank Act to be collected by the member agencies); Dodd-Frank Act section 154(c) (requiring that OFR's Research and Analysis Center, on behalf of FSOC, develop and maintain independent analytical capabilities and computing resources to: (A) Develop and maintain metrics and reporting systems for risks to U.S. financial stability; (B) monitor, investigate, and report on changes in systemwide risk levels and patterns to FSOC and Congress; (C) conduct, coordinate, and sponsor research to support and improve regulation of financial entities and markets; (D) evaluate and report on stress tests or other stability-related evaluations of financial entities overseen by FSOC member agencies; (E) maintain expertise in such areas as may be necessary to support specific requests for advice and assistance from financial regulators; (F) investigate disruptions and failures in the financial markets, report findings and make recommendations to FSOC based on those findings; (G) conduct studies and provide advice on the impact of policies related to systemic risk; and (H) promote best practices for financial risk management).

The OFR is also required to report annually to Congress its analysis of any threats to the financial stability of the United States. *See* Dodd-Frank Act section 154(d).

[59] As discussed below, the conditions to the proposed indemnification exemption would limit an entity's access to data by linking the scope of the exemption to information that related to persons or activities within an entity's regulatory mandate or legal responsibility or authority, as specified in an MOU between the Commission and the entity. *See* part III.C, *infra*.

[60] As U.S. government personnel, OFR personnel are subject to the same general confidentiality requirements that are addressed above in the context of the Board and the Federal Reserve Banks. *See* note 53, *supra*. In addition, the OFR is required to keep data collected and maintained by the OFR data center secure and protected against unauthorized disclosure. *See* Dodd-Frank Act section 154(b)(3); *see also* 12 CFR 1600.1 (ethical conduct standards applicable to OFR employees, including post-employment restrictions linked to access to confidential information); 31 CFR 0.206 (Treasury Department prohibition on employees disclosing official information without proper authority).

[61] *See* proposed Exchange Act rule 13n–4(b)(9)(x).

[62] *See id*. In those respects, the proposed rule would implement the corresponding statutory language, which provides the Commission with the authority to allow data access to ''any other person that the Commission determines to be appropriate.'' *See* Exchange Act section 13(n)(5)(G)(v), 15 U.S.C. 78m(n)(5)(G)(v).

[63] The factors discussed below that may be expected to be relevant to a Commission's determination that a person is eligible to access security-based swap information pursuant the statutory data access provisions—including factors related to the presence of a confidentiality MOU and related to a person's regulatory mandate, or legal responsibility or authority—parallel certain of the conditions to the exemption from the indemnification requirement. *See* parts III.B, C, *infra*.

[64] The Cross-Border Proposing Release specifically referred to a ''supervisory and enforcement MOU or other arrangement'' in this context. *See* Cross-Border Proposing Release, 78 FR 31047. The Commission is revising its proposed guidance to refer to MOUs and other arrangements generally—rather than ''supervisory and enforcement'' MOUs and arrangements—to allow the parties more flexibility in arriving at such confidentiality arrangements.

[65] Such an MOU or other arrangement may also satisfy the statutory requirement that a security-based swap data repository obtain a confidentiality agreement from the authority. *See* part II.B.1, *infra* (proposed Exchange Act rule 13n–4(b)(10)(i) would permit an agreement between the Commission and a relevant authority to satisfy the statutory condition that the repository obtain a confidentiality agreement from the authority).

Moreover, this MOU or other arrangement further may satisfy the proposed indemnification exemption's condition that there be an arrangement between the Commission and an entity regarding the confidentiality of the information provided. *See* part III.C, *infra*. To the extent that a relevant authority's needs access to additional information, the relevant authority may request that the Commission consider revising its determination order, and MOU or other arrangement, as applicable.

[66] *See* Exchange Act section 13(n)(5)(H)(i).

Consistent with this factor, the Commission preliminarily expects that such determination orders typically would incorporate conditions that specify the scope of a relevant authority's access to data, and that limit this access in a manner that reflects the relevant authority's regulatory mandates or legal responsibility or authority.[67] Depending on the nature of the relevant authority's interest in the data, such conditions potentially could address factors such as the domicile of the counterparties to the security-based swap, and the domicile of the underlying reference entity.[68] Focusing access to data in this way should help address one commenter's concerns regarding ''unfettered access'' to such proprietary data.[69]

The Commission further anticipates taking into account any other factors that are appropriate to the determination, including whether such a determination would be in the public interest. This consideration likely would include whether the relevant authority agrees to provide the Commission and other U.S. authorities with reciprocal assistance in matters within their jurisdiction.

b. Additional Matters Related to the Determinations

The Commission contemplates taking various approaches in deciding whether to impose additional conditions in connection with its consideration of requests for determination orders. For example, the Commission may issue a determination order that is for a limited time. The Commission further may revoke a determination at any time. For example, the Commission may revoke a determination or request additional information from a relevant authority to support the continuation of the determination if for example a relevant authority fails to comply with the MOU, such as by failing to keep confidential security-based swap data provided to it by a repository. Even absent such a revocation, moreover, an authority's access to data pursuant to these provisions also would cease upon the termination of the MOU or other arrangement used to satisfy the confidentiality condition, or, as applicable, the indemnification exemption.[70]

The Commission preliminarily believes that the determination process described above represents a reasonable approach toward providing appropriate access to relevant authorities. Moreover, the Commission preliminarily believes that this process—particularly the link between access and the authority's interest in the information—appropriately builds upon existing voluntary frameworks, in accordance with one commenter's suggestion that the applicable framework incorporate other cooperative efforts with regard to access to information.[71]

The Commission expects that repositories will provide relevant authorities with access to security-based swap data in accordance with the determination orders, and the Commission generally does not expect to be involved in reviewing, signing-off on or otherwise approving relevant authorities' requests for security-based swap data from repositories that are made in accordance with a determination order. Moreover, the Commission continues preliminarily to believe that it is not necessary to prescribe by rule specific processes to govern a repository's treatment of requests for access.[72]

Finally, the Commission notes that it may elect to apply these determination factors and consider applying protections similar to those in the data access provisions of Exchange Act sections 13(n)(5)(G) and (H) when designating authorities to receive direct access under section 13(n)(5)(D). Section 13(n)(5)(D) states that a repository must provide direct electronic access to the Commission ''or any designee of the Commission, including another registered entity.'' [73] In practice, the Commission expects that security-based swap data repositories may satisfy their obligation to make available data pursuant to sections 13(n)(5)(G) and (H) by providing electronic access to appropriate authorities. To the extent a repository were to satisfy those requirements by some method other than electronic access, however, the Commission separately may consider whether to also designate particular authorities as being eligible for electronic access to the repository pursuant to section 13(n)(5)(D). In making such assessments under section 13(n)(5)(D), the Commission preliminarily believes that it may consider factors similar to the above determination factors, including the presence of confidentiality safeguards, and the authority's interest in the information based on its regulatory mandate or legal responsibility or authority.

4. Notification Requirement

The proposal would implement the statutory notification requirement—which states that a repository must notify the Commission when an entity requests that the repository make

[67] To appropriately limit a relevant authority's access to only security-based swap data that is consistent with the MOU between the Commission and the relevant authority, a repository may, for example, need to customize permissioning parameters to reflect each relevant authority's electronic access to security-based swap data. *See generally* note 103, *infra* (discussing access criteria currently used by DTCC in connection with current voluntary disclosure practices).

[68] *See* note 105, *infra,* and accompanying text (discussing application of those factors in the context of the indemnification exemption).

[69] *See* note 14, *supra* (comment voicing concerns about ''unfettered access'' to security-based swap information by regulators, including foreign financial supervisors, foreign central banks and foreign ministries, beyond their regulatory authority and mandate).

As discussed below, moreover, the availability of the proposed indemnification exemption would similarly be conditioned to reflect the recipient's regulatory mandates or legal responsibility or authority. *See* part III.C, *infra.* Accordingly, based on the expectation that persons who seek access pursuant to these provisions would rely on the indemnification exemption, there would be comparable limitations to access applicable to persons directly identified by Exchange Act sections 15(n)(5)(i) through (iv) (the ''prudential regulators,'' FSOC, CFTC and Department of Justice) or added by the proposed rules (the Federal Reserve Banks and the OFR).

[70] *See* parts II.B and III.B, C, *supra.*

[71] *See* DTCC comment (June 3, 2011) at 6–7 (''It is critical that the United States, the European Union and the other major global markets align their regulatory regimes to limit opportunities for market distorting arbitrage. The creation of a global credit default swap repository would not have occurred without the global regulatory cooperation achieved through the OTC Derivatives Regulators' Forum ('ODRF') and the OTC Derivatives Regulators Supervisors Group ('ODSG'). It is important that the global SDR framework incorporate their efforts, particularly the ODRF's guidelines on regulatory access to information stored in trade repositories for over-the-counter derivatives.''); DTCC comment (Jan. 24, 2011) at 3 (''DTCC relies upon the direction provided by the OTC Derivatives Regulators' Forum ('ODRF'), whose membership includes the SEC and the Commodity Futures Trading Commission ('CFTC'). DTCC's Trade Information Warehouse (the 'Warehouse' or 'TIW') has followed the ODRF's guidance, recognizing that broad agreement among global regulators is difficult to achieve. DTCC is committed to complying with the policies adopted by the regulators and working with the Commission in this regard.'').

In this regard, DTCC further has stated that it routinely provides U.S. regulators with credit default swap data related to overseas transactions entered into by non-U.S. persons on U.S. reference entities, and that it provides European regulators with data related to transactions in the U.S. by U.S. persons on European reference entities. *See* DTCC comment (Jan. 24, 2011) at 12; *see also* DTCC comment (June 3, 2011) at 7–8.

[72] *See* Cross-Border Proposing Release, 78 FR 31047–48. One commenter suggested that the Commission adopt an approach proposed by the CFTC, whereby a regulator requesting access to data first file a request for access and certify the statutory authority for the request and detail the basis for the request. *See* Managed Funds Association comment (Jan. 24, 2011) at 3–4. In contrast to that proposal, however, the final CFTC rules do not require relevant authorities to detail the basis for their requests, and do not require a swap data repository to provide access only if it is satisfied that the regulator is acting within the scope of its authority. *See* note 31, *supra.*

[73] 15 U.S.C. 78m(n)(5)(D).

available security-based swap data [74]—by requiring the repository to inform the Commission upon its receipt of the first request for data from a particular entity (which may include any request that the entity be provided ongoing online or electronic access to the data).[75] A repository must keep such notifications and any related requests confidential.[76]

The repository further would have to maintain records of all information related to the initial and all subsequent requests for data access requests from that entity, including records of all instances of online or electronic access, and records of all data provided in connection with such requests or access.[77] For these purposes, we believe that ''all information related to'' such requests would likely include, among other things: The identity of the requestor or person accessing the data; the date, time and substance of the request or access; and copies of all data reports or other aggregations of data provided in connection with the request or access.

In the Commission's preliminary view, the proposed notification requirement is designed to account for the way in which we believe entities are likely to access such data from repositories, by distinguishing steps that an entity takes to arrange access from subsequent electronic instructions and other means by which the recipient obtains data. By making relevant data available to the Commission in this manner, the proposed approach would place the Commission on notice that a recipient has the ability to access security-based swap data, and place the Commission in a position to examine such access as appropriate, while avoiding the inefficiencies that would accompany an approach whereby a repository must direct to the Commission information regarding each instance of access by each recipient. Moreover, the proposed approach would be consistent with the manner in which the Commission examines the records of regulated entities under the Commission's authority.

The Commission recognizes that one commenter opposed any requirement that the Commission receive notice of a recipient's initial request, on the grounds that such notice may cause other authorities to hesitate to make such requests.[78] While the Commission appreciates the commenter's concerns, the Commission preliminarily believes that it is necessary for the Commission to be informed of the initial request from a particular entity so that the Commission may assess whether the initial conditions to data access (*i.e.,* MOUs or other arrangements as needed to satisfy the confidentiality condition and the indemnification exemption) [79] have been met at the time the repository first is requested to provide the entity with information pursuant to the data access provisions, and, more generally, to facilitate the Commission's ongoing assessment of the repository's compliance with the data access provisions. The Commission also believes that commenter concerns that other regulators may be reluctant to place the Commission on notice of such initial requests are mitigated by the Commission's long history of cooperation with other authorities in supervisory and enforcement matters.[80]

5. Limitation to ''Security-Based Swap Data''

Repositories that obtain security-based swap data may also obtain data regarding other types of financial instruments, such as swaps under the CFTC's jurisdiction. We do not read the data access provisions of Exchange Act sections 13(n)(5)(G) and (H)—which were added by Subtitle B of Title VII (which focused on the regulatory treatment of security-based swaps) [81] to the Exchange Act (which generally addresses the regulation of securities such as security-based swaps)—to require a repository to make available data that does not involve security-based swaps. The statutory confidentiality condition to the data access requirement further suggests that the data access provisions are intended to apply only to security-based swap data.[82] Accordingly, the proposed rules specifically address access to ''security-based swap data'' obtained by a security-based swap data repository.[83]

*B. Confidentiality Condition*

The Exchange Act provides that, prior to providing data, a repository ''shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided.'' [84]

[74] *See* Exchange Act section 13(n)(5)(G), 15 U.S.C. 78m(n)(5)(G). As discussed below, *see* part IV, *infra,* the notification requirement does not apply to circumstances in which disclosures are made outside of the requirements of Exchange Act section 13(n)(5)(G), 15 U.S.C. 78m(n)(5)(G), particularly when a dually regulated data repository makes disclosure pursuant to foreign law, or when the Commission provides security-based swap data to an entity.

[75] *See* proposed Exchange Act rule 13n–4(e). The rule does not require the repository to proactively inform the Commission of subsequent requests.

[76] Exchange Act section 13(n)(5)(G), 15 U.S.C. 78m(n)(5)(G), and proposed rule 13n–4(b)(9) both require that a repository must make data available ''on a confidential basis.'' Failure by a repository to treat such notifications and requests as confidential could have adverse effects on the underlying basis for the requests. If, for example, a regulatory use of the data is improperly disclosed, such disclosure could signal a pending investigation or enforcement action, which could have detrimental effects.

[77] *See* proposed Exchange Act rule 13n–4(e).

We note that Exchange Act rule 13n–7(b)(1) requires security-based swap data repositories to maintain copies of ''all documents and policies and procedures required by the Act and the rules and regulations thereunder, correspondence, memoranda, papers, books, notices, accounts and other such records as shall be made or received by it in the course of its business as such.'' *See also* SDR Adopting Release, 80 FR 14501 (''This rule includes all electronic documents and correspondence, such as data dictionaries, emails and instant messages, which should be furnished in their original electronic format.''). Proposed Exchange Act rule 13n–4(e) identifies specific types of records that must be maintained in the specific context of access request to repositories.

[78] *See* DTCC comment (Aug. 13, 2013) (''DTCC discourages the Commission from requiring a notification requirement upon initial request as suggested by the Cross-Border Proposal. Authorities will likely be hesitant to make such request to an SDR if it triggers a notice to another authority, particularly if such request is pursuant to an investigation. DTCC proposes that the Commission consider notification to be deemed satisfied if the request is made by an entity to the SDR pursuant to an established information sharing arrangement[.]'').

[79] *See* parts II.B and III.B, *infra.*

[80] The Commission also recognizes that the same commenter stated that ''regulators want direct electronic access to data in SDRs where that data is needed to fulfill regulatory responsibilities'' rather than access ''by request, with notice to another regulatory authority.'' *See* DTCC comment (Jan. 24, 2011) at 11–12. Data repositories in fact can provide direct electronic access to relevant authorities under the proposed interpretation. The proposed requirement that the repository inform the Commission when the relevant authority first requests access to security-based swap data maintained by the repository, and to retain records of subsequent access, is designed to facilitate such direct access.

[81] *See* Dodd-Frank Act section 763(i) (addressing ''public reporting and repositories for security-based swaps,'' including the addition of section 13(n), 15 U.S.C. 78m(n), to the Exchange Act to address security-based swap data repositories); *see generally* Subtitle B to Title VII of the Dodd-Frank Act, section 761 *et seq.* (addressing ''Regulation of Security-Based Swap Markets'').

[82] In particular, the confidentiality condition to the data access provisions specifically requires that the recipient entity abide by confidentiality requirements for ''the information on security-based swap transactions that is provided,'' suggesting that the Exchange Act data access provisions are intended solely to address security-based swap data. *See* Exchange Act section 13(n)(5)(H)(i), 15 U.S.C. 78m(n)(5)(H)(i).

Moreover, this approach is consistent with the CFTC's comparable rules, which apply only to swap data. *See* 17 CFR 49.17(d) and 49.18 (discussing regulators' access to swap data under the CEA).

[83] *See* proposed Exchange Act rule 13n–4(b)(9).

[84] *See* Exchange Act section 13(n)(5)(H)(i), 15 U.S.C. 78m(n)(5)(H)(i).

Exchange Act section 24, 15 U.S.C. 78x, generally addresses disclosures of information by the Commission and its personnel. In relevant part it provides that the Commission may, ''in its discretion and upon a showing that such

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The proposed rule implementing this condition would require that, before a repository provides information pursuant to the data access provisions, ''there shall be in effect an arrangement between the Commission and the entity (in the form of a memorandum of understanding or otherwise) to address the confidentiality of the security-based swap information made available to the entity.'' [85] The proposed rule further would provide that this arrangement would be deemed to satisfy the statutory requirement that the repository receive a written confidentiality agreement from the entity.[86]

This proposed approach to implementing the confidentiality condition, in other words, would use an arrangement between the Commission and a regulator or other recipient entity to satisfy the statutory confidentiality condition. The approach would not necessitate the use of confidentiality agreements entered into by repositories.[87]

In the Commission's preliminary view, this approach reflects an appropriate way to satisfy the interests associated with the confidentiality condition, while facilitating the statutory data access provision's goal of promoting the flow of information to authorities. The approach further would build upon the Commission's experience in negotiating MOUs with other regulators in connection with enforcement and supervision, particularly the Commission's experience in connection with the development of provisions related to maintaining the confidentiality of information.

As a result, the approach would potentially obviate the need for each individual repository to negotiate and enter into dozens of confidentiality agreements. By building upon the Commission's experience and expertise in this area, moreover, the Commission expects that this approach also would help avoid the possibility of uneven and potentially inconsistent application of confidentiality protections across data repositories and recipient entities.

In proposing this approach, the Commission also is mindful that the statutory provision specifically references the ''confidentiality requirements described in section 24'' of the Exchange Act. In the Commission's preliminary view this statutory language articulates a standard which requires that there be adequate confidentiality assurances. Thus, the Commission preliminarily believes that the proposed provision, under which the Commission would negotiate and enter into agreements providing such confidentiality assurances, appropriately implements the statutory reference to section 24.

### *C. Request for Comment*

The Commission requests comment regarding all aspects of these proposed rules regarding access to security-based swap data from repositories. Among other things, commenters particularly are invited to address the proposal that the confidentiality agreement requirement would be satisfied by an MOU or other agreement between the Commission and another entity. Commenters also are invited to address: The proposed limitation of the data access requirement to security-based swap data; the proposed provisions related to access by prudential regulators, the Federal Reserve Banks and the OFR; the criteria that the Commission should consider in evaluating whether to determine to permit additional entities to access data from repositories; whether the orders that make such determinations generally should encompass conditions that limit a relevant authority's access to information to reflect its regulatory mandate or legal responsibility or authority; whether the Commission should prescribe specific processes to govern requests for such access; and whether the Commission should prescribe a process to govern a repository's treatment of requests for access.

In addition, commenters are invited to address the proposed rules implementing the notification requirement, including the proposed provisions regarding the maintenance of information related to data requests. In this regard, is there an alternative to requiring repositories to maintain copies of all data they provide in connection with the data access provisions that would still permit the Commission to assess the repository's ongoing compliance with those provisions? For example, are alternative approaches available such that the Commission should not require repositories to maintain actual copies of all reports or other aggregations of data provided pursuant to the data access provisions, such as if the repository instead implements policies and procedures sufficient to demonstrate a process for creating records that reflect the data provided, and the repository produces promptly copies of such records upon request by a representative of the Commission? [88] Would such an alternative approach reduce the burdens on repositories while still permitting the Commission to assess ongoing compliance?

Commenters further are invited to address whether the Commission should determine that other domestic authorities, such as one or more self-regulatory organizations, should be eligible to access security-based swap data pursuant to these provisions. If so, should the access of such self-regulatory organizations be limited in any particular respects?

information is needed,'' provide all records and other information ''to such persons, both domestic and foreign, as the Commission by rule deems appropriate if the person receiving such records or information provides such assurances of confidentiality as the Commission deems appropriate.'' *See* Exchange Act section 24(c), 15 U.S.C. 78x(c); *see also* Exchange Act rule 24c–1(b) (providing that the Commission may, upon ''such assurances of confidentiality as the Commission deems appropriate,'' provide non-public information to persons such as domestic and foreign governments or their political subdivisions, authorities, agencies or instrumentalities, self-regulatory organizations and foreign financial authorities).

[85] *See* proposed Exchange Act rule13n-4(b)(10).

[86] *See* Exchange Act section 13(n)(5)(H)(1). As discussed below, *see* part IV, *infra,* the confidentiality condition does not apply to circumstances in which disclosures are made outside of the requirements of Exchange Act section 13(n)(5)(G), 15 U.S.C. 78m(n)(5)(G), particularly when a dually regulated data repository makes disclosure pursuant to foreign law, or when the Commission provides security-based swap data to an entity.

[87] In this regard, the Commission notes that the statute does not require that the security-based swap data repository ''agree'' with the entity, ''enter into'' an agreement, or otherwise be a party to the confidentiality agreement. The statute merely states that the repository ''receive'' such an agreement. *See* Exchange Act section 13(n)(5)(H)(i), 15 U.S.C. 78m(n)(5)(H)(i). Accordingly, we believe that, at a minimum, the statutory language is ambiguous as to whether the data repository must itself be a party to the confidentiality agreement. In light of this ambiguity, we have preliminarily determined to read the statute to permit the Commission to enter into confidentiality agreements with the entity, with the repository receiving the benefits of the agreement. Accordingly, the Commission believes that it is appropriate to view a security-based swap data repository as having received a confidentiality agreement when the entity enters into a confidentiality agreement with the Commission and that agreement runs to the benefit of the repository.

[88] For example, in adopting Exchange Act rule 17a–4(b)(13) to provide that broker-dealers must preserve certain written policies and procedures in connection with creditworthiness assessments, the Commission stated that although the rule does not require that a broker-dealer maintain a record of each such creditworthiness determination, a broker-dealer would need to be able to support each such determination, and that the broker-dealer may do so by either maintaining documentation of those determinations or by being in a position to ''replicate the original credit risk determination using the same process, information, and inputs employed to make the original determination.'' *See* Exchange Act Release No. 71194 (Dec. 27, 2013), 79 FR 1522, 1528–29, 1550 (Jan. 8, 2014).

## III. Proposed Exemption From the Indemnification Requirement

### *A. Proposed Exemption*

The Exchange Act also conditions the data access requirement on each recipient entity agreeing ''to indemnify the security-based swap data repository and the Commission for any expenses arising from litigation relating to information provided under section 24.'' [89]

Pursuant to the Commission's authority under Exchange Act section 36,[90] the Commission is proposing a conditional exemption from that statutory indemnification requirement. This proposed exemption would be effective whenever the applicable conditions are met, in contrast with the earlier proposal, which would have conditionally exempted regulators and other authorities from the indemnification requirement only at the election of the data repository.[91]

This proposed exemption reflects the Commission's preliminary concern that requiring authorities to agree to provide indemnification could lead to negative consequences in practice. The Commission continues to understand that certain authorities may be legally prohibited or otherwise limited from agreeing to indemnify data repositories or the Commission for expenses arising in connection with the information received from a repository.[92]

As a result, application of the indemnification requirement may chill some requests by regulators or other authorities for access to security-based swap data, which would hinder those authorities' ability to address their own regulatory mandate or legal responsibility or authority.[93] The resulting lack of access also may impair coordination among regulators with regard to the oversight of market participants that engage in security-based swap transactions across national boundaries. For example, European Union (''EU'') law provides that the ability of certain non-EU regulators to access data from EU repositories is conditioned on there being an international agreement that ensures that EU authorities have ''immediate and continuous access to all of the information needed for the exercise of their duties.'' [94] As a result, application of the indemnification requirement without an exemption being available potentially could preclude EU authorities from accessing data from U.S. security-based swap data repositories. Under such circumstances, it is possible that EU authorities may be unwilling to permit the Commission and other U.S. regulators to access security-based swap data from EU repositories. The resulting concerns associated with a lack of regulatory access to security-based swap data are particularly significant given that data access allows relevant authorities to be in a better position to, among other things, monitor risk exposures of individual counterparties to swap and security-based swap transactions, monitor concentrations of risk exposures and evaluate risks to financial stability.[95]

Such a result associated with application of the indemnification requirement further may make substituted compliance unavailable in connection with security-based swap data reporting requirements, given that under rules adopted by the Commission the availability of substituted compliance for those requirements is predicated in part on the Commission's ability to directly access data in foreign repositories.[96]

The Commission recognizes that indemnification may help support confidentiality safeguards by making a recipient liable for expenses that a repository or the Commission incurs in connection with breaches of confidentiality. Nonetheless, the

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[89] Exchange Act section 13(n)(5)(H)(ii), 15 U.S.C. 78m(n)(5)(H)(ii). As discussed below, *see* part IV, *infra*, the statutory indemnification requirement would not always be triggered by the disclosure of security-based swap information.

In the event that the proposed exemption is unavailable, the Commission agrees with one commenter's view that ''any indemnity should be limited in scope to minimize the potential reduction in value of registered SDRs to the regulatory community.'' *See* DTCC comment (Jan. 24, 2011) at 12. Consistent with that view, as stated in the Cross-Border Proposing Release, the Commission would not expect that an indemnification agreement would include a provision requiring a relevant authority to indemnify the repository from the repository's own wrongful or negligent acts. *See* Cross-Border Proposing Release, 78 FR 31051 n.829.

[90] 15 U.S.C. 78mm (providing the Commission with general exemptive authority . . . ''to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors'').

[91] To implement this approach, the Commission proposes in relevant part that the indemnification requirement conditionally ''shall not be applicable'' with regard to the repository's disclosure of security-based swap information. *See* proposed Exchange Act rule 13n–4(d)(1). The earlier proposal would have conditionally provided that a registered security-based swap data repository ''is not required to comply'' with the indemnification requirement. *See* Cross-Border Proposing Release, 78 FR 31209 (paragraph (d) of proposed rule 13n–4).

[92] As stated in the Cross-Border Proposing Release, the Commission recognizes that certain domestic authorities, including some of those expressly identified in Exchange Act section 13(n)(5)(G), 15 U.S.C. 78m(n)(5)(G), as a matter of law cannot provide an open-ended indemnification agreement. *See* Cross-Border Proposing Release, 78 FR 31048–49 (particularly noting that the Antideficiency Act prohibits certain U.S. federal agencies from obligating or expending federal funds in advance or in excess of an appropriation, apportionment, or certain administrative subdivisions of those funds, *e.g.,* through an unlimited or unfunded indemnification).

[93] *See* DTCC cross-border comment (Aug. 21, 2013) at 6 (''The continued presence of the Indemnification Provision (even as modified by the exemption in the Cross-Border Proposal) may pose problems for Commission-regulated, U.S.-based SDRs and their ability to share information with third-party regulatory authorities. As a result, foreign regulators may seek to establish their own 'national' repositories to ensure access to the information they need, fragmenting the data among jurisdictions. Similarly, non-U.S. trade repositories may find themselves subject to similar reciprocal impediments to sharing information with the Commission or other U.S. regulatory agencies absent a confidentiality and indemnification agreement.''); *see also* DTCC comment (Nov. 15, 2010) at 3 (''DTCC remains concerned that regulators are not likely to grant SDRs indemnification in exchange for access to the information and, accordingly, regulators may actually receive less aggregated market data. Such an outcome would result in a reduction of information accessible to regulators on a timely basis both domestically and internationally, which contravenes the purpose of SDRs and jeopardizes market stability.''); Cleary Gottlieb comment (Sept. 20, 2011) at 31 (''[T]he indemnification requirement could be a significant impediment to effective regulatory coordination, since non-US regulators may establish parallel requirements for U.S. regulators to access swap data reported in their jurisdictions.''); ESMA comment (Jan. 17, 2011) at 2 (''We believe that ensuring confidentiality is essential for exchanging information among regulators and such indemnification agreement undermines the key principle of trust according to which exchange of information should occur.'').

[94] *See* EU regulation 648/2012 (''EMIR''), art. 75(2).

[95] *See* Darrell Duffie, Ada Li, and Theo Lubke, Policy Perspectives of OTC Derivatives Market Infrastructure, Federal Reserve Bank of New York Staff Report No. 424, dated January 2010, as revised March 2010 (with data from repositories regulators can ''explore the sizes and depths of the markets, as well as the nature of the products being traded. With this information, regulators are better able to identify and control risky market practices, and are better positioned to anticipate large market movements.''); *see also* DTCC comment (June 3, 2011) at 5 (noting that a data repositories should be able to provide: (i) Enforcement authorities with necessary trading information; (ii) regulatory agencies with counterparty-specific information about systemic risk based on trading activity; (iii) aggregate trade information on market-wide activity and aggregate gross and net open interest for publication; and (iv) real-time reporting from [security-based swap execution facilities] and bilateral counterparties and related dissemination).

[96] *See* Regulation SBSR, rule 908(c)(2)(iii)(C), 17 CFR 242.908(c)(2)(iii)(C) (conditioning the availability of substituted compliance in part on the Commission having ''direct electronic access to the security-based swap data held by a trade repository or foreign regulatory authority to which security-based swaps are reported pursuant to the rules of that foreign jurisdiction''); *see also* Exchange Act Release No. 74244 (Feb. 11, 2015), 80 FR 14564, 14661 (Mar.19, 2015) (''Regulation SBSR Adopting Release'') (''granting substituted compliance without direct electronic access would not be consistent with the underlying premise of substituted compliance: That a comparable regulatory result is reached through compliance with foreign rules rather than with the corresponding U.S. rules.'').

countervailing considerations noted above indicate that indemnification—of either the repository or the Commission—should not be required so long as appropriate confidentiality protections are provided in other ways.

For these reasons the Commission preliminarily believes that it is necessary and appropriate in the public interest, and consistent with the protection of investors, that the indemnification requirement be subject to an exemption that applies whenever the applicable conditions are satisfied.[97]

*B. Confidentiality Arrangement Condition*

The proposal in part would condition the indemnification exemption upon there being in effect one or more arrangements (in the form of an MOU or otherwise) between the Commission and the entity that addresses the confidentiality of the security-based swap information provided and other matters as determined by the Commission.[98] The Commission preliminarily believes that such an MOU or other arrangement would address similar confidentiality interests that appear to be reflected by the statutory indemnification requirement, particularly given that the disclosure of confidential information inconsistent with such arrangements can lead to the termination of the arrangement and the loss of data access. Just as an indemnification agreement may be expected to incentivize the confidential treatment of information, such a confidentiality arrangement would help strengthen the authority's incentive to maintain the confidentiality of information.

The Commission anticipates that in determining whether to enter into such an MOU or other arrangement, it would consider, among other things, whether: (a) Security-based swap information from a repository would help fulfill the relevant authority's regulatory mandate, or legal responsibility or authority; (b) the relevant authority provides such assurances of confidentiality as the Commission deems appropriate with respect to the security-based swap information provided to the authority; (c) the relevant authority is subject to statutory and/or regulatory confidentiality safeguards; (d) the relevant authority agrees to provide the Commission with reciprocal assistance in matters within the Commission's jurisdiction; and (e) an MOU or other arrangement would be in the public interest. These considerations are comparable to the criteria that the Commission anticipates considering as it determines whether an entity is eligible to access information pursuant to the data access provisions.[99] Accordingly, for regulators or other authorities whose access is subject to a determination order, the same confidentiality MOUs or other agreements that are needed to satisfy the indemnification exemption may also serve to satisfy those prerequisites to the determinations.[100]

*C. Condition Regarding Regulatory Mandate or Legal Responsibility or Authority*

The proposal further would condition the indemnification exemption on the requirement that the information relate to persons or activities within the recipient entity's regulatory mandate, or legal responsibility or authority.[101] This proposed condition should reduce the potential for disclosure of confidential information by limiting the quantity of information each recipient may access. This limitation on access also should help address commenter concerns regarding ''unfettered access'' to security-based swap data.[102] This approach of limiting the availability of data to reflect such considerations also has parallels to the approach that one commenter indicated that it follows on a voluntary basis for providing relevant authorities with access to certain credit default swap information.[103]

The proposal would implement this requirement by further conditioning the indemnification exemption by requiring that the MOU or other arrangement between the Commission and the entity accessing the data would specify the types of security-based swap information that would relate to the recipient entity's regulatory mandate, or legal responsibility or authority.[104] While the relevant factors for specifying which information is within an entity's regulatory mandate, or legal responsibility or authority for these purposes may vary depending on the relevant facts and circumstances, such factors potentially would include the location of a counterparty to the transaction and the location of the reference entity.[105] In this way, the MOU or other arrangement would help reduce uncertainty regarding how the associated condition to the indemnification exemption may apply

[97] The Commission is not incorporating a commenter's suggestion that there be ''a safe harbor provision from liability for information shared pursuant to global information sharing agreements into the Indemnification Exemption for SDRs operating pursuant to information sharing arrangements, as defined in the Indemnification Exemption, or comparable to those published by the OTC Derivatives Regulators Forum (''ODRF'') or CPSS–IOSCO.'' *See* DTCC cross-border comment (Aug. 21, 2013) at 7; *see also* DTCC comment (Jan. 24, 2011) at 3 (urging the Commission to aim for regulatory comity as reflected in ODRF and CPSS–IOSCO standards); DTCC comment (June 3, 2011) at 6–7 (urging that the global framework incorporate efforts of the ODRF and the OTC Derivatives Regulators Supervisors Group).

To the extent that the commenter suggests that there be a safe harbor from the indemnification requirement, the Commission preliminarily believes that this proposed exemption, which is more narrowly tailored than the commenter's suggestion, would sufficiently address a repository's need for certainty. The Commission further notes that a repository's statutory duty to maintain the privacy of the information received is separate and distinct from its statutorily mandated duty to provide security-based swap data to relevant authorities when specific conditions are satisfied, and that the privacy of security-based swap data provided to relevant authorities was addressed by Congress through the confidentiality agreement requirement in Exchange Act section 13(n)(5)(H), 15 U.S.C. 78m(n)(5)(H).

[98] *See* proposed Exchange Act rule 13n–4(d)(2)(ii).

[99] *See* notes 64 through 69, *supra*, and accompanying text.

[100] Those entities that are expressly identified in the statute or the implementing rules (and thus are not subject to the determination process) also would need to enter into a separate MOU or other agreement to satisfy the confidentiality agreement condition.

[101] *See* proposed Exchange Act rule 13n–4(d)(1).

[102] *See* note 14, *supra.*

[103] *See* note 71, *supra* (DTCC statement that it routinely provides U.S. regulators with data related to overseas credit default swap transactions entered into by non-U.S. persons on U.S. reference entities, and that it provides European regulators with data related to credit default swap transactions in the U.S. by U.S. persons on European reference entities).

[104] *See* proposed Exchange Act rule 13n–4(d)(2)(ii).

[105] As an example, in the event of a request for access by a foreign authority that is responsible for security-based swap market surveillance and enforcement—and subject to negotiation of such an MOU or other arrangement between the Commission and that authority—criteria indicative of data regarding a transaction being within the authority's regulatory mandate or legal responsibility or authority may include: (i) One or more of the counterparties to the transaction being domiciled or having a principal place of business in the foreign jurisdiction (including branches of entities that are domiciled or that have a principal place of business in that jurisdiction); (ii) one or more of the counterparties being a subsidiary of a person domiciled or having a principal place of business in the foreign jurisdiction; (iii) one or more of the counterparties being a fund or other collective investment vehicle with an adviser that is domiciled or that have a principal place of business in the foreign jurisdiction; (iv) one or more of the counterparties being registered with the authority as a dealer or in some other capacity; or (v) the reference entity for the security-based swap being domiciled or having a principal place of business in the foreign jurisdiction.

As another example, in the case of a foreign authority that is responsible for prudential regulation, criteria indicative of data regarding a transaction being within the entity's regulatory mandate or legal responsibility or authority may include one or more of the counterparties to the transaction being part of a consolidated organization that is supervised by the prudential authority, including all affiliates within that consolidated organization.

to particular types of information requests, and would provide direction to repositories regarding which disclosures would be covered by the indemnification exemption.[106]

*D. Request for Comment*

The Commission requests comment on all aspects of the proposed exemption to the statutory indemnification requirement. Commenters particularly are invited to address whether the exemption's proposed scope would adequately address the concerns associated with implementing the indemnification requirement. Among other things, commenters are invited to address whether alternative approaches or other considerations more effectively reflect the access and confidentiality interests associated with the Dodd-Frank Act? Also, should additional conditions be incorporated into the exemption?

Commenters further are invited to address whether the proposal appropriately would make use of an MOU or other arrangement to provide sufficient guidance to a repository regarding an entity's regulatory mandate, or legal responsibility or authority in connection with a request for security-based swap data. In this respect, would the proposed approach provide a repository with an adequate degree of guidance regarding which disclosures of information may or may not be subject to protection? Are there particular criteria that would be useful for incorporating into the MOU or other arrangement to help delimit which information would fall within an entity's regulatory mandate, or legal responsibility or authority?

## IV. Applicability of Exchange Act Data Access and Indemnification Provisions

The Exchange Act provisions addressed above—sections 13(n)(5)(G) and (H) [107]—establish one means by which certain regulators and other authorities may access security-based swap data from repositories. It is important to recognize, however, that those provisions do not exclusively govern the means by which such regulators or other authorities might access security-based swap data.

In particular, in the circumstances discussed below, regulators and other authorities in certain circumstances may access security-based swap data via authority that is independent of the above provisions. In those circumstances, the Commission preliminarily believes that the conditions associated with those data access provisions—particularly the provisions regarding indemnification, notification and confidentiality agreements—should not govern access arising from such independent authority.

*A. Data Access Authorized by Foreign Law*

The Commission continues to believe preliminarily, as discussed in the Cross-Border Proposing Release, that ''the Indemnification Requirement does not apply when an SDR is registered with the Commission and is also registered or licensed with a foreign authority and that authority is obtaining security-based swap information directly from the SDR pursuant to that foreign authority's regulatory regime.'' [108] In those circumstances, the dually registered data repository would be subject to a data access obligation that is independent of the Exchange Act data access obligation, and the notification, confidentiality and indemnification conditions to the Exchange Act data access provision would not apply.

*B. Receipt of Information Directly From the Commission*

The Exchange Act also provides that relevant authorities may obtain security-based swap data from the Commission, rather than directly from data repositories.[109]

First, Exchange Act section 21(a)(2) [110] states that, upon request of a foreign securities authority, the Commission may provide assistance in connection with an investigation the foreign securities authority is conducting to determine whether any person has violated, is violating or is about to violate any laws or rules relating to securities matters that the requesting authority administers or enforces.[111] That section further provides that, as part of this assistance, the Commission in its discretion may conduct an investigation to collect information and evidence pertinent to the foreign securities authority's request for assistance.[112]

In addition, the Commission may share ''nonpublic information in its possession'' with, among others, any ''federal, state, local, or foreign government, or any political subdivision, authority, agency or instrumentality of such government . . . [or] a foreign financial regulatory authority.'' [113] This authority is subject to the recipient providing ''such assurances of confidentiality as the Commission deems appropriate.'' [114]

In the Commission's view, and consistent with Commission practice for many years, these sections provide the Commission with separate, additional authority to assist domestic and foreign authorities in certain circumstances, such as, for example, by providing security-based swap data directly to the authority. At those times, the authority would receive information not from the data repository, but instead from the Commission.

*C. Request for Comment*

The Commission requests comment on these preliminary interpretations regarding the scope of the data access requirement and conditions set forth in Exchange Act sections 13(n)(5)(G) and (H).

## V. Paperwork Reduction Act

Certain provisions of the proposed rules contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[115] The SEC has submitted them to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507 and 5 CFR 1320.11. The title of the new collection of information is ''Security-Based Swap Data Repository Data Access Requirements.'' An agency may not conduct or sponsor, and a

[106] The Commission anticipates that data repositories would be able to rely on the guidance provided by such arrangements when assessing whether particular information would be subject to the indemnification exemption, thus permitting an authority to access that information without an indemnification agreement.

[107] 15 U.S.C. 78m(n)(5)(G) and (H).

[108] *See* Cross-Border Proposing Release, 78 FR 31049 n.807.

[109] *See* Cross-Border Proposing Release, 78 FR 31045.

[110] 15 U.S.C. 78u(a)(2).

[111] Exchange Act section 3(a)(50), 15 U.S.C. 78c(a)(50), broadly defines ''foreign securities authority'' to include ''any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.''

[112] Exchange Act section 21(a)(2), 15 U.S.C. 78u(a)(2), also states that the Commission may provide such assistance without regard to whether the facts stated in the request also would constitute a violation of U.S. law.

That section further states that when the Commission decides whether to provide such assistance to a foreign securities authority, the Commission shall consider whether the requesting authority has agreed to provide reciprocal assistance in securities matters to the United States, and whether compliance with the request would prejudice the public interest of the United States.

[113] *See* Exchange Act rule 24c–1(c) (implementing Exchange Act section 24(c), 15 U.S.C. 78x(c), which states that the Commission may, ''in its discretion and upon a showing that such information is needed,'' provide records and other information ''to such persons, both domestic and foreign, as the Commission by rule deems appropriate,'' subject to assurances of confidentiality).

[114] *See id.*

[115] 44 U.S.C. 3501 *et seq.*

person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has not yet assigned a control number to the new collection of information.

*A. Summary of Collection of Information*

The proposal would require security-based swap data repositories to make security-based swap data available to other parties, including certain government bodies. This data access obligation would be conditioned on confidentiality and indemnification requirements, and the indemnification requirement itself would be subject to a conditional exemption. The proposal further would require such repositories to create and maintain information regarding such data access.

*B. Proposed Use of Information*

The data access requirement and associated conditions would provide the regulators and other authorities that receive the relevant security-based swap data with tools to assist with the oversight of the security-based swap market and of dealers and other participants in the market, and to assist with the monitoring of risks associated with that market.

*C. Respondents*

The data access requirement will apply to every person required to be registered with the Commission as a security-based swap data repository—that is every U.S. person performing the functions of a security-based swap data repository, and to every non-U.S. person performing the functions of a security-based swap data repository within the United States absent an exemption.[116] Commission staff is aware of seven persons that have, to date, filed applications for registration with the CFTC as swap data repositories, three of which have withdrawn their applications and four of which are provisionally registered with the CFTC. It is reasonable to estimate that a similar number of persons provisionally registered with the CFTC may seek to register with the Commission as security-based swap data repositories. Therefore, the Commission estimates, for PRA purposes, that ten persons might register with the Commission as security-based swap data repositories.[117]

The conditions to data access under these proposed rules further will affect all persons that may seek access to security-based swap data pursuant to these provisions. As discussed below, these may include up to 30 domestic entities.

*D. Total Annual Reporting and Recordkeeping Burden*

1. Data Access Generally

The data access provisions may implicate various types of PRA burdens and costs: (i) Burdens and costs that regulators and other authorities incur in connection with negotiating MOUs or other arrangements with the Commission in connection with the data access provisions; (ii) burdens and costs that certain authorities that have not been determined by statute or Commission rule may incur in connection with requesting that the Commission grant them access to repository data; [118] (iii) burdens and costs associated with information technology systems that repositories develop in connection with providing data to regulators and other authorities; and (iv) burdens and costs associated with the requirement that repositories notify the Commission of requests for access to security-based swap data, including associated recordkeeping requirements.

a. MOUs

As discussed above, entities that access security-based swap data pursuant to these data access provisions would be required to enter into MOUs or other arrangements with the Commission to address the confidentiality condition and the indemnification exemption. In some cases, those entities also would enter into MOUs or other arrangements in connection with the Commission's determination of the entity as authorized to access such data (to the extent that the entity's access is already determined by statute or by the proposed rules). For purposes of the PRA requirements, the Commission estimates that up to 30 domestic entities potentially might enter into such MOUs or other arrangements, reflecting the nine entities specifically identified by statute or the proposed rules, and up to 21 additional domestic governmental entities or self-regulatory organizations that may seek access to such data. Based on the Commission's experience in negotiating similar MOUs that address regulatory cooperation, including confidentiality issues associated with regulatory cooperation, the Commission preliminarily believes that each regulator on average would expend 500 hours in negotiating such MOUs.[119]

b. Requests for Access

Separately, certain entities that are not identified by statute and/or the proposed rules may request that the Commission determine that they may access such security-based swap data. For those entities, in light of the relevant information that the Commission preliminarily would consider in connection with such determinations (apart from the MOU issues addressed above)—including information regarding how the entity would be expected to use the information, information regarding the entity's regulatory mandate or legal responsibility or authority, and information regarding reciprocal access—the Commission preliminarily estimates that each such entity would expend 40 hours in connection with such request. As noted above, the Commission estimates that 21 domestic entities not encompassed in the proposed rule may seek access to the data. Accordingly, to the extent that 21 domestic entities were to request access (apart from the nine entities identified by statute or the proposed rule), the Commission estimates a total burden of 840 hours for these entities to prepare and submit requests for access.

c. Systems Costs

The Commission previously addressed the PRA costs associated with the Exchange Act's data access

[116] As discussed above, *see* note 13, *supra*, the Commission has determined that a non-U.S. person that performs the functions of a security-based swap data repository within the United States is required to register with the Commission absent an exemption. The Commission also has adopted Exchange Act rule 13n–12 to provide an exemption from data repository requirements for certain non-U.S. persons.

[117] The Commission used the same estimate when adopting final rules to implement statutory provisions related to the registration process, duties and core principles applicable to security-based swap data repositories. *See* SDR Adopting Release, 80 FR 14521.

[118] These include MOUs and other arrangements in connection with: The determination of additional entities that may access security-based swap data (*see* part II.A.3, *supra*), the confidentiality condition (*see* part II.B.1, *supra*) and the indemnification exemption (*see* parts III.B.2, 3, *supra*).

[119] It may be expected that the initial MOU or other arrangement that is entered into between the Commission and another regulator may take up to 1,000 hours for that regulator to negotiate. In practice, however, subsequent MOUs and other arrangements involving other recipient entities would be expected to require significantly less time on average, by making use of using the prior MOUs as a basis for negotiation. Based on these principles, the Commission preliminarily estimates that the average amount of time that domestic and foreign recipients of data would incur in connection with negotiating these arrangements would be 500 hours.

To the extent that each of those 30 domestic entities were to seek to access data pursuant to these provisions, and each of the applicable MOUs or other arrangements were to take 500 hours on average, the total burden would amount to 15,000 hours.

requirement in 2010, when the Commission initially proposed rules to implement those data access requirements in conjunction with other rules to implement the duties applicable to security-based swap data repositories. At that time, based on discussions with market participants, the Commission estimated that a series of proposed rules to implement duties applicable to security-based swap data repositories—including the proposed data access rules as well as other rules regarding repository duties (*e.g.*, proposed rules requiring repositories to accept and maintain data received from third parties, to calculate and maintain position information, and to provide direct electronic access to the Commission and its designees)—together would result in an average one-time start-up burden per repository of 42,000 hours and $10 million in information technology costs for establishing systems compliant with all of those requirements. The Commission further estimated the average per-repository ongoing annual costs of such systems to be 25,200 hours and $6 million.[120]

The Commission incorporated those same burden estimates earlier this year, when the Commission adopted final rules to implement the duties applicable to security-based swap data repositories, apart from the data access requirement.[121]

Subject to the connectivity issues addressed below, the Commission believes that the burden estimates associated with the 2010 proposed repository rules encompassed the costs and burdens associated with the proposed data access requirements in conjunction with other system-related requirements applicable to security-based swap dealers. To comply with those other system-related requirements—including in particular requirements that repositories provide direct electronic access to the Commission and its designees—we preliminarily believe that it is reasonable to expect that repositories may use the same systems as they would also use to comply with the data access requirements at issue here, particularly given that both types of access requirements would require repositories to provide security-based swap information to particular recipients subject to certain parameters.[122] As a result, subject to per-recipient connectivity burdens addressed below, the Commission preliminarily believes that would be no additional burdens associated with information technology costs to implement the data access requirements of the proposed rule.

The Commission also recognizes, however, that once the relevant systems have been set up, repositories may be expected to incur addition incremental burdens and costs associated with setting up access to security-based swap data consistent with the recipient's regulatory mandate or legal responsibility or authority.[123] The Commission preliminarily believes that, for any particular recipient, security-based swap data repositories on average would incur a burden of 26 hours.[124] As discussed below, based on the estimate that approximately 300 relevant authorities may make requests for data from security-based swap data repositories,[125] the Commission preliminarily estimates that each repository would incur a one-time burden of 7,800 hours in connection with providing that connectivity.[126]

d. Providing Notification of Requests, and Associated Records Requirements

Under the proposed rules, repositories would be required to inform the Commission when they receive the first request for security-based swap data from a particular entity.[127] As discussed below, based on the estimate that approximately 300 relevant authorities may make requests for data from security-based swap data repositories, the Commission estimates that each repository would provide the Commission with actual notice approximately 300 times.[128] Moreover, based on the estimate that ten persons may register with the Commission as security-based swap data repository, the Commission estimates that repositories in the aggregate would provide the Commission with actual notice a total of 3,000 times. The Commission preliminarily estimates that each such notice would take no more than one-half hour to make on average, leading to a cumulative estimate of 1,500 hours associated with the notice requirement.

The proposed rule further requires that repositories must maintain records of all information related to the initial and all subsequent requests for data access, including records of all instances of online or electronic access, and records of all data provided in connection with such access.[129] The Commission estimates that there cumulatively may be 360,000 subsequent data requests or access per year across all security-based swap data repositories, for which repositories must maintain records as required by the proposed rule.[130] Based on its experience with recordkeeping costs associated with security-based swaps generally, the Commission preliminarily estimates that for each repository this requirement would create an initial burden of roughly 360 hours, and an annualized burden of roughly 280 hours and $40,000 in information technology costs.[131]

2. Confidentiality Condition

The Commission preliminarily does not believe that the confidentiality provision of the proposal would be

[120] *See* SDR Proposing Release, 75 FR 77348–49. The Commission previously estimated, for PRA purposes, that ten persons may register with the Commission as security-based swap data repositories. *See* SDR Adopting Release, 80 FR 14521, 14523. Based on the estimate of ten respondents, the Commission estimated total one-time costs of 420,000 hours and $10 million, and total annual ongoing systems costs of 252,000 and $60 million. *See* SDR Proposing Release, 75 FR 77349.

[121] *See* SDR Adopting Release, 80 FR 14523. The Commission submitted the PRA burden associated with that release to OMB for approval, and the OMB has approved that collection of information.

[122] The Commission also anticipates that repositories would use the same systems in connection with the Exchange Act data access requirements as they use in connection with the corresponding requirements under the CEA.

[123] In addressing those burdens, the Commission expects that the MOUs or other arrangements that are used to satisfy the conditions of the indemnification exemption will set forth objective criteria that delimit the scope of a recipient's ability to access security-based swap data pursuant to the indemnification exemption. The Commission further expects that repositories would use those criteria to program their data systems to reflect the scope of the recipient's access to repository data. Absent such objective and programmable criteria, repositories would be expected to incur greater burdens to assess whether an authority's request satisfies the relevant conditions, particularly with regard to whether particular information relates to persons or activities within the entity's regulatory mandate or legal responsibility or authority.

[124] This estimate is based on the view that for each recipient requesting data, a repository would incur a 25 hour burden associated with programming or otherwise inputting the relevant parameters, encompassing 20 hours of programmer analyst time and five hours of senior programmer time. The estimate also encompasses one hour of attorney time in connection with each such recipient.

[125] *See* part VI.C.3.ii, *infra.*

[126] Across an estimated ten repositories, accordingly, the Commission estimates that repositories cumulatively would incur a one-time burden of 78,000 hours in connection with providing such connectivity.

[127] *See* proposed Exchange Act rule 13n–4(e) (further requiring the repository to maintain records of the initial and all subsequent requests).

[128] *See* part VI.C.3.a.ii, *infra.*

[129] *See* proposed Exchange Act rule 13n–4(e).

[130] *See* part VI.C.3.a.ii, *infra.*

[131] Across an estimated ten repositories, accordingly, the Commission preliminarily estimates that repositories cumulatively will incur an initial burden of roughly 3,600 hours in information technology costs, and an annualized burden of roughly 2,800 hours and $400,000 in information technology costs.

associated with collections of information that would result in a reporting or recordkeeping burden for security-based swap data repositories. This is because, under the proposal, the confidentiality condition would be satisfied by an MOU or other arrangement between the Commission and the recipient entity (*i.e.*, another regulatory authority) addressing confidentiality. We preliminarily expect that in practice that the condition will be addressed by MOUs or other arrangements entered into by the Commission, and that repositories accordingly would not be involved in the drafting or negotiation of confidentiality agreements.

As discussed above, moreover, the confidentiality provision would be expected to impose burdens on authorities that seek to access data pursuant to these provisions, as a result of the need to negotiate confidentiality MOUs or other arrangements.[132]

*E. Collection of Information Is Mandatory*

The conditional data access requirements of Exchange Act sections 13(n)(5)(G) and (H) and the underlying rules are mandatory for all security-based swap data repositories. The confidentiality condition is mandatory for all entities that seek access to data under those requirements. Also, the conditions to the indemnification exemption are mandatory to entities that seek to rely on the exemption, which the Commission believes will be all entities that seek data pursuant to these requirements.

*F. Confidentiality*

The Commission will make public requests for a determination that an authority is appropriate to conditionally access security-based swap data, as well as Commission determinations issued in response to such requests. The Commission preliminarily expects that it will make publicly available the MOUs or other arrangements with the Commission used to satisfy the confidentiality and indemnification conditions.

Initial notices of requests for access provided to the Commission by repositories will be kept confidential, subject to the provisions of applicable law. To the extent that the Commission obtains subsequent requests for access that would be required to be maintained by the repositories, the Commission also will keep those records confidential, subject to the provisions of applicable law.

*G. Request for Comment*

We request comment on our approach and the accuracy of the current estimates. Pursuant to 44 U.S.C. 3506(c)(2)(A), the Commission solicits comments to: (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of burden of the collection of information; (3) determine whether there are ways to enhance the quality, utility and clarity of the information to be collected; and (4) evaluate whether there are ways to minimize the burden of the collection of information on those who are required to respond, including through the use of automated collection techniques or other forms of information technology.

In this regard, the Commission particularly requests comment regarding the systems-related costs associated with these data access requirements. Among other things, commenters are invited to address the burdens associated with establishing and programming systems to provide regulators and other authorities with connectivity to repository data systems, including whether such costs would be incremental to the systems-related costs associated with the existing rule requiring that repositories provide direct electronic access to the Commission and its designees, and whether such systems-related costs would encompass capacity-related elements linked to the total number of regulators and other authorities that access repositories pursuant to these data access provisions. Commenters also are invited to address the estimated burdens associated with the requirement that repositories maintain records in connection with the notification requirement.

The Commission further requests comment regarding the burdens associated with the negotiation of MOUs or other arrangements between the Commission and other authorities, including the average time required for those regulators to negotiate such MOUs or other arrangements, and whether those other authorities may incur costs to retain outside counsel in connection with such negotiations.

Persons submitting comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090, with reference to File No. S7–_____. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–_____, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is assured of having its full effect if OMB receives it within 30 days of publication.

## VI. Economic Analysis

As discussed above, the Commission is proposing rules to implement data access requirements for relevant authorities other than the Commission that the Dodd-Frank Act imposes on security-based swap repositories, and to provide an exemption from the associated indemnification requirement. To carry out their regulatory mandate, or legal responsibility or authority, certain relevant entities other than the Commission may periodically need access to security-based swap data collected and maintained by SEC-registered security-based swap data repositories, and the proposed rules are intended to facilitate such access.

The Commission is sensitive to the economic effects of its rules, including the costs and benefits and the effects of its rules on efficiency, competition, and capital formation. Section 3(f)[133] of the Exchange Act requires the Commission, whenever it engages in rulemaking pursuant to the Exchange Act, to consider or determine whether an action is necessary or appropriate in the public interest, and to consider, in addition to the protection of investors, whether the action would promote efficiency, competition, and capital formation. In addition, section 23(a)(2)[134] of the Exchange Act requires the Commission, when promulgating rules under the Exchange Act, to consider the impact such rules would have on competition. Exchange Act section 23(a)(2) also provides that the Commission shall not adopt any rule which would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

[132] *See* part V.D.1.a, *supra.*

[133] 15 U.S.C. 78c(f).

[134] 15 U.S.C. 78w(a)(2).

*A. Economic Considerations*

1. Title VII Transparency Framework

The security-based swap market prior to the passage of the Dodd-Frank Act has been described as being opaque, in part because transaction-level data were not widely available to market participants or to regulators.[135] To increase the transparency of the over-the-counter derivatives market to both market participants and regulatory authorities, Title VII requires the Commission to undertake a number of rulemakings, including rules the Commission adopted earlier this year to address the registration process, duties and core principles applicable to security-based swap data repositories,[136] and to address regulatory reporting and public dissemination of security-based swap information.[137] Among other matters, those rules address market transparency by requiring security-based swap data repositories, absent an exemption, to collect and maintain accurate security-based swap transaction data, and address regulatory transparency by requiring security-based swap data repositories to provide the Commission with direct electronic access to such data.[138]

Consistent with the goal of increasing transparency to regulators, the data access provisions at issue here set forth a framework for security-based swap data repositories to provide access to security-based swap data to relevant authorities other than the Commission. The proposed rules would implement that framework for repositories to provide data access to other relevant entities in order to fulfill their regulatory mandate, or legal responsibility or authority.

2. Transparency in the Market for Security-Based Swaps

The proposed data access rules and indemnification exemption, in conjunction with the transparency-related requirements generally applicable to security-based swap data repositories, are designed to, among other things, make available to the Commission and other relevant authorities data that will provide a broad view of the security-based swap market and help monitor for pockets of risk and potential market abuses that might not otherwise be observed by those authorities.[139] Unlike most other securities transactions, security-based swaps involve ongoing financial obligations between counterparties during the life of transactions that typically span several years. Counterparties to a security-based swap rely on each other's creditworthiness and bear this credit risk and market risk until the security-based swap terminates or expires. This can lead to market instability when a large market participant, such as a security-based swap dealer, major security-based swap market participant, or central counterparty (''CCP'') becomes financially distressed. The default of a large market participant could introduce the potential for sequential counterparty failure; the resulting uncertainty could reduce the willingness of market participants to extend credit, and substantially reduce liquidity and valuations for particular types of financial instruments.[140]

A broad view of the security-based swap market, including information regarding aggregate market exposures to particular reference entities (or securities), positions taken by individual entities or groups, and data elements necessary to determine the market value of the transaction, may be expected to provide the Commission and other relevant authorities with a better understanding of the actual and potential risks in the market and promote better risk monitoring efforts. The information provided by security-based swap data repositories also may be expected to help the Commission and other relevant authorities investigate market manipulation, fraud and other market abuses.

3. Global Nature of the Security-Based Swap Market

As highlighted in more detail in the Economic Baseline below, the security-based swap market is a global market. Based on market data in the Depository Trust and Clearing Corporation's Trade Information Warehouse (''DTCC–TIW''), the Commission estimates that only 12 percent of the global transaction volume that involves either a U.S.-domiciled counterparty or a U.S-domiciled reference entity (as measured by gross notional) between 2008 and 2014 was between two U.S.-domiciled counterparties, compared to 48 percent entered into between one U.S.-domiciled counterparty and a foreign-domiciled counterparty and 40 percent entered into between two foreign-domiciled counterparties.[141]

In light of the security-based swap market's global nature there is the possibility that regulatory data may be fragmented across jurisdictions, particularly because a large fraction of transaction volume includes at least one counterparty that is not a U.S. person[142] and the applicable U.S. regulatory reporting rules depend on the U.S. person status of the counterparties.[143] As discussed further below,

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[135] With respect to one type of security-based swap, credit default swaps (''CDSs''), the Government Accountability Office found that ''comprehensive and consistent data on the overall market have not been readily available,'' ''authoritative information about the actual size of the [CDS] market is generally not available'' and regulators currently are unable ''to monitor activities across the market.'' Government Accountability Office, GAO–09–397T, *Systemic Risk: Regulatory Oversight and Recent Initiatives to Address Risk Posed by Credit Default Swaps,* at 2, 5, 27, (2009) *available at: http://www.gao.gov/new.items/d09397t.pdf; see also* Robert E. Litan, *The Derivatives Dealers' Club and Derivatives Market Reform: A Guide for Policy Makers, Citizens and Other Interested Parties,* Brookings Institution (Apr. 7, 2010), *http://www.brookings.edu/~/media/research/files/papers/2010/4/07%20derivatives%20litan/0407_derivatives_litan.pdf;* Michael Mackenzie, *Era of an Opaque Swaps Market Ends,* Financial Times, June 25, 2010, *available at: http://www.ft.com/intl/cms/s/0/f49f635c-8081-11df-be5a-00144feabdc0.html#axzz3HLUjYNI7.*

[136] *See* SDR Adopting Release, note 13, *supra.*

[137] *See* Regulation SBSR Adopting Release.

[138] *See* Exchange Act rule 13n–5 (requiring repositories to comply with data collection and data maintenance standards related to transaction and position data); Exchange Act rule 13n–4(b)(5) (requiring repositories to provide direct electronic access to the Commission and its designees).

[139] *See, e.g.,* Exchange Act section 13(n)(5)(D), 15 U.S.C. 78m(n)(5)(D), and rule 13n–4(b)(5) (requiring SDRs to provide direct electronic access to the Commission). *See also* 156 Cong. Rec. S5920 (daily ed. July 15, 2010) (statement of Sen. Lincoln) (''These new 'data repositories' will be required to register with the CFTC and the SEC and be subject to the statutory duties and core principles which will assist the CFTC and the SEC in their oversight and market regulation responsibilities.'').

[140] *See, e.g.,* Markus K. Brunnermeier and Lasse Heje Pedersen, *Market Liquidity and Funding Liquidity,* 22 Review of Financial Studies 2201 (2009); Denis Gromb and Dimitri Vayanos, *A Model of Financial Market Liquidity Based on Intermediary Capital,* 8 Journal of the European Economic Association 456 (2010).

[141] The data the Commission receives from the DTCC–TIW does not include transactions between two non-U.S. domiciled counterparties that reference a non-U.S. entity or security. This is approximately 19 percent of global transaction volume. *See* note 152, *infra.* Therefore, factoring in these transactions, approximately 10 percent of global transaction volume involves two U.S.-domiciled counterparties, 39 percent involve one U.S.-domiciled counterparty and one foreign counterparty, and 51 percent are between two foreign-domiciled counterparties.

[142] This statement is based on staff analysis of voluntary CDS transaction data reported to the DTCC–TIW, which includes self-reported counterparty domicile. *See* note 161, *infra.* The Commission notes that the DTCC–TIW entity domicile may not be completely consistent with the Commission's definition of ''U.S. person'' in all cases but preliminarily believes that these two characteristics have a high correlation.

[143] *See* Regulation SBSR rule 908(a) (generally requiring regulatory reporting and public dissemination when at least one direct or indirect counterparty is a U.S. person). Note that current voluntary reporting considers the self-reported domicile of the counterparty but the recently adopted SBSR rules consider the counterparty's status as a U.S. person.

fragmentation of data can increase the difficulty in consolidating and interpreting security-based swap market data from repositories, potentially reducing the general economic benefits derived from transparency of the security-based swap market to regulators. Absent a framework for the cross-border sharing of data reported pursuant to regulatory requirements in various jurisdictions, the relevant authorities responsible for monitoring the security-based swap market may not be able to access data consistent with their regulatory mandate, or legal responsibility or authority.

4. Economic Purposes of the Rulemaking

The proposed data access requirements and indemnification exemption are designed to increase the quality and quantity of transaction and position information available to relevant authorities about the security-based swap market while helping to maintain the confidentiality of that information. The increased availability of security-based swap information may be expected to help relevant authorities act in accordance with their regulatory mandate, or legal responsibility or authority, and to respond to market developments.

Moreover, by facilitating access to security-based swap data for relevant authorities, including non-U.S. authorities designated by the Commission, the Commission anticipates an increased likelihood that the Commission itself will have commensurate access to security-based swap data stored in trade repositories located in foreign jurisdictions.[144] This may be particularly important in identifying transactions in which the Commission has a regulatory interest (*e.g.,* transactions involving a U.S. reference entity or security) but may not have been reported to a registered security-based swap data repository due to the transactions occurring outside of the U.S. between two non-U.S. persons.[145] This should assist the Commission in fulfilling its regulatory mandate and legal responsibility and authority, including by facilitating the Commission's ability to detect and investigate market manipulation, fraud and other market abuses, by providing the Commission with greater access to security-based swap information than that provided under the current voluntary reporting regime.[146]

Such data access may be especially critical during times of market turmoil, by giving the Commission and other relevant authorities information to examine risk exposures incurred by individual entities or in connection with particular reference entities. Increasing the available data about the security-based swap market should further give the Commission and other relevant authorities better insight into how regulations are affecting or may affect the market, which may allow the Commission and other regulators to better craft regulations to achieve desired goals, and therefore increase regulatory effectiveness.

*B. Baseline*

To assess the economic impact of the proposed data access rules and indemnification exemption, the Commission is using as a baseline the security-based swap market as it exists today, including applicable rules that have already been adopted and excluding rules that have been proposed but not yet finalized. Thus we include in the baseline the rules that the Commission adopted earlier this year to govern the registration process, duties and core principles applicable to security-based swap data repositories, and to govern regulatory reporting and public dissemination of security-based swap transactions.

Because those rules were adopted only recently, there are not yet any registered swap data repositories, and the Commission does not yet have access to regulatory reporting data. Hence, our characterization of the economic baseline, including the quantity and quality of security-based swap data available to the Commission and other relevant authorities and the extent to which data are fragmented, considers the anticipated effects of the final SDR rules and Regulation SBSR. The Commission acknowledges limitations in the degree to which it can quantitatively characterize the current state of the security-based swap market. As described in more detail below, because the available data on security-based swap transactions do not cover the entire market, the Commission has developed an understanding of market activity using a sample that includes only certain portions of the market.

1. Regulatory Transparency in the Security-Based Swap Market

There currently is no robust, widely accessible source of information about individual security-based swap transactions. In 2006, a group of major dealers expressed their commitment in support of DTCC's initiative to create a central trade industry warehouse for credit derivatives.[147] Moreover, in 2009, the leaders of the G20—whose members include the United States, 18 other countries, and the European Union—called for global improvements in the functioning, transparency, and regulatory oversight of over-the-counter (''OTC'') derivatives markets and agreed, among other things, that OTC derivatives contracts should be reported to trade repositories.[148] A single repository, the DTCC–TIW, makes the data reported to it under the voluntary reporting regime available to the Commission and other relevant authorities in accordance with the agreement between DTCC–TIW and the OTC Derivatives Regulatory Forum (''ODRF''), of which the Commission is a member.[149] Although many jurisdictions have implemented rules concerning reporting of security-based swaps to trade repositories,[150] the Commission understands that many market participants continue to report voluntarily to the DTCC–TIW.

The data that the Commission receives from DTCC–TIW do not encompass CDS transactions that both: (i) Do not involve any U.S. counterparty, and (ii) are not based on a U.S. reference entity.[151] Based on a comparison of

[144] As discussed above, for example, EU law conditions the ability of non-EU authorities to access data from EU repositories on EU authorities having ''immediate and continuous'' access to the information they need. *See* note 94, *supra,* and accompanying text.

Also, as discussed above, the Commission anticipates considering whether or not the relevant authority requesting access agrees to provide the Commission and other U.S. authorities with reciprocal assistance in matters within their jurisdiction when making a determination as to whether the requesting authority shall be granted access to security-based swap data held in registered SDRs. *See* part II.A.3(a) *supra.*

[145] For example, it is possible to replicate the economic exposure of either a long or short position in a debt security that trades in U.S. markets by trading in U.S. treasury securities and credit default swaps that reference the debt security. Transactions between two non-U.S. persons on a U.S. reference entity supervised by the Commission or novations between two non-U.S. persons that reduce exposure to a U.S. registrant may provide information to the Commission about the market's views concerning the financial stability or creditworthiness of the registered entity.

[146] *See* part VI.B, *supra,* for a description of the data the Commission receives from DTCC–TIW under the current voluntary reporting regime.

[147] *See* Letter to Timothy Geithner, President, Federal Reserve Bank of New York, Mar. 10, 2006, available at: *http://www.newyorkfed.org/newsevents/news/markets/2006/industryletter2.pdf.*

[148] *See* G20 Leaders Statement from the 2009 Pittsburgh Summit, available at: *http://www.g20.utoronto.ca/2009/2009communique0925.html.*

[149] *See* note 71, *supra.*

[150] *See* Eighth Progress Report on Implementation of OTC Derivatives Market Reforms (Nov. 2014), *available at: http://www.financialstabilityboard.org/wp-content/uploads/r_141107.pdf.*

[151] The Commission notes that the identification of entity domicile in the voluntary data reported to

weekly transaction volume publicly disseminated by DTCC–TIW with data provided to the Commission under the voluntary arrangement, we estimate that the transaction data provided to the Commission covers approximately 77 percent of the global single-name credit default swap market.[152]

While DTCC–TIW generally provides detailed data on positions and transactions to regulators that are members of the ODRF, DTCC–TIW makes only summary information available to the public.[153]

2. Current Security-Based Swap Market

The Commission's analysis of the current state of the security-based swap market is based on data obtained from DTCC–TIW, particularly data regarding the activity of market participants for single-name credit-default swaps from 2008 to 2014. While other repositories also may collect data on transactions in total return swaps on equity and debt, the Commission does not currently have access to such data for those products (or for other products that are security-based swaps). Although the definition of ''security-based swap'' is not limited to single-name credit-default swaps, the Commission believes that the single-name credit default swap data are sufficiently representative of the security-based swap market and therefore can directly inform the analysis of the state of the current security-based swap market.[154] The Commission believes that DTCC–TIW's data for single-name credit default swaps appear reasonably comprehensive because they include data on almost all single-name credit default swap transactions and market participants trading in single-name credit default swaps.[155]

Based on this information, our analysis below indicates that the current security-based swap market: (i) Is global in scope, and (ii) is concentrated among a small number of dealing entities. Although under the voluntary reporting regime discussed above there was a single repository, as various jurisdictions have implemented mandatory reporting rules in their jurisdictions the number of trade repositories holding security-based swap data has grown.[156]

a. Security-Based Swap Market Participants

A key characteristic of security-based swap activity is that it is concentrated among a relatively small number of entities that engage in dealing activities.[157] Based on the Commission's analysis of DTCC–TIW data, there were 1,879 entities engaged directly in trading credit default swaps between November 2006 and December 2014.[158] Table 1 below highlights that of these entities, there were 17, or approximately 0.9 percent, that were ISDA-recognized dealers.[159] ISDA-recognized dealers executed the vast majority of transactions (82.6 percent) measured by the number of counterparties (each transaction has two counterparties or transaction sides). Many of these dealers are regulated by entities other than, or in addition to, the Commission. In addition, thousands of other market participants appear as counterparties to security-based swap transactions, including, but not limited to, investment companies, pension funds, private (hedge) funds, sovereign entities, and non-financial companies.

DTCC–TIW may not be consistent with the Commission's definition of ''U.S. person'' in all cases.

[152] In 2014, DTCC–TIW reported on its Web site new trades in single-name CDSs with gross notional of $15.4 trillion. During the same period, data provided to the Commission by DTCC–TIW, which include only transactions with a U.S. counterparty or transactions written on a U.S. reference entity or security, included new trades with gross notional equaling $12.4 trillion, or 81% of the total reported by DTCC–TIW.

[153] The DTCC–TIW publishes weekly transaction and position reports for single-name credit default swaps. In addition, ICE Clear Credit provides aggregated volumes of clearing activity, and large multilateral organizations periodically further report measures of market activity. For example, the Bank for International Settlements (''BIS'') reports gross notional outstanding for single-name credit default swaps and equity forwards and swaps semiannually.

[154] According to data published by BIS, the global notional amount outstanding in equity forwards and swaps as of December 2014 was $2.50 trillion. The notional amount outstanding was approximately $9.04 trillion for single-name CDSs, approximately $6.75 trillion for multi-name index CDSs, and approximately $0.61 trillion for multi-name, non-index CDSs. *See* Bank of International Settlement, BIS Quarterly Review, Statistical Annex, Table 19 (June 2015), *available at: http://www.bis.org/publ/qtrpdf/r_qt1506.htm.* For purposes of this analysis, the Commission assumes that multi-name index CDSs are not narrow-based security index CDSs, and therefore do not fall within the definition of security-based swap. *See* Exchange Act section 3(a)(68)(A), 15 U.S.C. 78c(a)(68)(A); *see also* Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, Exchange Act Release No. 67453 (July 18, 2012), 77 FR 48207 (Aug. 13, 2012). The Commission also assumes that instruments reported as equity forwards and swaps include instruments such as total return swaps on individual equities that fall with the definition of security-based swap. Based on these assumptions, single-name CDS appear to constitute roughly 80 percent of the security-based swap market. Although the BIS data reflects the global OTC derivatives market, and not only the U.S. market, the Commission is not aware of any reason to believe that these ratios differ significantly in the U.S. market.

[155] *See* ISDA, CDS Marketplace, Exposures & Activity, *available at: http://www.isdacdsmarketplace.com/exposures_and_activity* (''DTCC Deriv/SERV's Trade Information Warehouse is the only comprehensive trade repository and post-trade processing infrastructure for OTC credit derivatives in the world. Its Deriv/SERV matching and confirmation service electronically matches and confirms more than 98% of credit default swaps transactions globally.'').

[156] *See,* for example, the list of trade repositories registered by ESMA, *available at: http://www.esma.europa.eu/content/List-registered-Trade-Repositories.* As of May 28, 2015, there were six repositories registered by ESMA, all of which are authorized to receive data on credit derivatives.

[157] *See* Exchange Act Release No.72472 (Jun. 25, 2014), 79 FR 47278, 47293 (Aug. 12, 2014) (''Cross-Border Definitions Adopting Release''). All data in this section cites updated data from that release and its accompanying discussion.

[158] These 1,879 transacting agents represent over 10,000 accounts representing principal risk holders. *See* Cross-Border Definitions Adopting Release, 79 FR 47293–94 (discussing the number of transacting agents and accounts of principal risk holders).

As noted above, the data provided to the Commission by the DTCC–TIW only includes transactions that either include at least one U.S.-domiciled counterparty or reference a U.S. entity or security. Therefore, any entity that is not domiciled in the U.S., never trades with a U.S.-domiciled entity and never buys or sells protection on a U.S. reference entity or security would not be included in this analysis.

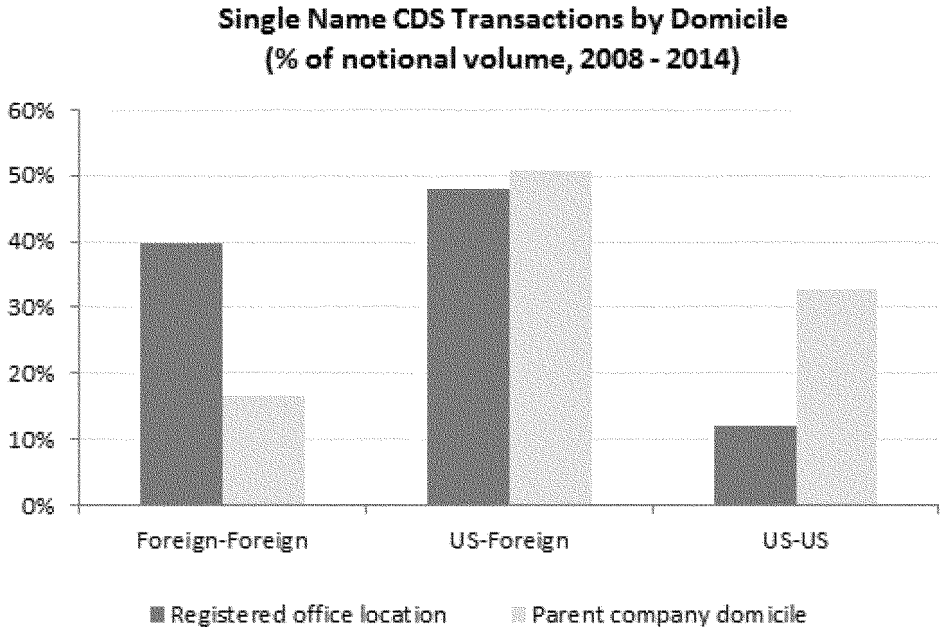
[159] For the purpose of this analysis, the ISDA-recognized dealers are those identified by ISDA as a recognized dealer in any year during the relevant period. Dealers are only included in the ISDA-recognized dealer category during the calendar year in which they are so identified. The complete list of ISDA recognized dealers is: JP Morgan Chase NA (and Bear Stearns), Morgan Stanley, Bank of America NA (and Merrill Lynch), Goldman Sachs, Deutsche Bank AG, Barclays Capital, Citigroup, UBS, Credit Suisse AG, RBS Group, BNP Paribas, HSBC Bank, Lehman Brothers, Société Générale, Credit Agricole, Wells Fargo, and Nomura. *See* ISDA, Operations Benchmarking Surveys, *available at: http://www2.isda.org/functional-areas/research/surveys/operations-benchmarking-surveys.*

TABLE 1—THE NUMBER OF TRANSACTING AGENTS IN THE SINGLE-NAME CDS MARKET BY COUNTERPARTY TYPE AND THE FRACTION OF TOTAL TRADING ACTIVITY, FROM NOVEMBER 2006 THROUGH DECEMBER 2014, REPRESENTED BY EACH COUNTERPARTY TYPE

| Transacting agents | Number | Percent | Transaction share (percent) |
|---|---|---|---|
| Investment Advisers | 1,419 | 75.5 | 10.9 |
| *SEC registered* | *572* | *30.4* | *6.9* |
| Banks | 260 | 13.8 | 5.0 |
| Pension Funds | 29 | 1.5 | 0.1 |
| Insurance Companies | 38 | 2.0 | 0.3 |
| ISDA-Recognized Dealers [160] | 17 | 0.9 | 82.6 |
| Other | 116 | 6.2 | 1.2 |
| Total | 1,879 | 100 | 100 |

Although the security-based swap market is global in nature, approximately 60 percent of the transaction volume in the 2008–2014 period included at least one U.S.-domiciled entity (see Figure 1). Moreover, 48 percent of the single-name CDS transactions reflected in DTCC–TIW data that include at least one U.S.-domiciled counterparty or a U.S. reference entity or security were between U.S.-domiciled entities and foreign-domiciled counterparties.

**Figure 1: The fraction of notional volume in North American corporate single-name CDSs between (1) two U.S.-domiciled accounts, (2) one U.S.-domiciled account and one non-U.S.-domiciled account, and (3) two non-U.S.-domiciled accounts, computed from January 2008 through December 2014.**




The fraction of new accounts with transaction activity that are domiciled in the U.S. fell through the 2008–2014 period. Figure 2 below is a chart of: (1) The percentage of new accounts with a domicile in the United States,[161] (2) the

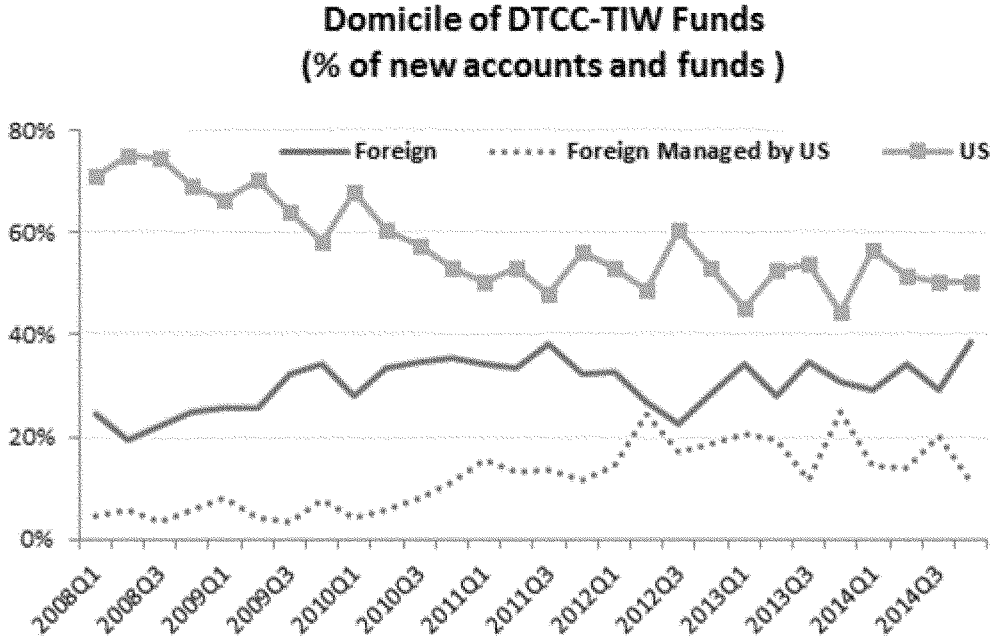
[160] For the purpose of this analysis, the ISDA-recognized dealers are those identified by ISDA as belonging to the G14 or G16 dealer group during the period: JP Morgan Chase NA (and Bear Stearns), Morgan Stanley, Bank of America NA (and Merrill Lynch), Goldman Sachs, Deutsche Bank AG, Barclays Capital, Citigroup, UBS, Credit Suisse AG, RBS Group, BNP Paribas, HSBC Bank, Lehman Brothers, Société Générale, Credit Agricole, Wells Fargo and Nomura. *See, e.g., http://www.isda.org/c_and_a/pdf/ISDA-Operations-Survey-2010.pdf.*

[161] The domicile classifications in DTCC–TIW are based on the market participants' own reporting and have not been verified by Commission staff. Prior to enactment of the Dodd-Frank Act, account holders did not formally report their domicile to DTCC–TIW because there was no systematic requirement to do so. After enactment of the Dodd-Frank Act, the DTCC–TIW has collected the registered office location of the account. This information is self-reported on a voluntary basis. It is possible that some market participants may misclassify their domicile status because the databases in DTCC–TIW do not assign a unique legal entity identifier to each separate entity. It is also possible that the domicile classifications may not correspond precisely to the definition of ''U.S.

percentage of new accounts with a domicile outside the United States, and (3) the percentage of new accounts that are domiciled outside the United States but managed by a U.S. entity, foreign accounts that include new accounts of a foreign branch of a U.S. bank, and new accounts of a foreign subsidiary of a U.S. entity. Over time, a greater share of accounts entering the DTCC–TIW data either have had a foreign domicile or have had a foreign domicile while being managed by a U.S. person. The increase in foreign accounts may reflect an increase in participation by foreign accountholders, and the increase in foreign accounts managed by U.S. persons may reflect the flexibility with which market participants can restructure their market participation in response to regulatory intervention, competitive pressures and other factors. There are, however, alternative explanations for the shifts in new account domicile in Figure 2. Changes in the domicile of new accounts through time may reflect improvements in reporting by market participants to DTCC–TIW. Additionally, because the data include only accounts that are domiciled in the United States, transact with U.S.-domiciled counterparties or transact in single-name CDSs with U.S. reference entities or securities, changes in the domicile of new accounts may reflect increased transaction activity between U.S. and non-U.S. counterparties.

We note that cross-border rules related to regulatory reporting and public dissemination of security-based swap transactions depend on, among other things, the U.S. person status of the counterparties.[162] The analyses behind Figures 1 and 2 show that the security-based swap market is global, with an increasing share of the market characterized by cross-border trade.

**Figure 2: The percentage of (1) new accounts with a domicile in the United States (referred to below as "US"), (2) new accounts with a domicile outside the United States (referred to below as "Foreign"), and (3) new accounts outside the United States, but managed by a U.S. entity, new accounts of a foreign branch of a U.S. bank, and new accounts of a foreign subsidiary of a U.S. entity (collectively referred to below as "Foreign Managed by US").[163] Unique, new accounts are aggregated each quarter and shares are computed on a quarterly basis, from January 2008 through December 2014.**




b. Security-Based Swap Data Repositories

No security-based swap data repositories are currently registered with the Commission. The Commission is aware of one entity in the market (*i.e.,* the DTCC–TIW) that has been accepting voluntary reports of single-name and index credit default swap transactions. In 2014, DTCC–TIW received approximately 4 million records of single-name credit default swap transactions, of which approximately 868,000 were price-forming transactions.[164]

person'' under the rules defined in Exchange Act rule 3a71–3(a)(4), 17 CFR 240.3a71–3(a)(4). Notwithstanding these limitations, the Commission believes that the cross-border and foreign activity demonstrates the nature of the single-name CDS market.

[162] *See* note 143, *supra.*

[163] Following publication of the Warehouse Trust Guidance on CDS data access, TIW surveyed market participants, asking for the physical address associated with each of their accounts (*i.e.,* where the account is organized as a legal entity). This is designated the registered office location by TIW. When an account does not report a registered office location, we have assumed that the settlement country reported by the investment adviser or parent entity to the fund or account is the place of domicile. This treatment assumes that the registered office location reflects the place of domicile for the fund or account.

[164] Price-forming credit default swap transactions include all new transactions, assignments, modifications to increase the notional amounts of previously executed transactions and terminations

Continued

The CFTC has provisionally registered four swap data repositories.[165] These swap data repositories are: BSDR LLC, Chicago Mercantile Exchange Inc., DTCC Data Repository LLC, and ICE Trade Vault, LLC. The Commission believes that these entities will likely register with the Commission as security-based swap data repositories and that other persons may seek to register with both the CFTC and the Commission as swap data repositories and security-based swap data repositories, respectively.[166]

Efforts to regulate the swap and security-based swap markets are underway not only in the United States, but also abroad. Consistent with the call of the G20 leaders for global improvements in the functioning, transparency and regulatory oversight of OTC derivatives markets,[167] substantial progress has been made in establishing the trade repository infrastructure to support the reporting of OTC derivatives transactions.[168] Currently, multiple trade repositories operate, or are undergoing approval processes to do so, in a number of different jurisdictions.[169] Combined with the fact that the requirements for trade reporting differ across jurisdictions, the result is that security-based swap data is fragmented across many locations, stored in a variety of formats, and subject to many different rules for authorities' access. The data in these trade repositories accordingly will need to be aggregated in various ways if authorities are to obtain a comprehensive and accurate view of the global OTC derivatives markets.

### *C. Economic Costs and Benefits, Including Impact on Efficiency, Competition, and Capital Formation*

As discussed above, the security-based swap market to date largely has developed as an opaque OTC market with limited dissemination of transaction-level price and volume information.[170] Accordingly, the Commission envisions that registered security-based swap data repositories, by storing the security-based swap transaction and position data required to be reported to them by market participants, will become an essential part of the infrastructure of the market in part by providing the data to relevant authorities in accordance with their regulatory mandate, or legal responsibility or authority.

In proposing these rules to implement the Exchange Act data access requirement and to provide a conditional exemption from the indemnification requirement, the Commission has attempted to balance different goals. On the one hand, the Commission preliminarily believes that the proposed rules will facilitate the sharing of information held by repositories with relevant authorities, which should assist those authorities in acting in accordance with their regulatory mandate, or legal responsibility or authority. At the same time, although regulatory access raises important issues regarding the confidentiality of the information, the Commission preliminarily believes that the proposed rules should appropriately reduce the risk of breaching the confidentiality of the data by providing for a reasonable assurance that confidentiality will be maintained before access is granted.

Additionally, we note that the magnitude of the costs and benefits of the proposed rules depend in part on the type of access granted to relevant authorities. Ongoing, unrestricted direct electronic access by relevant authorities may be most beneficial in terms of facilitating efficient access to data necessary for those authorities to act in accordance with their regulatory mandate, or legal responsibility or authority, but at the cost of increasing the risk of improper disclosure of confidential information. Restricting each relevant authority's access to only that data consistent with that authority's regulatory mandate, or legal responsibility or authority reduces the quantity of data that could become subject to improper disclosure. On the other hand, restricting a relevant authority's access to data may make it more difficult for it to effectively act in accordance with its regulatory mandate or legal responsibility or authority.

The potential economic effects stemming from the proposed rules can be grouped into several categories. In this section, we first discuss the general costs and benefits of the proposed rules, including the benefits of reducing data fragmentation, data duplication and enhancing regulatory oversight, as well as the risks associated with potential breaches of data confidentiality. Next, we discuss the effects of the rules on efficiency, competition and capital formation. Finally, we discuss specific costs and benefits linked to the proposed rules.

#### 1. General Costs and Benefits

As discussed above, the proposed rules would implement the statutory provisions that require a security-based swap data repository to disclose information to certain relevant authorities, conditional upon the authority agreeing to keep the information confidential and to indemnify the repository and the Commission for any expenses arising from litigation relating to the information provided. The proposal also would set forth a conditional exemption from the requirement that entities requesting data agree to provide indemnification. The exemption would be conditional on the requested information relating to a regulatory mandate and/or legal responsibility of the entity requesting the data, and on the entity entering into an MOU with the Commission addressing the confidentiality of the information provided and any other matters as determined by the Commission.

##### a. Anticipated Benefits

The proposed rules should facilitate access to security-based swap transaction and position data by entities that require such information to fulfill their regulatory mandate or legal responsibility or authority. Market participants accordingly should benefit from relevant domestic authorities other than the Commission having access to the data necessary to fulfill their responsibilities. In particular, such access could help promote stability in the security-based swap market particularly during periods of market turmoil,[171] and thus could indirectly contribute to improved stability in related financial markets, including equity and bond markets.[172]

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of previously executed transactions. Transactions terminated or entered into in connection with a compression exercise, and expiration of contracts at maturity, are not considered price-forming and are therefore excluded, as are replacement trades and all bookkeeping-related trades.

[165] CFTC rule 49.3(b) provides for provisional registration of a swap data repository. 17 CFR 49.3(b).

[166] For the purpose of estimating PRA related costs, the number of swap data repositories is estimated to be as high as ten. *See* part V.C, supra.

[167] *See* note 148, *supra,* and accompanying text.

[168] *See* Eighth Progress Report on Implementation of OTC Derivatives Market Reforms (Nov. 2014), *available at: http://www.financialstabilityboard.org/wp-content/uploads/r_141107.pdf.*

[169] *Id.*

[170] *See* part VI.B.1, *supra* (addressing limited information currently available to market participants and regulators).

[171] SDR Adopting Release, 80 FR 14531 (''Enhanced transparency could produce additional market-wide benefits by promoting stability in the [security-based swap] market, particularly during periods of market turmoil, and it should indirectly contribute to improved stability in related financial markets, including equity and bond markets.'').

[172] *See* Darrell Duffie, Ada Li, and Theo Lubke, *Policy Perspectives of OTC Derivatives Market Infrastructure,* Federal Reserve Bank of New York Staff Report No. 424 (Jan. 2010, as revised Mar.

Moreover, as noted in part II.A(3)(a), the Commission anticipates, when making a determination concerning a relevant authority's access to security-based swap data, considering whether the relevant authority agrees to provide the Commission and other U.S. authorities with reciprocal assistance in matters within their jurisdiction. Allowing access to security-based swap data held by registered security-based swap data repositories by non-U.S. authorities may be expected to help facilitate the Commission's own ability to access data held by repositories outside the United States.[173] Accordingly, to the extent the Commission obtains access, the proposed rules further may be expected to assist the Commission in fulfilling its regulatory responsibilities, including by detecting market manipulation, fraud and other market abuses by providing the Commission with greater access to global security-based swap information.[174]

The ability of other relevant authorities to access data held in trade repositories registered with the Commission, as well as the ability of the Commission to access data held in repositories registered with other regulators, may be especially crucial during times of market turmoil. Increased data sharing should provide the Commission and other relevant authorities more-complete information to monitor risk exposures taken by individual entities and exposures connected to particular reference entities, and should promote global stability through enhanced regulatory transparency. Security-based swap data repositories registered with the Commission are required to retain complete records of security-based swap transactions and maintain the integrity of those records.[175] Based on discussions with other regulators, the Commission believes repositories registered with other authorities are likely to have comparable requirements. As a result, rules to facilitate regulatory access to those records in line with the recipient authorities' regulatory mandate, or legal responsibility or authority are designed to help position the Commission and other authorities to: detect market manipulation, fraud and other market abuses; monitor the financial responsibility and soundness of market participants; perform market surveillance and macroprudential supervision; resolve issues and positions after an institution fails; monitor compliance with relevant regulatory requirements; and respond to market turmoil.[176]

Additionally, improving the availability of data regarding the security-based swap market should give the Commission and other relevant authorities improved insight into how regulations are affecting, or may affect, the market. This may be expected to help increase regulatory effectiveness by allowing the Commission and other regulators to better craft regulation to achieve desired goals.

In addition, the Commission believes that providing relevant foreign authorities with access to data maintained by repositories may help reduce costs to market participants by reducing the potential for duplicative security-based swap transaction reporting requirements in multiple jurisdictions.[177] The Commission anticipates that relevant foreign authorities will likely impose their own reporting requirements on market participants within their jurisdictions.[178] Given the global nature of the security-based swap market and the large number of cross-border transactions, the Commission recognizes that it is likely that such transactions may be subject to the reporting requirements of at least two jurisdictions.[179] However, the Commission preliminarily believes that if relevant authorities are able to access security-based swap data in trade repositories outside their jurisdiction, such as repositories registered with the Commission, as needed, then relevant authorities may be more inclined to permit market participants involved in such transactions to fulfill their reporting requirements by reporting the transactions to a single trade repository.[180] If market participants can report a transaction to a single trade repository rather than to separate trade repositories in each applicable

2010), note 95, *supra* (''Transparency can have a calming influence on trading patterns at the onset of a potential financial crisis, and thus act as a source of market stability to a wider range of markets, including those for equities and bonds.'').

[173] *See* note 94, *supra,* and accompanying text.

[174] *See* SDR Adopting Release, 80 FR 14450 (''Requiring U.S. persons that perform the functions of an SDR to be operated in a manner consistent with the Title VII regulatory framework and subject to the Commission's oversight, among other things, helps ensure that relevant authorities are able to monitor the build-up and concentration of risk exposure in the [security-based swap] market, reduce operational risk in that market, and increase operational efficiency.''); *id.* at 14529 (''In conjunction with Regulation SBSR, the SDR Rules should assist the Commission in fulfilling its regulatory mandates and legal responsibilities such as detecting market manipulation, fraud, and other market abuses by providing it with greater access to [security-based swap] information than that provided under the voluntary reporting regime.''); *see also* DTCC comment (Nov. 15, 2010) at 1 (''A registered SDR should be able to provide (i) enforcement agents with necessary information on trading activity; (ii) regulatory agencies with counterparty-specific information about systemic risk based on trading activity; (iii) aggregate trade information for publication on market-wide activity; and (iv) a framework for real-time reporting from swap execution facilities and derivatives clearinghouses.'').

[175] *See* SDR Adopting Release, 80 FR 14531 (''The SDR Requirements [Exchange Act section 13(n) and the rules and regulations thereunder], including requirements that SDRs register with the Commission, retain complete records of [security-based swap] transactions, maintain the integrity and confidentiality of those records, and disseminate appropriate information to the public are intended to help ensure that the data held by SDRs is reliable and that the SDRs provide information that contributes to the transparency of the [security-based swap] market while protecting the confidentiality of information provided by market participants.''); *see also* Exchange Act section 13(n)(5)(C), 15 U.S.C. 78m(n)(5)(c) (requiring SDRs to maintain security-based swap data)); Exchange Act rules 13n–5(b)(3) and (4) (requiring SDRs to establish, maintain, and enforce policies and procedures reasonably designed to ensure that transaction data and positions are accurate and to maintain the transaction data and positions for specified periods of time).

[176] *See, e.g.,* SDR Proposing Release, 75 FR 77307, 77356, *corrected at* 76 FR 79320 (stating that the ''data maintained by an SDR may also assist regulators in (i) preventing market manipulation, fraud, and other market abuses; (ii) performing market surveillance, prudential supervision, and macroprudential (systemic risk) supervision; and (iii) resolving issues and positions after an institution fails,'' and further stating that ''increased transparency on where exposure to risk reside in financial markets . . . will allow regulators to monitor and act before the risks become systemically relevant. Therefore, SDRs will help achieve systemic risk monitoring.''); Cross-Border Proposing Release, 78 FR 31186–31187 (discussing benefits of providing relevant foreign authorities with access to data maintained by SDRs).

[177] *Cf.* Cleary Gottlieb comment (Sept. 20, 2011) at 31 (the indemnification requirement ''could be a significant impediment to effective regulatory coordination, since non-U.S. regulators may establish parallel requirements for U.S. regulators to access swap data reported in their jurisdictions.'').

[178] For example, EU law requires that counterparties to derivatives contracts report the details of the contract to a trade repository, registered or recognized in accordance with EU law, no later than the working day following the conclusion, modification or termination of the contract. *See* EMIR art. 9; *see also* EC Delegated Regulation no. 148/2013 (regulatory technical standards implementing the reporting requirement).

[179] For example, as noted above, market data regarding single-name CDS transactions involving U.S.-domiciled counterparties and/or U.S.-domiciled reference entities indicates that 13 percent of such transactions involve two U.S.-domiciled counterparties, while 48 percent involve a U.S.-domiciled counterparty and a foreign-domiciled counterparty. *See* note 141, *supra,* and accompanying text.

[180] For example, EU law anticipates the possibility that market participants may be able to satisfy their EU reporting obligations by reporting to a trade repository established in a third country, so long as that repository has been recognized by the European Securities and Markets Authority. *See* EMIR art. 77; *see also* Regulation SBSR, rule 908(c) (providing that to the extent that the Commission has issued a substituted compliance order/determination, compliance with Title VII regulatory reporting and public dissemination requirements may be satisfied by compliance with the comparable rules of a foreign jurisdiction).

jurisdiction, their compliance costs may be reduced. Similarly, to the extent that security-based swap data repositories provide additional ancillary services,[181] if market participants choose to make use of such services, they would likely find such services that make use of all of their data held in a single trade repository more useful than services that are applied only to a portion of that market participant's transactions. Ancillary services applied to only a portion of a participant's transactions could result if data were divided across multiple repositories as a result of regulations requiring participants to report data to separate trade repositories in each applicable jurisdiction.

b. Anticipated Costs

The Commission believes that although there are benefits to security-based swap data repositories providing access to relevant authorities to data maintained by the repositories, such access will likely involve certain costs and potential risks. For example, the Commission expects that repositories will maintain data that are proprietary and highly sensitive [182] and that are subject to strict privacy requirements.[183] Extending access to such data to anyone, including relevant authorities, increases the risk that the confidentiality of the data maintained by repositories may not be preserved.[184] A relevant authority's inability to protect the confidentiality of data maintained by repositories could erode market participants' confidence in the integrity of the security-based swap market and increase the overall risks associated with trading.[185] As we discuss below, this may ultimately lead to reduced trading activity and liquidity in the market, hindering price discovery and impeding the capital formation process.[186]

To help mitigate these risks and potential costs to market participants, the Exchange Act and the proposed rules impose certain conditions on relevant authorities' access to data maintained by repositories.[187] In part, the Exchange Act and the proposed rules limit the authorities that may access data maintained by a security-based swap data repository to a specific list of domestic authorities and other persons, including foreign authorities, determined by the Commission to be appropriate,[188] and further require that a repository notify the Commission when the repository receives an authority's initial request for data maintained by the repository.[189] Restricting access to security-based swap data available to relevant authorities should reduce the risk of unauthorized disclosure, misappropriation or misuse of security-based swap data because each relevant authority will only have access to information within its regulatory mandate, or legal responsibility or authority.

The proposed rules further require that, before a repository shares security-based swap information with a relevant authority, there must be an arrangement (in the form of a MOU or otherwise) between the Commission and the relevant authority that addresses the confidentiality of the security-based swap information provided, and under which the relevant authority agrees to indemnify the Commission and the repository for any expenses arising from litigation relating to the information provided.[190] While the proposal also conditionally exempts the relevant authority requesting data from the indemnification requirement, it does so only if the requested information relates to a regulatory mandate or legal responsibility or authority of the entity requesting the data, and there is in effect an arrangement between the Commission and such relevant authority that addresses the confidentiality of the information provided.[191] The arrangement should further reduce the likelihood of confidential trade or position data being inadvertently made public.

Although the statutory indemnification requirement could provide a strong incentive for relevant authorities to take appropriate care in safeguarding data they might receive from a registered SDR, the Commission recognizes the significance of commenter concerns regarding the impact of requiring indemnification,[192] and understands that certain authorities may be unable to agree to indemnify a data repository and the Commission. Therefore, the Commission preliminarily believes that the indemnification requirement could frustrate the purposes of the statutory requirement that repositories make available data to relevant authorities. The Commission preliminarily believes that the proposed approach appropriately balances confidentiality concerns associated with regulatory access with the benefits accruing to security-based swap market participants from increased regulatory transparency.

2. Effects on Efficiency, Competition and Capital Formation

The rules described in this proposal are intended to facilitate access for relevant authorities to data stored in SEC-registered repositories and therefore affect such repositories, but do not directly affect security-based swap market participants. As discussed below, access by relevant authorities to security-based swap data could indirectly affect market participants through the benefits that accrue from the relevant authorities' improved ability to fulfill their regulatory mandate or legal responsibility or authority as well as the potential impact of disclosure of confidential data.

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[181] According to one commenter, ancillary services ''may include: asset servicing, confirmation, verification and affirmation facilities, collateral management, settlement, trade compression and netting services, valuation, pricing and reconciliation functionalities, position limits management, dispute resolution, counterparty identity verification and others.'' *See* MarkitSERV comment (Jan. 24, 2011) at 4 (comment in response to SDR Proposing Release).

[182] As the Commission noted in the SDR Proposing Release, such data could include information about a market participant's trades or its trading strategy; it may also include non-public personal information. SDR Proposing Release, 75 FR 77339.

[183] *See* Exchange Act section 13(n)(5)(F), 15 U.S.C. 78m(n)(5)(F) (requiring an SDR to maintain the privacy of security-based swap transaction information); Exchange Act rules 13n–4(b)(8) and 13n–9 (implementing Exchange Act section 13(n)(5)(F)).

[184] *See, e.g.,* ESMA comment (Jam. 17, 2011) at 2 (noting that relevant authorities must ensure the confidentiality of security-based swap data provided to them).

[185] For example, should it become generally known by market participants that a particular dealer had taken a large position in order to facilitate a trade by a customer and was likely to take offsetting positions to reduce its exposure, other market participants may take positions in advance of the dealer attempting to take its offsetting positions. This ''front running'' of the dealer's trades would likely raise its trading costs. Should the dealer believe that its market exposure may become public before it has the opportunity to hedge, the price quote offered to its customer to establish the original position would reflect the increased hedging cost.

[186] *See* SDR Proposing Release, 75 FR 77307 (''Failure to maintain privacy of [SDR data] could lead to market abuse and subsequent loss of liquidity.'').

[187] Exchange Act section 13(n)(5)(G) and (H), 15 U.S.C. 78m(n)(5)(G) and (H); *see also* Exchange Act rules 13n–4(b)(9) (implementing Exchange Act sections 13(n)(5)(G), 15 U.S.C. 78m(n)(5)(G)) and (b)(10) (implementing Exchange Act section 13(n)(5)(H), 15 U.S.C. 78m(n)(5)(H)).

[188] As discussed above in part II.A.3(a), the Commission anticipates that such determinations may be conditioned, in part, by specifying the scope of a relevant authority's access to data, and may limit this access to reflect the relevant authority's regulatory mandate, or legal responsibility or authority.

[189] *See* Exchange Act section 13(n)(5)(G), 15 U.S.C. 78m(n)(5)(G); proposed Exchange Act rule 13n–4(b)(9).

[190] *See* Exchange Act section 13(n)(5)(H), 15 U.S.C. 78m(n)(5)(H); proposed Exchange Act rule 13n–4(b)(10).

[191] *See* proposed Exchange Act rule 13n–4(d).

[192] *See* note 13, *supra.*

However, because the Commission preliminarily believes that its rules will condition access to security-based swap data on the agreement of the relevant authorities to protect the confidentiality of the data, the Commission expects these rules to have little effect on the structure or operations of the security-based swap market. Therefore, the Commission preliminarily believes that effects of the proposed rules on efficiency, competition and capital formation will be small.[193] Nevertheless, there are some potential effects, particularly with respect to efficiency and capital formation, which flow from efficient collection and aggregation of security-based swap data. We describe these effects below.

In part VI.B of this release, the Commission describes the baseline used to evaluate the economic impact of the proposed rules, including the impact on efficiency, competition and capital formation. In particular, the Commission noted that the security-based swap data currently available from the DTCC–TIW is the result of a voluntary reporting system and access to that data is made consistent with guidelines published by the ODRF.

Under the voluntary reporting regime, CDS transaction data involving counterparties and reference entities from most jurisdictions is reported to a single entity, the DTCC–TIW. The DTCC–TIW, using the ODRF guidelines, then allows relevant authorities, including the Commission, to obtain data necessary to carry out their respective authorities and responsibilities with respect to OTC derivatives and the regulated entities that use derivatives.[194] As various regulators implement reporting rules within their jurisdictions, counterparties within those jurisdictions may or may not continue to report to the DTCC–TIW. As a result, the ability of the Commission and other relevant authorities to obtain the data required consistent with their regulatory mandate, or legal responsibility or authority, may require the ability to access data held in a trade repository outside of their own jurisdictions. That is, because the market is global and interconnected, effective regulatory monitoring of the security-based swap market may require regulators to have access to information on the global market, particularly during times of market turmoil. The proposed data access rule amendments and indemnification exemption should facilitate access of relevant authorities other than the Commission to security-based swap data held in repositories, and may indirectly facilitate Commission access to data held by trade repositories registered with regulators other than the Commission. To the extent that the proposed data access rules and indemnification exemption facilitate the ability of repositories to collect security-based swap information involving counterparties across multiple jurisdictions, there may be benefits in terms of efficient collection and aggregation of security-based swap data.

To the extent that the proposed data access provisions and the indemnification exemption increase the quantity of transaction and position information available to regulatory authorities about the security-based swap market, the ability of the Commission and other relevant authorities to respond in an appropriate and timely manner to market developments could enhance investor protection through improved detection, and facilitating the investigation of fraud and other market abuses. Moreover, as noted above, we do not anticipate that the proposed rules would directly affect market participants, such enhancements in investor protections may decrease the risks and indirect costs of trading and could therefore encourage greater participation in the security-based swap market for a wider range of entities seeking to engage in a broad range of hedging and trading activities.[195] While we believe that increased participation is a possible outcome of the Commission's transparency initiatives, including these proposed rules, relative to the level of participation in this market if these initiatives were not undertaken, we preliminarily believe that the benefits that flow from improved detection, facilitating the investigation of fraud and other market abuses, and more-efficient data aggregation are the more direct benefits of the rules.

In addition, the improvement in the quantity of data available to regulatory authorities, including the Commission, should improve their ability to monitor concentrations of risk exposures and evaluate risks to financial stability and could promote the overall stability in the capital markets.[196]

Aside from the effects that the proposed data access rules may have on regulatory oversight and market participation, we expect the proposed rules potentially to affect how SDRs are structured. In particular, the proposed data access rules and indemnification exemption could reduce the potential for SDRs to be established along purely jurisdictional lines, with multiple repositories established in different countries or jurisdictions. That is, effective data sharing may reduce the need for repositories to be established along jurisdictional lines, reducing the likelihood that a single security-based swap transaction must be reported to multiple swap-data repositories. As noted previously by the Commission, due to high fixed costs and increasing economies of scale, the total cost of providing trade repository services to the market for security-based swaps may be lower if the total number of repositories is not increased due to a regulatory environment that results in trade repositories being established along jurisdictional lines.[197] To the extent that the proposed rules result in fewer repositories that potentially compete across jurisdictional lines, cost savings realized by fewer repositories operating on a larger scale could result in reduced fees, with the subsequent cost to market participants to comply with reporting requirements being lower.[198]

Furthermore, multiple security-based swap data repositories with duplication of reporting requirements for cross-border transactions increase data fragmentation and data duplication, both of which increase the potential for difficulties in data aggregation. To the extent that the proposed data access rule amendments and indemnification exemption facilitate the establishment of SDRs that accept transactions from multiple jurisdictions, there may be

[193] *See* part VI.C.1b above for a discussion of the potential impact on capital formation of inadequate data confidentiality protections. The Commission preliminarily believes that the proposed approach balances the need for data confidentiality and the need for regulatory transparency.

[194] *See* note 149, *supra.*

[195] Indirect trading costs refer to costs other than direct transaction costs. Front running costs described above provide an example of indirect trading costs. In the context of investor protection, the risk of fraud represents a cost of trading in a market with few investor protections or safeguards.

[196] *See* note 95, *supra.*

[197] *See* SDR Adopting Release, 80 FR 14533 (discussion of high fixed costs and increasing economies of scale in the provision of security-based swap data repository services); *see also* SDR Adopting Release, 80 FR 14479 (discussion of rule 13n–4(c)(1)(i), which requires each SDR to ensure that any dues, fees or other charges that it imposes, and any discounts or rebates that it offers, are fair and reasonable and not unreasonably discriminatory; particularly noting that ''[o]ne factor that the Commission has taken into consideration to evaluate the fairness and reasonableness of fees, particularly those of a monopolistic provider of a service, is the cost incurred to provide the service'').''

[198] Alternatively, fewer repositories could result in those few repositories having the ability to take advantage of the reduced level of competition to charge higher prices.

benefits in terms of efficient collection and aggregation of security-based swap data. As discussed above, to the extent that the indemnification exemption allows relevant authorities to have better access to the data necessary to form a more complete picture of the security-based swap market—including information regarding risk exposures and asset valuations—the exemption should help the Commission and other relevant authorities perform their oversight functions in a more effective manner.

However, while reducing the likelihood of having multiple SDRs established along jurisdictional lines would resolve many of the challenges involved in aggregating security-based swap data, there may be costs associated with having fewer repositories. In particular, the existence of multiple repositories may reduce operational risks, such as the risk that a catastrophic event or the failure of a repository leaves no registered repositories to which transactions can be reported, impeding the ability of the Commission and relevant authorities to obtain information about the security-based swap market.

Finally, as we noted above, a relevant authority's inability to protect the privacy of data maintained by repositories could erode market participants' confidence in the integrity of the security-based swap market. More specifically, confidentiality breaches, including the risk that trading strategies may no longer be anonymous due to a breach, may increase the overall risks associated with trading or decrease the profits realized by certain traders. Increased risks or decreased profits may reduce incentives to participate in the security-based swap markets, which may lead to reduced trading activity and liquidity in the market. Depending on the extent of confidentiality breaches, as well as the extent to which such breaches lead to market exits, disclosures of confidential information could hinder price discovery and impede the capital formation process.[199]

3. Additional Costs and Benefits of Specific Rules

Apart from the general costs and benefits associated with the structure of the Exchange Act data access provisions and proposed implementing rules, certain discrete aspects of the proposed rules and related interpretation raise additional issues related to economic costs and benefits.

a. Benefits

i. Determination of Recipient Authorities

The Commission is proposing an approach to determining whether an authority, other than those expressly identified in the Exchange Act and the implementing rules,[200] should be provided access to data maintained by SDRs. The Commission believes that this proposed approach has the benefit of appropriately limiting relevant authorities' access to data maintained by repositories to protect the confidentiality of the data.[201] The Commission expects that relevant authorities from a number of jurisdictions may seek to obtain a determination by the Commission that they may appropriately have access to repository data. Each of these jurisdictions may have a distinct approach to supervision, regulation or oversight of its financial markets or market participants and to the protection of proprietary and other confidential information. The Commission believes that the proposed factors—which among other things would consider whether an authority has an interest in access to security-based swap data based on the relevant authority's regulatory mandate or legal responsibility or authority, whether there is an MOU or other arrangement between the Commission and the relevant authority that addresses the confidentiality of the security-based swap data provided to the authority, and whether information accessed by the applicable authority would be subject to robust confidentiality safeguards [202]—appropriately condition an authority's ability to access data on the confidentiality protections the authority will afford that data. This focus further would be strengthened by the Commission's ability to revoke its determination where necessary, including, for example, if a relevant authority fails to keep such data confidential.[203] This approach should increase market participants' confidence that their confidential trade data will be protected, reducing perceived risks of transacting in security-based swaps.

The Commission also believes that its proposed approach in determining the appropriate relevant authorities would reduce the potential for fragmentation and duplication of security-based swap data among trade repositories by facilitating mutual access to the data. Narrower approaches such as allowing regulatory access to security-based swap data only to those entities specifically identified in the Exchange Act [204] may increase fragmentation and duplication, and hence increase the difficulty in consolidating and interpreting security-based swap market data from repositories, potentially reducing the general economic benefits discussed above.

Furthermore, the Commission believes that its proposed approach in conditioning access to security-based swap data held in SDRs by requiring there to be in effect an arrangement between the Commission and the authority in the form of a MOU would promote the intended benefits of access by relevant authorities to data maintained by SDRs. Under the proposed approach, rather than requiring regulatory authorities to negotiate confidentiality agreements with multiple SDRs, a single MOU between the Commission and the relevant authority can serve as the confidentiality agreement that will satisfy the requirement for a written agreement stating that the relevant authority will abide by the confidentiality requirements described in section 24 of the Exchange Act relating to the security-based swap data. The Commission routinely negotiates MOUs or other arrangements with relevant authorities to secure mutual assistance or for other purposes, and the Commission preliminarily believes that the proposed approach is generally consistent with this practice.

The Commission further preliminarily believes that negotiating a single such agreement with the Commission will be less costly for the authority requesting data than negotiating directly with each registered SDR and eliminate the need for each SDR to negotiate as many as 200 confidentiality agreements with requesting authorities. This approach would also avoid the difficulties that may be expected to accompany an approach that requires SDRs to enter into confidentiality agreements—particularly questions regarding the parameters of an adequate confidentiality agreement, and the presence of uneven and potentially inconsistent confidentiality protections across SDRs and recipient entities.

[199] *See* SDR Proposing Release, 75 FR 77307 (''Failure to maintain privacy of [SDR data] could lead to market abuse and subsequent loss of liquidity.'').

[200] *See* part II.A for a discussion of specific authorities included in the implementing rules.

[201] *See* ESMA comment (Jan. 17, 2011) at 2 (noting that relevant authorities must ensure the confidentiality of security-based swap data provided to them).

[202] *See* part II.A.3.a, *supra.*

[203] *See* part II.A.4, *supra.*

[204] *See* Exchange Act section 3(a)(74), 15 U.S.C. 78c(a)(74).

ii. Notification Requirement

The Commission is proposing an approach by which SDRs may satisfy the notification requirement by notifying the Commission upon the initial request for security-based swap data by a relevant authority and maintaining records of the initial request and all subsequent requests.[205] The Commission estimates that approximately 300 relevant authorities may make requests for data from security-based swap data repositories.[206] Based on the Commission's experience in making requests for security-based swap data from trade repositories, the Commission estimates that each relevant authority will access security-based swap data held in SDRs using electronic access. Such access may be to satisfy a narrow request concerning a specific counterparty or reference entity or security, to create a summary statistic of trading activity or outstanding notional, or to satisfy a large request for detailed transaction and position data. Requests may occur as seldom as once per month if the relevant authority is downloading all data to which it has access in order to analyze it on its own systems, or may occur 100 or more times per month if multiple staff of the relevant authority are making specific electronic requests concerning particular counterparties or reference entities and associated positions or transactions. Therefore, under the Commission's proposed approach to notification requirement compliance, the Commission estimates based on staff experience that each repository would provide the Commission with actual notice as many as 300 times, and that repositories cumulatively would maintain records of as many as 360,000 subsequent data requests per year.[207] The proposed rule would be expected to permit repositories to respond to requests for data by relevant authorities more promptly and at lower cost than if notification was required for each request for data access, while helping to preserve the Commission's ability to monitor whether the repository provides data to each relevant entity consistent with the applicable conditions.

The Commission's proposed rule would also simplify relevant authorities' direct access to security-based swap data needed in connection with their regulatory mandate or legal responsibility or authority, because repositories would not be required to provide the Commission with actual notice of every request prior to providing access to the requesting relevant authority.

iii. Use of Confidentiality Agreements Between the Commission and Recipient Authorities

The proposed rules in part would condition regulatory access on there being an arrangement between the Commission and the recipient entity, in the form of an MOU or otherwise, addressing the confidentiality of the security-based swap information made available to the recipient. The proposed rules add that those arrangements shall be deemed to satisfy the statutory requirement for a written confidentiality agreement.[208]

As discussed above, the Commission preliminarily believes that this approach reflects an appropriate way to satisfy the interests associated with the confidentiality condition. The benefits associated with this approach include obviating the need for repositories to negotiate and enter into multiple confidentiality agreements, avoiding difficulties regarding the parameters of an adequate confidentiality agreement, and avoiding uneven and potentially inconsistent confidentiality protections. The proposed approach also would build upon the Commission's experience in negotiating such agreements.[209]

iv. Indemnification Exemption

The Commission also is proposing a conditional indemnification exemption, recognizing that application of the indemnification requirement could prevent some relevant domestic and foreign authorities from obtaining security-based swap information from repositories, because they cannot provide an indemnification agreement.[210] Effectively prohibiting some authorities other than the Commission from obtaining access to security-based swap data maintained by repositories potentially would greatly reduce the market transparency to regulators provided by Title VII.[211] Moreover, although relevant authorities could obtain security-based swap data from the Commission,[212] repositories are likely to have systems in place and expertise that allows them to provide such data to relevant authorities quickly, and economic incentives to minimize their own cost of providing data.

The Commission also preliminarily believes that the absence of an exemption to the indemnification requirement could increase the likelihood that foreign authorities would require duplicate reporting of cross-border transactions to repositories within the foreign jurisdiction. To the extent that relevant foreign authorities are effectively restricted in obtaining data maintained by SEC-registered repositories, the Commission's own ability to access security-based swap data may similarly be restricted.[213] More generally, the resulting restrictions on regulatory access may likely lead to duplication and fragmentation of security-based swap data among trade repositories in multiple jurisdictions, which may increase other costs that relevant authorities may incur, including, for example, the difficulty of aggregating data across multiple repositories.[214]

The Commission preliminarily believes that the proposed indemnification exemption further would be beneficial by mitigating the risks associated with permitting relevant

[205] *See* proposed Exchange Act rule 13n–4(e).

[206] *See* proposed Exchange Act rule 13n–4(b)(9)(i)–(v) for a list of prudential regulators that may request data maintained by SDRs from SDRs. The Exchange Act also states that FSOC, the CFTC, and the Department of Justice may access security-based swap data. *See* parts II.A.1, 2, *supra.* The Commission also expects that certain self-regulatory organizations and registered futures associations may request security-based swap data from repositories. Therefore, the Commission estimates that up to approximately 30 relevant authorities in the United States may seek to access security-based swap data from repositories. The Commission preliminarily believes that most requests will come from authorities in G20 countries, and estimates that each of the G20 countries will also have no more and likely fewer than 30 relevant authorities that may request data from SDRs. Certain authorities from outside the G20 also may request data. Accounting for all of those entities, the Commission estimates that there will likely be a total of no more than 300 relevant domestic and foreign authorities that may request security-based swap data from repositories.

[207] The annual estimate of 360,000 is calculated based on 300 recipient entities each making 100 requests per month cumulatively across all repositories. The estimate of 100 requests per authority is based on staff experience with similar data requests in other contexts.

[208] *See* proposed Exchange Act rule 13n–4(10)(i).

[209] *See* part II.B.1, *supra.*

[210] *See* part III.A, *supra.*

[211] *See* Proposing Release, 75 FR 77307 (describing expected benefits of SDRs, including the market transparency benefits of access by regulators); *id.* at 77356 (''The ability of the Commission and other regulators to monitor risk and detect fraudulent activity depends on having access to market data.''); *see also* part VI.B.1 of this release discussing transparency in the security-based swap market.

[212] *See* part IV.B, *supra* (discussing information sharing under Exchange Act sections 21 and 24); *see also* Proposing Release, 75 FR 77319.

[213] *See* note 94, *supra,* and accompanying text.

[214] *See* Proposing Release, 75 FR 77358. The costs associated with aggregating the data of multiple repositories would likely be significantly higher under the circumstances described here, as different jurisdictions might impose different requirements regarding how data is to be reported and maintained.

authorities to obtain access to data maintained by repositories. The exemption would be available only for requests that are consistent with each requesting authority's regulatory mandate, or legal responsibility or authority. The Commission preliminarily believes that these conditions would significantly reduce the confidentiality concerns relating to relevant authorities' access to data maintained by repositories.[215] Limiting an authority's access to data to that relating to its mandate, or legal responsibility or authority would reduce the opportunity for improper disclosure of the data in part because such limits reduce the quantity of data that is subject to potential improper disclosure, and because an authority is likely to be familiar with the need to maintain the confidentiality of data that relates to its mandate or legal responsibility or authority. Further, the Commission will have an opportunity to evaluate the confidentiality protections provided by the relevant authority in the context of negotiations of an MOU or other arrangement.[216] Should the Commission believe the relevant authority has failed to comply with the confidentiality provisions of the MOU, it may terminate access by revoking a determination by the Commission that the relevant entity was appropriate, or by terminating the MOU or other arrangement used to satisfy the confidentiality condition, or, as applicable, the indemnification exemption.[217]

b. Costs

The Commission recognizes that the proposed approach to providing access to relevant authorities other than the Commission to security-based swap data held in repositories has the potential to involve certain costs and risks.

The relevant authorities requesting securities-based swap data would incur some costs in seeking a Commission order deeming the authority appropriate to receive security-based swap data. These costs would include the negotiation of an MOU to address the confidentiality of the security-based swap information it seeks to obtain and providing information to justify that the security-based swap data relates to the entity's regulatory mandate or legal responsibility or authority. As discussed above, the Commission estimates that up to 300 entities potentially might enter into such MOUs or other arrangements.[218] Based on the Commission staff's experience in negotiating MOUs that address regulatory cooperation, the Commission preliminarily estimates the cost to each relevant authority requesting data associated with negotiating such an arrangement of approximately $205,000 per entity for a total of $61,500,000.[219]

In addition, authorities that are not specified by the proposed rule may request that that the Commission determine them to be appropriate to receive access to such security-based swap data. Given the relevant information that the Commission preliminarily would consider in connection with such designations (apart from the MOU issues addressed above)—including information regarding how the authority would be expected to use the information, information regarding the authority's regulatory mandate or legal responsibility or authority, and information regarding reciprocal access—the Commission preliminarily estimates the cost associated with such a request to be approximately $15,200 per requesting entity for a total of $4,560,000.[220]

Security-based swap data repositories would incur some costs to verify that an entity requesting data entered into the requisite agreements concerning confidentiality with the Commission, and that the entity either has agreed to indemnify the Commission and the repository, or that the indemnification exemption applies. The Commission generally expects that such verification costs would be minimal because information regarding such Commission arrangements would generally be readily available.[221]

To the extent that the security-based swap data repository provides the requested data through direct electronic means, the repository may incur some cost in providing the requesting authority access to the system that provides such access and setting data permissions to allow access only to the information that relates to the authority's regulatory mandate, or legal responsibility or authority. The Commission preliminarily believes most of the costs associated with providing such access would be the fixed costs incurred in designing and building the systems to provide the direct electronic access required by the recently adopted SDR rules.[222] The Commission preliminarily believes the marginal cost of providing access to an additional relevant authority and setting the associated permissions is approximately $6,295.[223] Based on an estimated 300 entities requesting access to each of ten registered SDRs, we estimate the total cost of connecting entities to SDRs to be approximately $18,885,000.

The Commission further recognizes that the conditions in the proposed indemnification exemption would not necessarily provide repositories and the Commission with the same level of confidentiality-related protection that an indemnification agreement would provide (*i.e.,* coverage for any expenses

[215] *See, e.g.,* ESMA comment (Jan. 17, 2011) at 2 (noting that relevant authorities must ensure the confidentiality of security-based swap data provided to them).

[216] For the indemnification exemption to apply to the requests of a particular requesting authority, the authority would be required to enter into an MOU or other arrangement with the Commission, which would enable the Commission to determine, prior to operation of the indemnification exemption, that the authority has a regulatory mandate, or legal responsibility or authority to access data maintained by SDRs, that the authority agrees to protect the confidentiality of any security-based swap information provided to it and that the authority will provide reciprocal assistance in securities matters within the Commission's jurisdiction. *See* part III, *supra* (discussing the proposed indemnification exemption).

[217] *See* part II.A.3, *supra.*

[218] *See* part VI.C.3.a.ii, *supra.*

[219] These figures are based on 300 entities each requiring 500 personnel hours on average to negotiate an MOU. *See* part V.D.1.a, *supra.* The cost per entity is 400 hours × attorney at $380 per hour + 100 hours × deputy general counsel at $530 per hour = $205,000, or a total of $61,500,000. We use salary figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by SEC staff to account for a 1800-hour year-week and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[220] These figures are based on roughly 300 entities (noting that certain entities designated by statute or rule would not need to prepare such requests) requiring 40 personnel hours to prepare a request for access. *See* part V.D.1.b, *supra.* The cost per entity is 40 hours × attorney at $380 per hour = $15,200, or a total of $4,560.000. We use salary figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by SEC staff to account for a 1800-hour year-week and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[221] As a general matter, the Commission provides a list of MOUs and other arrangements on its public Web site, which are available at: *http://www.sec.gov/about/offices/oia/oia_cooparrangements.shtml.*

[222] *See* SDR Adopting Release, 80 FR 14523 (estimating the aggregate one-time systems costs for ten respondents to be 420,000 hours and $10 million, and estimating the aggregate ongoing systems costs as being 252,000 hours and $60 million); *see also* part IV.D.1.c, *supra.*

[223] This figure is based on the view that, for each recipient requesting data, a repository would incur an 25 hour burden associated with programming or otherwise inputting the relevant parameters, encompassing 20 hours of programmer analyst time and five hours of senior programmer time. The estimate also encompasses one hour of attorney time in connection with each such recipient. *See* part V.D.1.c, *supra.* The cost per entity is 20 hours × programmer analyst at $220 per hour + 5 hours × senior programmer at $303 per hour + 1 hour × attorney at $380 per hour = $6,295, We use salary figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by SEC staff to account for a 1800-hour year-week and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

arising from litigation relating to information provided to a relevant authority). The Commission preliminarily believes, however, that the conditions in the proposed indemnification exemption, related to the need for a confidentiality arrangement and requiring that the information provided relate to a regulatory mandate, or legal responsibility or authority of the recipient entity, would provide appropriate protection of the confidentiality of data maintained by SDRs, albeit one that is different from the protection provided by an indemnification agreement that addresses potential costs of litigation associated with the data provided to it by the SDR.

In addition, under the Commission's proposed notification compliance rule, SDRs would be required to notify the Commission of the initial request for data but would not have to inform the Commission of all relevant authorities' requests for data prior to a SDR fulfilling such requests. Based on the estimate that approximately 300 relevant authorities may make requests for data from security-based swap data repositories, the Commission estimates that a repository would provide the Commission with actual notice approximately 300 times.[224] Moreover, based on the estimate that ten persons may register with the Commission as SDRs,[225] this suggests that repositories in the aggregate would provide the Commission with actual notice up to a total of 3,000 times. The Commission preliminarily estimates that the total of providing such notice to be $57,000 per SDR for a total of $570,000.[226]

Pursuant to rule, SDRs would be required to maintain records of subsequent requests.[227] Not receiving actual notice of all requests may impact the Commission's ability to track such requests, but the Commission preliminarily believes that the benefits of receiving actual notice of each request would not justify the additional costs that repositories would incur in providing such notices and the potential delay in relevant authorities receiving data that they need to fulfill their regulatory mandate, or legal responsibility or authority. At the same time, providing notice of initial requests will help to preserve the Commission's ability to monitor whether the repository provides data to each relevant entity consistent with the applicable conditions. As discussed above, the Commission preliminarily estimates that the average initial paperwork burden associated with maintaining certain records related to data requests or access would be roughly 360 hours, and that the annualized burden would be roughly 280 hours and $120,000 for each repository.[228] Assuming a maximum of ten security-based swap data repositories, the estimated aggregate one-time dollar cost would be roughly $1 million,[229] and the estimated aggregate annualized dollar cost would be roughly $1.2 million.[230]

*D. Alternatives*

The Commission considered a number of alternative approaches to implementing the Exchange Act data access provisions, including the indemnification requirement, but, for the reasons discussed below, is not proposing them.

1. No Indemnification Exemption

The Commission considered not proposing any exemptive relief from the indemnification requirement. As discussed above, application of the indemnification requirement may prevent some relevant authorities from accessing security-based swap data directly from repositories registered with the Commission.[231] Although relevant authorities could obtain such data from the Commission,[232] that alternative would be expected to be associated with delays and higher costs, particularly during periods of market stress and particularly since repositories are likely to have expertise in providing such data to relevant authorities and economic incentives for doing so efficiently.[233]

To the extent that relevant foreign authorities are effectively restricted in obtaining data maintained by SEC-registered repositories, the Commission's own ability to access security-based swap data may similarly be restricted.[234] More generally, the resulting restrictions on regulatory access may likely lead to duplication and fragmentation of security-based swap data among trade repositories in multiple jurisdictions, which may increase other costs that relevant authorities may incur, including, for example, the difficulty of aggregating data across multiple repositories.[235]

2. Repository Option To Waive Indemnification

The Commission also considered whether to adopt the approach set forth in the Cross-Border Proposing Release, to allow the SDR the option to waive the indemnification requirement.[236] As discussed above, however, the Commission preliminarily believes that the proposed approach would more effectively address the relevant concerns associated with implementing the indemnification provision.[237] Also, requiring each repository to elect whether to waive the indemnification requirement for each requesting entity would likely impose additional costs on repositories and may result in inconsistent treatment of data requests across repositories.

3. Additional Conditions to Indemnification Requirement or Proposed Indemnification Exemption

The Commission also considered whether to prescribe additional conditions or limitations to the indemnification requirement or the proposed indemnification exemption. In part, the Commission considered one commenter's suggestion that the Commission provide model indemnification language in connection with the indemnification requirement,

[224] *See* part VI.C.3.ii, *supra.*

[225] *See* note 117, *supra,* and accompanying text

[226] These figures are based each of ten SDRs providing notice for each of 300 requesting entities. *See* part V.D.1.d, *supra.* The cost per SDR is 300 requesting entities × 0.5 hours × attorney at $380 per hour = $57,000, or a total of $570,000. We use salary figures from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by SEC staff to account for a 1800-hour year-week and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[227] *See* part V.D.1.d, *supra.* As noted above, existing rules require SDRs to maintain copies of all documents they make or receive in their course of business, including electronic documents. *See* note 77, *supra.*

[228] *See* part V.D.1.d, *supra.*

[229] The Commission preliminarily anticipates that a repository would assign the associated responsibilities primarily to a compliance manager and a senior systems analyst. The total estimated dollar cost would be roughly $100,000 per repository, reflecting the cost of a compliance manager at $283 per hour for 300 hours, and a senior systems analyst at $260 per hour for 60 hours. Across the estimated ten repositories, this would amount to roughly $1 million.

[230] The Commission preliminarily anticipates that a repository would assign the associated responsibilities primarily to a compliance manager. The total estimated dollar cost would be roughly $120,000 per repository, reflecting $40,000 annualized information technology costs, as well as a compliance manager at $283 per hour for 280 hours. Across the estimated ten repositories, this would amount to roughly $1.2 million.

[231] *See, e.g.,* DTCC comment (Nov. 15, 2010) at 3 (discussing how the indemnification requirement would result in the reduction of information accessible to regulators on a timely basis and would greatly diminish regulators' ability to carry out oversight functions).

[232] *See* part IV.B, *supra,* discussing information sharing under Exchange Act sections 21 and 24; *see also* SDR Proposing Release, 75 FR 77319.

[233] *See* part VI.C.3.a.iv, *supra.*

[234] *See* note 94, *supra,* and accompanying text.

[235] *See* note 214, *supra.*

[236] *See* note 91, *supra,* and accompanying text.

[237] *See* part III.A, *supra.*

but concluded preliminarily that the benefits of such model language are largely mitigated by an indemnification exemption that would condition the indemnification exemption upon there being in effect one or more arrangements (in the form of an MOU or otherwise) between the Commission and the entity that addresses the confidentiality of the security-based swap information provided and other matters as determined by the Commission.[238]

4. Use of Confidentiality Arrangements Directly Between Repositories and Recipients

The Commission considered the alternative approach of permitting confidentiality agreement between SDRs and the recipient of the information to satisfy the confidentiality condition to the data access requirement. The Commission preliminarily believes, however, that the proposed approach, which would make use of confidentiality arrangements between the Commission and the recipients of the data, would avoid difficulties such as questions regarding the parameters of the confidentiality agreement, and the presence of uneven and inconsistent confidentiality protections.[239] This also would avoid the need for SDRs to potentially negotiate and enter into dozens of confidentiality agreements, instead such costs would be borne by the Commission.

6. Notice of Individual Requests for Data Access

Finally, the Commission considered requiring repositories to provide notice to the Commission of all requests for data prior to repositories fulfilling such requests, rather than the proposed approach of requiring such notice only of the first request from a particular recipient, with the repository maintaining records of all subsequent requests.[240] The Commission preliminarily believes that the benefits of receiving actual notice for each and every request would not justify the additional costs that would be imposed on repositories to provide such notice, and providing notice of subsequent requests may not be feasible if data is provided by direct electronic access.

*E. Comments on the Economic Analysis*

The Commission requests comment on all aspects of this economic analysis. Commenters particularly are requested to address whether there are other costs or benefits—not addressed above—that the Commission should take into account when adopting final rules. Commenters also are requested to address whether the Commission has appropriately weighed the costs and benefits of the potential alternative approaches addressed above, and whether there are other potential alternative approaches that the Commission should assess.

## VII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA'')[241] the Commission must advise OMB whether the proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results 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 or individual industries; or (3) significant adverse effect on competition, investment or innovation.

The Commission requests comment on the potential impact of the proposed rules and amendments on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

## VIII. Regulatory Flexibility Act Certification

Section 3(a) of the Regulatory Flexibility Act of 1980 (''RFA'')[242] requires the Commission to undertake an initial regulatory flexibility analysis of the proposed rules on ''small entities.'' Section 605(b) of the RFA[243] provides that this requirement shall not apply to any proposed rule or proposed rule amendment which, if adopted, would not have a significant economic impact on a substantial number of small entities. Pursuant to 5 U.S.C. 605(b), the Commission hereby certifies that the proposed rules would not, if adopted, have a significant economic impact on a substantial number of small entities. In developing these proposed rules, the Commission has considered their potential impact on small entities. For purposes of Commission rulemaking in connection with the RFA, a small entity includes: (1) When used with reference to an ''issuer'' or a ''person,'' other than an investment company, an ''issuer'' or ''person'' that, on the last day of its most recent fiscal year, had total assets of $5 million or less;[244] or (2) a broker-dealer with total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a–5(d) under the Exchange Act,[245] or, if not required to file such statements, a broker-dealer with total capital (net worth plus subordinated liabilities) of less than $500,000 on the last day of the preceding fiscal year (or in the time that it has been in business, if shorter); and is not affiliated with any person (other than a natural person) that is not a small business or small organization.[246]

In initially proposing rules regarding the registration process, duties and core principles applicable to SDRs, the Commission stated that it preliminarily did not believe that any persons that would register as repositories would be considered small entities.[247] The Commission further stated that it preliminarily believed that most, if not all, SDRs would be part of large business entities with assets in excess of $5 million and total capital in excess of $500,000, and, as a result, the Commission certified that the proposed rules would not have a significant impact on a substantial number of small entities and requested comments on this certification.[248] The Commission reiterated that conclusion earlier this year in adopting final rules generally addressing repository registration, duties and core principles.[249]

The Commission continues to hold the view that any persons that would register as SDRs would not be considered small entities. Accordingly, the Commission certifies that the proposed rules—related to regulatory access to data held by SDRs and providing a conditional exemption from

[238] *See* note 98, *supra.*

[239] *See* part II.B.1, *supra.*

[240] *See* part II.A.4, *supra.*

[241] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

[242] 5 U.S.C. 603(a).

[243] 5 U.S.C. 605(b).

[244] *See* 17 CFR 240.0–10(a).

[245] 17 CFR 240.17a–5(d).

[246] *See* 17 CFR 240.0–10(c).

For purposes of the Regulatory Flexibility Act, the definition of ''small entity'' also encompasses ''small governmental jurisdictions,'' which in relevant part means governments of locales with a population of less than fifty thousand. 5 U.S.C. 601(5), (6). Although the Commission anticipates that this proposal may be expected to have an economic impact on various governmental entities that access data pursuant to Dodd-Frank's data access provisions, the Commission does not anticipate that any of those governmental entities would be small entities.

[247] *See* 75 FR 77365.

[248] *See id.* (basing the conclusions on review of public sources of financial information about the current repositories that are providing services in the OTC derivatives market).

[249] *See* SDR Adopting Release, 80 FR 14549 (noting that the Commission did not receive any comments that specifically addressed whether the applicable rules would have a significant economic impact on small entities).

the associated indemnification requirement—would not have a significant economic impact on a substantial number of small entities for purposes of the RFA. The Commission encourages written comments regarding this certification. The Commission solicits comment as to whether the proposed rules could have an effect on small entities that has not been considered. The Commission requests that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of such impact.

**Statutory Basis and Text of Proposed Rules**

Pursuant to the Exchange Act, and particularly sections 3(b), 13(n), 23(a) and 36 thereof, 15 U.S.C. 78c(b), 78m(n), 78w(a) and 78mm, the Commission is proposing to amend rule 13n–4 by adding paragraphs (b)(9), (b)(10), (d) and (e) to that rule.

**List of Subjects in 17 CFR Part 240**

Confidential business information, Reporting and recordkeeping requirements, Securities.

**Text of Proposed Rules**

For the reasons stated in the preamble, the Commission is proposing to amend Title 17, Chapter II, of the Code of Federal Regulations as follows:

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 1. The authority citation for part 240 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78*o,* 78*o*–4, 78*o*–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7201 *et seq.,* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; and Pub. L. 111–203, 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 2. In § 240.13n–4, amend paragraph (b)(8) by removing the word ''and'' at the end of the paragraph and adding paragraphs (b)(9), (b)(10), (d), and (e).

The additions read as follows:

**§ 240.13n–4 Duties and core principles of security-based swap data repository.**

* * * * *

(b) * * *

(9) On a confidential basis, pursuant to section 24 of the Act (15 U.S.C. 78x), upon request, and after notifying the Commission of the request in a manner consistent with paragraph (e) of this section, make available security-based swap data obtained by the security-based swap data repository, including individual counterparty trade and position data, to the following:

(i) The Board of Governors of the Federal Reserve System and any Federal Reserve Bank;

(ii) The Office of the Comptroller of the Currency;

(iii) The Federal Deposit Insurance Corporation;

(iv) The Farm Credit Administration;

(v) The Federal Housing Finance Agency;

(vi) The Financial Stability Oversight Council;

(vii) The Commodity Futures Trading Commission;

(viii) The Department of Justice;

(ix) The Office of Financial Research; and

(x) Any other person that the Commission determines to be appropriate, conditionally or unconditionally, by order, including, but not limited to—

(A) Foreign financial supervisors (including foreign futures authorities);

(B) Foreign central banks; and

(C) Foreign ministries;

(10) Before sharing information with any entity described in paragraph (b)(9) of this section, there shall be in effect an arrangement between the Commission and the entity (in the form of a memorandum of understanding or otherwise) to address the confidentiality of the security-based swap information made available to the entity; this arrangement shall be deemed to satisfy the requirement, set forth in section 13(n)(5)(H)(i) of the Act (15 U.S.C. 78m(n)(5)(H)(i)), that the security-based swap data repository receive a written agreement from the entity stating that the entity shall abide by the confidentiality requirements described in section 24 of the Act (15 U.S.C. 78x) relating to the information on security-based swap transactions that is provided; and

* * * * *

(d) *Exemption from the indemnification requirement.* The indemnification requirement set forth in section 13(n)(5)(H)(ii) of the Act (15 U.S.C. 78m(n)(5)(H)(ii)) shall not be applicable to an entity described in paragraph (b)(9) of this section with respect to disclosure of security-based swap information by the security-based swap data repository to such entity if:

(1) Such information relates to persons or activities within the entity's regulatory mandate, or legal responsibility or authority; and

(2) There is in effect one or more arrangements (in the form of memoranda of understanding or otherwise) between the Commission and such entity that:

(i) Address the confidentiality of the security-based swap information provided and any other matters as determined by the Commission; and

(ii) Specify the types of security-based swap information that would relate to persons or activities within the entity's regulatory mandate, legal responsibility or authority for purposes of paragraph (d)(1) of this section.

(e) *Notification requirement compliance.* To satisfy the notification requirement of the data access provisions of paragraph (b)(9) of this section, a security-based swap data repository shall inform the Commission upon its receipt of the first request for security-based swap data from a particular entity (which may include any request to be provided ongoing online or electronic access to the data), and the repository shall maintain records of all information related to the initial and all subsequent requests for data access from that entity, including records of all instances of online or electronic access, and records of all data provided in connection with such requests or access.

* * * * *

By the Commission.

Dated: September 4, 2015.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2015–22844 Filed 9–11–15; 8:45 am]

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# FEDERAL REGISTER

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Part III

## The President

Proclamation 9317—World Suicide Prevention Day, 2015

Federal Register
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# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9317 of September 9, 2015**

## World Suicide Prevention Day, 2015

**By the President of the United States of America**

**A Proclamation**

All people deserve the opportunity to live healthy, rewarding lives. No American should have their potential limited, have their life cut short, or be deprived of their fullest measure of happiness because they do not have the mental health support they need. On World Suicide Prevention Day, we reaffirm our belief that mental health is an essential part of overall health, and together, we renew our commitment to supporting and empowering all Americans to seek the care they need.

Suicide is often related to serious depression, substance use disorders, and other mental health conditions. That is why recognizing severe psychological distress and ensuring access to the care and services needed to diagnose and treat mental illness are crucial to our efforts to prevent suicide. Individuals can also experience emotional and mental health crises in response to a wide range of situations—from difficulties in personal relationships to the loss of a job to bullying at school. And for some of our Nation's veterans and military service members, these challenges are compounded by the invisible wounds of war. Tragically, these crises can sometimes involve thoughts of suicide—and we must do more to support those suffering.

All Americans can take part in promoting mental well-being and preventing suicide. Everyone can contribute to a culture where individuals are supported and accepted for who they are—no matter what they look like, who they love, or what challenges they face—and where it is okay to ask for help.

We can do more to recognize the signs of mental health issues early and encourage those in need to reach out for support. And we must remind our loved ones that seeking treatment is not a sign of weakness; it is a sign of strength. If you or someone you know is in need of help, the National Suicide Prevention Lifeline offers immediate assistance for all Americans at 1–800–273–TALK. Veterans, service members, and their loved ones can call this number to reach the Veterans Crisis Line, and they can also send a text message to 838255.

The Affordable Care Act extends mental health and substance use disorder benefits and parity protections to over 60 million Americans, helping men and women across our country access critical care. Protections under the health care law prohibit insurers from denying coverage because of pre-existing conditions, like a diagnosis of mental illness, and require most insurance plans to cover recommended preventive services without copays, including behavioral assessments for children and depression screenings.

In February, I was proud to sign the Clay Hunt Suicide Prevention for American Veterans Act to help fill serious gaps in serving veterans with post-traumatic stress and other illnesses. This law builds upon our ongoing efforts to end the tragedy of suicide among our troops and veterans. Last year, I announced 19 Executive actions to make it easier for service members and veterans to access the care they need when they need it, and our Government has focused additional resources on mental health services, including increasing the number of mental health providers at the Department of Veterans Affairs.

My Administration is also committed to doing all we can to empower those facing challenges and hardship. We are dedicated to combating bullying, harassment, and discrimination in our schools and communities. We are doing more to guarantee all veterans and members of our Armed Forces—as well as their families—get the help they deserve while they are serving our Nation, as they transition to civilian life, and long after they have returned home. And across the Federal Government, we are working to ensure all Americans are supported in times of crisis.

Suicide prevention is the responsibility of all people. One small act—the decision to reach out to your neighbor, offer support to a friend, or encourage a veteran in need to seek help—can make a difference. It can help energize a national conversation and a changing attitude across America. If you are hurting, know this: You are not forgotten. You are never alone. Your country is here for you, and help is available. As we pause to raise awareness of the importance of suicide prevention, let us remember all those we have lost and the loved ones they left behind. As one people, we stand with all who struggle with mental illness, and we continue our work to prevent this heartbreak in our communities.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 10, 2015, as World Suicide Prevention Day. I call upon citizens, government agencies, organizations, health care providers, and research institutions to raise awareness of the mental health resources and support services available in their communities and encourage all those in need to seek the care and treatment necessary for a long and healthy life.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of September, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

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