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Presidential Documents

Title 3—

The President

Memorandum of September 24, 2015

Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the Foreign Assistance Act of 1961 to direct the drawdown of up to $45 million in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Benin, Cameroon, Chad, Niger, and Nigeria to support their efforts against Boko Haram, and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, September 24, 2015

[FR Doc. 2015–25680
Filed 10–6–15; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AI30

[NRC–2009–0044]

Revisions to the Petition for Rulemaking Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to clarify and streamline its process for addressing petitions for rulemaking (PRMs). These amendments are intended to improve transparency and to make the PRM process more efficient and effective.

DATES: This final rule is effective on November 6, 2015.

ADDRESSES: Please refer to Docket ID NRC–2009–0044 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0044. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individuals 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*. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.

• *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: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration (ADM), telephone: 301–415–3280, email: *Cindy.Bladey@nrc.gov*; or Anthony de Jesús, Senior Regulations Specialist, RADB, ADM, telephone: 301–415–1106, email: *Anthony.deJesus@nrc.gov*; or Jennifer Borges, Regulations Specialist, RADB, ADM, telephone: 301–415–3647, email: *Jennifer.Borges@nrc.gov*; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. Background

The NRC's requirements, policies, and practices governing the PRM process have remained substantially unchanged since their initial issuance in 1979 (44 FR 61322; October 25, 1979). During the past 20 years, the NRC has received an average of nine PRMs per year and plans its budget and assigns resources based on this average. In recent years, however, the NRC has experienced a substantial increase in the number of PRMs submitted for consideration and docketed 25 PRMS in fiscal year (FY) 2011 alone. This increase in PRMs has presented a significant resource challenge to the NRC.

In a memorandum to the other Commissioners entitled, ''Streamlining the NRR [Office of Nuclear Reactor Regulation] Rulemaking Process'' (COMNJD–06–0004/COMEXM–06–0006), dated April 7, 2006 (ADAMS Accession No. ML060970295), then-Chairman Nils J. Diaz and then-Commissioner Edward McGaffigan, Jr., proposed that, because of the general increase in rulemaking activities, the NRC staff should streamline its rulemaking process by removing unnecessary constraints, while simultaneously enhancing the transparency of and public participation in the process. The memorandum also invited the development of additional mechanisms for ''streamlining and increasing the transparency of the rulemaking process, thus allocating the appropriate level of resources for the most important rulemaking actions and ensuring that the staff's hands are not tied by perceived or real procedural prerequisites that are necessary for a given rulemaking.''

In a staff requirements memorandum (SRM) dated May 31, 2006 (ADAMS Accession No. ML061510316), responding to COMNJD–06–0004/COMEXM–06–0006, the Commission directed the NRC staff to undertake numerous measures to streamline the rulemaking process, including an evaluation of the overall effectiveness of the interoffice Rulemaking Process Improvement Implementation Plan (ADAMS Accession No. ML031360205), and to ''further seek to identify any other potential options that could streamline the rulemaking process.'' The Commission also instructed the NRC staff to identify other potential options that could streamline the rulemaking process for all program offices.

In response to the Commission's directives, the NRC staff provided its recommendations to the Commission in SECY–07–0134, ''Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan,'' dated August 10, 2007 (ADAMS Accession No. ML071780644). The NRC staff included in SECY–07–0134 a recommendation to review the NRC's PRM process with the objective to reduce the time needed to complete an action. The NRC staff also recommended in SECY–07–0134 that

the NRC review the procedures used by other Federal agencies to process PRMs in order to identify best practices that could make the NRC's PRM process more timely and responsive, while also ensuring that PRMs are handled in a manner that is open, transparent, and compliant with the Administrative Procedure Act (APA), Title 5 of the *United States Code* (U.S.C.), Section 551 *et seq.* In an SRM responding to SECY–07–0134, dated October 25, 2007 (ADAMS Accession No. ML072980427), the Commission indicated support for the NRC staff's recommended review of the PRM process: ''The Petition for Rulemaking process needs some increased attention and improvement. The staff's overall effort to improve the [PRM] process should focus on provisions that would make the NRC's process more efficient while improving the process' transparency and consistency.''

Concurrently, in an SRM responding to COMGBJ–07–0002, ''Closing Out Task Re: Rulemaking on [part 51 of Title 10 of the *Code of Federal Regulations* (10 CFR)] Tables S–3 and S–4,'' dated August 6, 2007 (ADAMS Accession No. ML072180094), the Commission directed the NRC staff to ''consider developing a process for dispositioning a petition in a more effective and efficient manner so that existing petitions that are deemed old can be closed out in a more timely manner and prevent future petitions from remaining open for periods longer than necessary.''

In response to the Commission's directives, the NRC staff examined the regulations, policies, procedures, and practices that govern the NRC's PRM process, as well as the practices and processes used by several other Federal agencies to resolve PRMs.

Consequently, the NRC published a proposed rule to amend the PRM process in the **Federal Register** on May 3, 2013 (78 FR 25886). The public comment period for the proposed rule closed on July 17, 2013. This final rule has been informed by public comments and reflects the NRC's goal to make its PRM process more efficient and effective, while enhancing transparency and public understanding of the PRM process.

II. Discussion

A. The NRC's Framework for Dispositioning a PRM

The administrative procedures that a Federal agency must follow with respect to PRMs are codified in the APA, 5 U.S.C. 553. Paragraph 553(e) provides that ''[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.'' In addition, 5 U.S.C. 555(e) provides that ''[p]rompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceeding'' and that ''[e]xcept in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.'' However, the APA does not provide further detail on how agencies should disposition a PRM or what constitutes ''prompt'' notice. A brief survey of other Federal agencies' practices showed that the NRC has a robust and active PRM program; most agencies do not include requirements in the CFR for processing PRMs.

The NRC's requirements governing the rulemaking process are set forth in 10 CFR part 2, ''Agency Rules of Practice and Procedure,'' subpart H, ''Rulemaking.'' In particular, 10 CFR 2.802, ''Petition for rulemaking,'' and 10 CFR 2.803, ''Determination of petition,'' establish the NRC's framework for disposition of a PRM concerning the NRC's regulations. The NRC's requirements for PRMs have remained substantially unchanged since their initial issuance in 1979, and the NRC's processes and procedures for PRMs historically have been established by and implemented through internal NRC policies and practices. To improve the PRM process, the NRC has reviewed both its regulatory framework associated with the PRM process and its internal policies, procedures, and practices.

B. Changes to the PRM Process

This final rule clarifies and refines the NRC's long-standing practices for processing PRMs. The NRC believes that these amendments improve our current policies and practices for evaluating PRMs and communicating information on the status of PRMs and rulemaking activities to the petitioners and the public. By establishing a clearly defined administrative process to reflect agency action on a PRM, the NRC has enhanced the consistency, timeliness, and transparency of our actions and increased the efficient use of NRC resources.

NRC Consultation Assistance to Petitioners

A significant change in this final rule expands the consultation assistance that the NRC staff may provide to the petitioner. Currently, consultation on a PRM is limited to the pre-filing stage; the NRC has revised its requirements to allow petitioners to consult directly with the NRC staff before and after filing a PRM with the NRC and to clarify what consultation assistance the NRC is permitted to provide. This change provides an opportunity for additional interaction with the petitioner after filing and will increase communication on issues of concern to the petitioner and improve the transparency of the petition process.

Content of a Petition

This final rule also clarifies and expands the description of the kind of information that must be included in a petition. At times, a submitter may fail to include in the petition adequate information for the NRC to process the request, which creates the potential for processing delays and the need for the NRC to request additional information. In particular, this final rule adds a cross-reference to existing NRC requirements for the inclusion of an environmental report with those PRMs under 10 CFR 51.68, ''Environmental report—rulemaking,'' that seek exemption from licensing and regulatory requirements for authorizing general licenses for any equipment, device, commodity or other product containing byproduct material, source material or special nuclear material. This change increases the likelihood that the NRC will have complete information at the time a petition is filed, which will assist the NRC in processing the petition in a timely manner.

Changes in Deadlines

This final rule removes the implied and actual deadlines for docketing, for both the NRC and for the public. The NRC's internal goal to docket a new petition has not changed; the NRC will continue its current practice to docket a new petition within 30 days of receipt. However, based on the increased number and complexity of PRMs the NRC has been receiving, this final rule will not include this target so as to avoid setting unrealistic expectations in instances where NRC staff requires more than 30 days to deliberate and decide the appropriate course of action. The NRC staff may require more time to make initial decisions when a PRM includes complex issues or there are competing priorities.

This final rule also removes the deadline for a petitioner to resubmit a PRM returned by the NRC because it did not meet the NRC's docketing requirements. Formerly, the NRC would advise the petitioner when a PRM did not meet the docketing requirements and hold the PRM for 90 days to allow the petitioner to submit a revised petition, before formally rejecting the

PRM. Under the docketing process in this final rule, the NRC will simply return the PRM to the petitioner with an explanation why the petition was not docketed, with no time period specified by which the PRM must be resubmitted. A resubmitted PRM will be considered by the NRC ''without prejudice;'' that is, the NRC will not consider the petition as having been previously denied on the merits solely because the initial submission was returned due to procedural deficiencies. This change clarifies that there is no deadline for resubmission of a PRM.

Suspension Requests

The NRC's proposed rule would have established two separate paths for obtaining suspension of an adjudication involving licensing proceedings (''adjudicatory licensing proceeding''), in order to provide clarity to the way in which a petitioner could request suspension. The NRC received several comments that, for a variety of reasons discussed later in this final rule, did not support the proposed revisions. After considering the comments on the proposed rule, the NRC has determined that there are a number of additional factors for the NRC to consider with respect to requests for suspension of adjudicatory proceedings based on PRMs. The NRC intends to gather additional stakeholder input on those factors before developing a final NRC provision on suspension requests; therefore, to facilitate timely adoption of the clarifications and process improvements presented in the proposed PRM rule, the NRC has decided to retain, in unchanged form, the suspension language formerly located in § 2.802(d); to re-designate it as § 2.802(e) in this final rule; and to evaluate these types of suspensions in a subsequent rulemaking. However, in response to public comments, the NRC's new title for this paragraph (the former paragraph (d) did not contain a title) indicates that the suspension is with respect to an ''adjudication involving licensing.'' Neither the addition of the title to this paragraph nor its re-designation from paragraph (d) to (e) of § 2.802 is intended to suggest any change in the applicable NRC law governing suspensions or the application of this provision to individual suspension requests in PRMs.

Minor Re-Structuring From Proposed Rule

This final rule has been restructured slightly from the proposed rule; for clarity, all PRM provisions that address the requirements applicable to the petitioner are in one section (§ 2.802), and the NRC's actions on a PRM are in a separate section (§ 2.803). An overview of the revised docketing process follows, and a detailed discussion of all changes, including the reorganization of §§ 2.802 and 2.803 and conforming changes, is provided in Section IV, ''Section-by-Section Analysis,'' of this final rule.

This final rule codifies the NRC's historical PRM docketing review policy and practice of notifying the petitioner that the NRC has received the PRM, evaluating the PRM information according to specified docketing criteria, and posting the petition online. At its discretion, the NRC may request public comment on a docketed petition through a notice published in the **Federal Register**.

NRC's Docketing Review of a PRM

The NRC describes the process and criteria it uses to determine if a PRM may be docketed in § 2.803. In the proposed rule, the NRC referred to this step as ''acceptance.'' In this final rule, the NRC uses the term ''docketing,'' and no longer uses the term ''acceptance.'' The NRC is making this change to prevent any potential misunderstanding that ''acceptance'' means that the NRC has agreed with the substance of the PRM and has decided that a rule should be developed and adopted as suggested by the petitioner in the PRM. After the close of the public comment period on this proposed rule, the NRC noted an example of possible misunderstanding in connection with public media reports on the NRC's notice of docketing for PRM–51–31, ''Environmental Impacts of Spent Fuel Storage During Reactor Operation'' (79 FR 24595; May 1, 2014). The NRC recognizes that it uses the terms, ''acceptance review'' and ''acceptance'' to refer to the NRC's process for evaluating a license application to determine if it meets the NRC's minimum standards for docketing. The NRC's recent experience suggests that the general public may be misled by the use of the term, ''acceptance,'' in the context of PRMs. Accordingly, the NRC is not using this term in paragraphs (b) or (c) of § 2.803 in this final rule.

Section 2.803 of this final rule describes, without change from the proposed rule, the NRC's docketing review process for a PRM, including what actions the NRC will take if the NRC determines that the PRM does not meet the NRC's requirements for docketing. This section also contains the criteria that the NRC uses to determine whether a PRM may be docketed. These three criteria are: (1) The PRM includes the information required by § 2.802(c), (2) the regulatory changes requested in the PRM are within the legal authority of the NRC, and (3) the PRM raises a potentially valid issue that warrants further detailed consideration by the NRC. These criteria are intended to ensure that the NRC does not unnecessarily expend rulemaking resources on unsupported petitions, petitions that the NRC has no legal authority to address through rulemaking, or on matters that are already addressed in the NRC's regulations. Including these criteria in the final rule, which reflect the NRC's existing practice but were not expressly set forth in the former language of 10 CFR part 2, subpart H, is intended to increase public understanding of the factors that the NRC uses in deciding whether to docket a PRM.

Administrative Closure of the PRM Docket

The NRC's process for dispositioning a PRM historically had been a matter of internal policy. With this final rule, the NRC is including a description of the dispositioning process in its regulations in order to enhance the transparency of its PRM process. The considerations for resolving a PRM are based on the NRC's experience in processing PRMs, insights from the NRC's initiative to streamline its PRM process, and information from the NRC's review of other Federal agencies' PRM regulations and practices. The amendments to the PRM process will allow the NRC to examine the merits of a PRM, the immediacy of the concern, the availability of NRC resources, whether the NRC is already considering the issue in other NRC processes, the relative priority of the issue raised in the PRM, any public comment received (if comment is requested), and the NRC's past decisions and current policy on the issue raised in the PRM. A summary of the NRC's considerations for dispositioning PRMs follows.

Section 2.803 of this final rule outlines the process for administrative closure of a PRM docket, once the NRC has determined its course of action for the PRM. The requirements provide two outcomes, derived from the NRC's recent review of the PRM process, for closing a PRM docket once the NRC has determined its course of action: (1) Denial of the PRM in its entirety, indicating a determination not to pursue a rulemaking action to address the issues raised in the PRM (this will also constitute final ''resolution'' of the PRM), or (2) initiation of a rulemaking action addressing some or all the requested rule changes in the PRM.

Initiation of a rulemaking action may take one of two forms: (1) Initiation of a new, ''standalone'' rulemaking focused on some or all of the matters raised in the PRM, or (2) integration of some or all of the matters raised in the PRM into an existing or planned rulemaking (including the early stages of an NRC effort to decide whether to pursue rulemaking, (*e.g.,* when the NRC is considering whether to develop a regulatory basis or to issue an advance notice of proposed rulemaking)). The NRC will publish a **Federal Register** notice to inform the public of its determined course of action, which will enhance the transparency of the NRC's PRM process and better communicate the NRC's planned approach to addressing the PRM. Implementing this process will enhance the NRC's ability to close PRMs effectively and efficiently.

With either course of action, the PRM docket will be closed, although the PRM itself would not be completely and finally ''resolved'' until the NRC acts on the last remaining portion of the PRM's request. Final NRC action on the PRM (''resolution'') will be a final rule addressing all of the petitioner's requested changes, a final rule addressing some (but not all) of the petitioner's requested changes, or a notice published in the **Federal Register** of the NRC's decision not to address any of the petitioner's requested changes in a rulemaking action.

Notification of Petitioners of Closure of a PRM Docket by the NRC

Paragraph (h)(2) of § 2.803 of this final rule explains how the NRC will notify the petitioner on the determination of the petition. The NRC sends the petitioner written notification and publishes a notice in the **Federal Register**, describing the NRC's determination to consider all or some of the issues in a rulemaking or to deny the petition. If the NRC closes a PRM docket under § 2.803(h)(2)(ii) but subsequently decides not to carry out the planned rulemaking to publication of a final rule, the NRC will notify the petitioner in writing of this decision and publish a notice in the **Federal Register** explaining the basis for its decision. These communications explain the basis for the NRC's decision not to carry out the planned rulemaking to publication and/or not to include the issues raised in the PRM in a rulemaking action.

''Resolution'' of a Petition for Rulemaking

Paragraph (i) of § 2.803 of this final rule addresses how a PRM ultimately is resolved and distinguishes final resolution of a PRM from administrative closure of a PRM docket, as described in § 2.803(h)(2). Resolution of one or more elements of a PRM occurs when the NRC publishes a **Federal Register** notice informing the public that any planned regulatory action related to one or more elements of the PRM has been concluded (*i.e.,* the NRC may resolve an entire PRM, or parts of a PRM at different times). For rulemaking actions, resolution requires publication in the **Federal Register** of the final rule related to the PRM, which will include a discussion of how the published final rule addresses the issues raised in the PRM.

Also, § 2.803(i) notes that the NRC's denial of the PRM at any stage of the regulatory process or the petitioner's withdrawal of the PRM before the NRC has entered the rulemaking process will conclude all planned regulatory action related to the PRM. As applicable, the **Federal Register** notice resolving the PRM will include a discussion of the NRC's grounds for denial or information on the withdrawal that the petitioner submitted. This type of resolution represents final agency action on those elements of the PRM that are addressed in the **Federal Register** notice.

Other Administrative Changes and Updates

Finally, several amendments in this final rule reflect routine administrative updates to information such as instructions for submitting petitions and communicating with the NRC. In recent years, the NRC, like many Federal agencies, has been moving away from formal, printed publications and making greater use of its Web site and other online resources such as the Federal rulemaking Web site (*www.regulations.gov*) to provide the public with more timely information on agency actions. The NRC no longer publishes a semiannual summary of PRMs, so the final rule explains in detail the various methods the public may use to access online status updates and other information on NRC rulemakings and PRMs. In addition to making these procedural updates, the NRC is providing additional information on its Web site to assist members of the public interested in the NRC's PRM process.

III. Public Comment Analysis

A. Overview of Public Comments

The NRC received seven comment letters on the proposed rule from a member of the public, a public advocacy group, non-governmental organizations, and the nuclear industry.

The majority of the comments received were in favor of the goals of the proposed amendments to the PRM process. However, three nuclear industry commenters (Nuclear Energy Institute (NEI), AREVA NP Inc. (AREVA), and STARS Alliance LLC. (STARS)) opposed the proposed amendments to new paragraphs (b) and (e) of § 2.802 and new paragraphs (h) and (i) of § 2.803. One comment from the Executive Board of the Organization of Agreement States (OAS) recommended enhancements to the availability of information regarding PRM activities. Two comments from a member of the public and the public advocacy group Three Mile Island Alert (TMIA) were out-of-scope, as they did not address the merits of the proposed rule.

Information about obtaining the comments received on the proposed rule is available in Section XIV, ''Availability of Documents,'' of this final rule.

B. Public Comments and Overall NRC Responses

Comments are organized by topics included in the proposed rule, followed by the NRC's response.

Licensing Proceedings in the Petition for Rulemaking Process

1. Comment: The NRC should not adopt the changes in proposed § 2.802(e)(2) but should return to the language in current § 2.802(d) because the proposed changes would effectively allow PRM petitioners to ''participate in licensing proceedings'' without meeting standing and contention admissibility standards applicable to those proceedings. NEI, AREVA, STARS.

NRC Response: The NRC did not intend to allow persons requesting a suspension of an adjudication in a licensing proceeding (''adjudicatory licensing proceeding'' in the proposed rule) to avoid having to meet applicable requirements for participating in the proceeding, such as the standing and contention admissibility standards for persons who wish to be a party (a person could also participate as an interested State, local government body, or Federally-recognized Indian tribe).

However, after further consideration of the comments, the NRC believes there are additional factors that the NRC must consider with respect to requests for suspension of adjudicatory proceedings based on PRMs. Stakeholder input on those factors would be desirable before developing a final NRC provision on these types of suspension requests.

Therefore, to facilitate the NRC's timely adoption of the clarifications and

process improvements presented in the proposed PRM rule, the NRC has decided to retain, in unchanged form, the suspension language formerly located in § 2.802(d) and now re-designated as paragraph (e) of § 2.802 in this final rule. The NRC will evaluate these suspensions in a subsequent rulemaking. However, in response to the issues raised in the comment summary, the heading for § 2.802(e) states that the suspension is with respect to an ''adjudication involving licensing.'' Neither the addition of the heading to this paragraph nor its re-designation from paragraph (d) to (e) of § 2.802 is intended to suggest any change in the applicable NRC law governing suspensions or the application of this provision to individual suspension requests in PRMs.

2. Comment: The NRC should not adopt the changes in proposed § 2.802(e) but should return to the language in current § 2.802(d). The proposed rule appears to address extraordinary circumstances that occurred following the Fukushima accident, when petitions were filed with the NRC to initiate rulemaking to address safety issues associated with the accident or to suspend certain licensing proceedings because of issues related to the Fukushima accident.

The NRC has not explained why these petitions were problematic or why a rulemaking solution is needed, which itself has created separate problems. The Commission has inherent authority to take action in individual proceedings as necessary; in support of this comment, commenters cited the NRC's *Policy Statement on the Conduct of Adjudications,* 48 NRC 18 (1998). NEI, AREVA, STARS.

NRC Response: The NRC agrees. The origins of the proposed changes in § 2.802(d) were the NRC's procedural and administrative lessons-learned from dealing with the rulemaking and suspension petitions filed with the NRC after the Fukushima accident. The Commission agrees that it has inherent authority to take action in individual proceedings as it deems necessary, at any time, in response to a suspension request in whatever form.

However, upon consideration, the NRC believes a number of additional factors should be considered by the NRC before making changes to the suspension provision in former § 2.802(d). Stakeholder input on those factors is desirable in developing any final NRC provision on suspension requests. Accordingly, the NRC has decided to retain, in unchanged form, the suspension language formerly located in paragraph (d) and now re-designated as paragraph (e) of § 2.802 in this final rule. The re-designation of the suspension provision from paragraph (d) to paragraph (e) of § 2.802 is an administrative change intended to minimize the need for re-designations of paragraphs in future revisions to § 2.802. The NRC is not making changes to the legal requirements governing a PRM petitioner's request for suspension as a result of this re-designation.

Determination and Resolution of Petition for Rulemakings

1. Comment: The proposed revisions to § 2.803(h) and (i), creating a two-part process for closing a PRM, will confuse, rather than clarify, the agency's procedure for resolving PRMs. Final disposition of the PRM should occur either when the NRC denies the PRM, or when the NRC grants the PRM by initiating a rulemaking. There is no reason to withhold ''final action'' on a PRM, which has already effectively been granted, until resolution of the resultant rulemaking proceeding. The NRC's determination of whether to deny a PRM or initiate a rulemaking should result in the PRM's closure. At that point, a decision has been made on whether the issues raised in the PRM are worthy of further review or not. That decision is sufficient to close the PRM, even if the PRM's substantive request is still subject to deliberation through the rulemaking process. NEI, AREVA, STARS.

NRC Response: The NRC agrees with the commenters' assertion that the NRC's determination whether to deny a PRM or initiate rulemaking should result in the PRM's closure. The NRC also agrees with the commenters' assertion that the NRC's decision to deny (in full or part) a PRM constitutes ''final agency action.''

However, an NRC decision closing a PRM docket on the basis of the NRC's intent to consider the PRM issues in a new or ongoing rulemaking is not the ultimate ''resolution'' of the PRM. An NRC decision closing a PRM docket and instituting rulemaking as proposed by the PRM would not constitute ''final agency action,'' inasmuch as the determination to consider the PRM issues in a rulemaking does not represent an NRC determination to propose or adopt a final regulation requested in the PRM (or alternatively, not to adopt a regulation as requested in the PRM). The proposed rule's new terminology was intended to distinguish between the NRC's procedures with respect to the closure of the PRM docket (''final disposition of the PRM'') versus the NRC's procedures for ultimate resolution of the rulemaking requests contained in the PRM.

The NRC recognizes that the statement of considerations for the proposed rule may not have been sufficiently clear in explaining the NRC's intent that the proposed revisions to § 2.802 are intended to (1) clearly indicate that the NRC may ''dispose'' of multiple requests for rulemaking in a PRM or portions of a request for rulemaking in a PRM, in two or more separate NRC actions, (2) reflect that there is no overall agency ''resolution'' of a PRM until there is final agency action on all of the rulemaking requests in the petition, and (3) use terms that clearly distinguish between the PRM docket (which is an NRC administrative process) and agency final action on the substantive rulemaking requests in the PRM.

This statement of considerations includes a more detailed explanation of these concepts in Section V, ''Summary of the NRC's Revised Petition for Rulemaking Process,'' which describes the PRM process and the rule terminology that applies to each stage and action of the PRM process. In addition, the NRC staff has developed a diagram entitled, ''The Petition for Rulemaking Process'' (Figure 1) (ADAMS Accession No. ML14259A474), which is available on the NRC's public Web site at *http://www.nrc.gov/about-nrc/regulatory/rulemaking/petition-rule.html*. This diagram is also reproduced in Section V. of this statement of considerations.

2. Comment: The commenters support the proposed rule language, which indicates that, if a PRM is ''granted,'' then the NRC will track the PRM through the rulemaking process. The commenters stated that the **Federal Register** notice for any resulting final rule should make clear its origin in (or relationship to) the previously ''granted'' PRM. The commenters also agreed that, if the NRC initiates a rulemaking in response to a PRM but terminates the rulemaking before publication of a final rule (either because of withdrawal by the petitioner or subsequent decision by the agency), then the NRC should publish a **Federal Register** notice providing a well-reasoned basis for its decision that is supported by the administrative record (*e.g.,* a regulatory/technical basis or a proposed rule and response to public comments). NEI, AREVA, STARS.

NRC Response: The NRC agrees with the commenters' assertion that if a PRM is ''granted,'' then the NRC should track a PRM through the rulemaking process, as suggested by the proposed rule. No

change was made to the final rule in response to this comment.

3. Comment: The **Federal Register** notice, which ensures that a PRM is administratively tracked throughout the rulemaking process, supports ''closing'' of a PRM upon the NRC's initial determination that the PRM should be denied or granted via initiation of a rulemaking. NEI, AREVA, STARS.

NRC Response: The NRC disagrees. The provisions in the proposed rule for ''tracking'' a PRM throughout the rulemaking process supported the ''closing'' of the PRM docket upon the NRC's initial determination that a PRM should be denied (in part), or granted. As discussed in response to an earlier comment, the final rule distinguishes between the closing of a PRM docket versus final agency action on all or a part of the substantive rulemaking requests in the PRM. Furthermore, this final rule clarifies that the NRC may ''dispose of'' and/or finally determine multiple requests for rulemakings in a PRM or portions of a request for rulemaking in a PRM, in two or more separate NRC actions. If there will be multiple NRC actions for a single PRM, the NRC must keep the PRM docket ''open'' until there is a final ''determination'' of the last remaining aspects of the rulemaking request in a PRM. At that point, the PRM docket may be closed as the NRC has completed its determination of how to ''treat'' the rulemaking requests. That ''treatment'' may be denial of that last remaining aspect (which would also ''resolve'' the PRM) or it may be a determination that the rulemaking request should be addressed in a rulemaking activity (either through a newly initiated rulemaking activity or included in an existing rulemaking). This determination, however, is not ''resolution'' of the PRM. Resolution only occurs when the agency either adopts a final rule as requested in the PRM, or declines to adopt a final rule as requested in the PRM.

Given the NRC's desire to have the flexibility to act on portions of rulemaking requests in a PRM, the NRC concludes that the PRM process must reflect procedures and terminology that clearly distinguish between NRC actions with respect to the PRM docket and NRC actions on the substance of the rulemaking. The commenter's proposal would, in the NRC's view, blur this distinction and would not facilitate clear understanding by all stakeholders on the NRC's PRM process. However, as discussed in response to Comment 1 of this section, the NRC has in this statement of considerations clarified the NRC's actions when making a determination on and resolving a PRM.

4. Comment: The NRC should not remove the language in § 2.802(f), which states that a determination of the adequacy of a PRM will ordinarily be made within 30 days of the NRC's receipt of the PRM. The use of the term ''ordinarily'' in the existing rule appears to provide the NRC with the same flexibility with respect to the 30-day target that the proposed rule states is the basis for the removal of the 30-day language. Therefore, given that the NRC apparently intends to continue its current practice of ordinarily issuing determinations within 30 days and the current rule language allows the NRC flexibility with respect to this timeframe, the rationale provided in the proposed rule does not support removal of the 30-day timeframe. Further, removing this timeframe from the rule increases regulatory uncertainty and decreases transparency, which is contrary to the purpose of this rulemaking. The rule should continue to provide petitioners with a reasonable degree of clarity with respect to the timeframes involved in the evaluation of PRMs. AREVA, NEI, STARS.

NRC Response: The NRC confirms the commenters' supposition that the NRC intends to continue its current practice to perform a docketing review and notify the petitioner in writing of the docketing of the PRM or the deficiencies found in the PRM within a 30-day period. However, the NRC disagrees with the commenter's recommendation to continue to include the 30-day timeframe. As the NRC stated in the proposed rule's statement of considerations, past experience has shown that lengthy and complex PRMs may require more than 30 days for a thorough docketing review. Furthermore, the number of lengthy and complex PRMs being received by the NRC each year is increasing. The NRC believes that including the 30-day timeframe in the final rule sets unrealistic expectations in instances where NRC staff requires more than 30 days to deliberate and decide the appropriate course of action.

No change was made to this final rule in response to these comments.

Petition for Rulemaking Activities

1. Comment: The NRC should publish a list of PRM activities and make it available in an easily identified location on the agency's Web site. The locations identified in proposed § 2.803(j)(1) and (3) are hard to find on the NRC's Web site and ''may cause confusion to the public.'' OAS.

NRC Response: The NRC agrees. The NRC's public Web site was modified to include a list of PRM activities in an easily identified location. The NRC Web site has a new Web page that lists all ''open'' petitions (*http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/petitions-by-year/open-petitions-all-years.html*). This Web page, which supplements the Web pages listed in new paragraphs (j)(1) and (3) of § 2.803, may be accessed from the Petition for Rulemaking Dockets Web site (*http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/petitions-by-year.html*). This list contains the year when a particular PRM was docketed, the Docket ID, the PRM docket number, and the title of all ''open'' petitions. The Docket IDs listed in the new Web page are linked to regulations.gov, which provides publicly available documents such as NRC-issued **Federal Register** notices, supporting documents, public comments, and other related documents. From this new Web page, the public can also subscribe to GovDelivery to receive notifications each time the Web page is updated. GovDelivery allows the NRC's Web site visitors to subscribe, via email, to agency social media content. Subscribers can customize their subscription list and choose settings for notification of added or changed information.

In addition, the NRC will continue publishing on the agency's Web site the Rulemaking Activities by Fiscal Year report, which includes descriptions of agency actions on PRMs. This report may be accessed from the Rulemaking Documents Web site at *http://www.nrc.gov/about-nrc/regulatory/rulemaking.html*.

No change was made to this final rule in response to these comments.

Comments in Support of Amendments

1. Comment: The commenter supports the NRC's proposed amendments to revise the PRM process. The commenter agrees that the proposed revisions would streamline the NRC rulemaking process, remove unnecessary constraints, enhance transparency, and clarify and improve communications with the petitioners who submit a PRM. Health Physics Society.

NRC Response: No response necessary.

No change was made to this final rule in response to these comments.

2. Comment: The commenter commends the NRC staff on its willingness to confer informally with PRM applicants.

NRC Response: No response necessary.

No change was made to this final rule in response to these comments.

Out-of-Scope Comments

1. Comment: The comment, ''The NRC completely failed us (TMIA) at every level of the rulemaking process,'' and an attachment, dated October 31, 2008, set forth the commenter's views as to the adequacy of the NRC's resolution of a PRM submitted by the commenter (PRM–73–11) and the commenter's views about the NRC's statements regarding public outreach at a public meeting. TMIA.

NRC Response: The NRC considers this comment to be out of the scope because it does not address the proposed requirements governing the PRM process changes in the proposed rule.

2. Comment: The comment describes the commenter's interactions with the NRC staff regarding concerns the commenter has raised related to the TMI accident and regarding upgrades to filters and vents at nuclear power plants. TMIA.

NRC Response: The NRC considers this comment to be out of the scope because it does not address the proposed requirements governing the PRM process changes in the proposed rule.

No change was made to this final rule in response to these comments.

IV. Section-by-Section Analysis

The NRC is amending its regulations to streamline its process for addressing PRMs. Additionally, the NRC is amending its regulations in §§ 2.802, 2.803, and 2.811 to make miscellaneous corrections and conforming changes. These changes include the reorganization of §§ 2.802 and 2.803, the addition of paragraph headings, updates to the PRM filing process, and editorial changes to the language for clarity and consistency.

A. Section 2.802, Petition for Rulemaking—Requirements for Filing

Paragraph (a), Filing a Petition for Rulemaking

Paragraph (a) of § 2.802, which informs petitioners how to submit a PRM, is revised to clarify and update the PRM filing process. Paragraph (a) specifies the regulations subject to a PRM by indicating that the NRC's regulations are contained under chapter I of 10 CFR.

Paragraph (b), Consultation With the NRC

Paragraph (b) of § 2.802, which provides the process by which a prospective petitioner may consult with the NRC before filing a PRM, now permits consultation with the NRC both before and after filing a PRM.

Paragraph (b)(1)(i), which establishes that petitioners may consult with the NRC staff about the process of filing and responding to a PRM, now includes other stages of the PRM process during which consultation may occur. Paragraph (b)(1)(i) limits NRC staff consultation on a PRM to describing the process for filing, docketing, tracking, closing, amending, withdrawing, and resolving a PRM. These limitations are consistent with the existing limitations on NRC participation in the filing of PRMs.

New paragraph (b)(3) is added to clearly specify that the NRC staff will not advise a petitioner on whether a PRM should be amended or withdrawn.

Paragraph (c), Content of Petition

Paragraph (c) of § 2.802, which generally describes the content requirements of a PRM, is restructured and revised. Paragraph (c)(1) establishes that a petitioner must clearly and concisely articulate in a PRM the information required under new paragraphs (c)(1)(i) through (c)(1)(viii). In paragraph (c)(1), the terms ''clearly and concisely'' are added to convey the NRC's expectation that PRMs be ''clear'' (*i.e.,* do not contain ambiguous or confusing arguments, terminology, or phraseology) and ''concise'' (*i.e.,* do not present the perceived problem or proposed solution with a description that is longer than necessary).

Paragraphs (c)(1)(i) through (c)(1)(viii) specify information that must be provided in each PRM. The former text of paragraph (c)(1), which required that a PRM set forth a general solution to a problem or specify the regulation that is to be revoked or amended, is revised and redesignated as new paragraph (c)(1)(v). The additional text under paragraphs (c)(1)(i) through (c)(1)(viii) describes the specific information required to be included in a PRM. Most of the requirements are similar to the information required in the existing rule, except that each topic is listed separately for increased clarity.

New paragraph (c)(1)(i) requires all petitioners to specify contact information—including a name, telephone number, mailing address, and email address (if available)—that the NRC may use to contact the petitioner. New paragraph (c)(1)(ii) specifies additional information for petitioners who are organizations or corporations to submit: The petitioner's organizational status, the petitioner's State of incorporation, the petitioner's registered agent, and the name and authority of the individual signing the PRM on behalf of the corporation or organization. By adding this paragraph, the NRC is reducing the likelihood of misleading the public about the organizational or corporate status and identity of a petitioner.

New paragraph (c)(1)(iii) includes information from existing paragraph (c)(3) and requires a petitioner to present the problem or issue that the petitioner believes the NRC should address through rulemaking. This added paragraph clarifies that a petitioner must specifically state the problem or issue that the requested rulemaking would address, including any specific circumstance in which the NRC's codified requirements are incorrect, incomplete, inadequate, or unnecessarily burdensome. Paragraph (c)(1)(iii) clarifies that the submittal of specific examples of incompleteness or unnecessary burden to support the petitioner's assertion that a problem or issue exists that the NRC should address through rulemaking would be of interest to the NRC when reviewing the PRM. Providing this information in the PRM will result in a clearer argument for the problems or issues being presented by a petitioner and will increase the efficiency of the NRC's review of the PRM.

New paragraph (c)(1)(iv) requires the petitioner to cite, enclose, or reference any publicly available data used to support the petitioner's assertion of a problem or issue. This requirement was in former paragraph (c)(3) but is now modified to add the phrase ''Cite, enclose, or reference'' to provide options to the petitioner for providing the supporting data. Paragraph (c)(1)(iv) specifies that the citations, enclosures, or references to technical, scientific, or other data must be submitted to support the petitioner's assertion that a problem or issue exists and that all submitted data must be publicly available; consequently the word ''relevant'' and the phrase ''reasonably available to the petitioner'' in former paragraph (c)(3) are removed.

New paragraph (c)(1)(v) includes information from former paragraph (c)(1) and requires a petitioner to present a proposed solution to the problems or issues identified in the PRM; this proposed solution may include revision or removal of specific regulations under 10 CFR chapter I. Rather than providing a ''general

solution'' as required by the former paragraph (c)(1), paragraph (c)(1)(v) now requires a petitioner to present a ''proposed solution'' to clarify that the solution is only a proposal for the NRC to consider. Paragraph (c)(1)(v) also provides an example—including ''specific regulations or regulatory language to add, amend, or delete in 10 CFR Chapter I''—to guide petitioners in preparing a proposed solution to the problem or issue identified in the PRM.

New paragraph (c)(1)(vi) requires a petitioner to provide an analysis, discussion, or argument linking the problem or issue identified in the PRM with the proposed solution. The requirement to provide supporting information was already included in former paragraph (c)(3). The requirement to explain through an analysis, discussion, or argument how the proposed solution would solve the problem or issue raised in the PRM is new.

New paragraph (c)(1)(vii) includes information from former paragraph (c)(1) and requires the petitioner to cite, enclose, or reference any other publicly available data or information that the petitioner deems necessary to support the proposed solution and otherwise prepare the PRM for the NRC's docketing review under § 2.803(b). Similar to paragraph (c)(1)(iv), the phrase ''Cite, enclose, or reference'' is added to provide options to the petitioner for providing the supporting data.

Text from former paragraph (c)(1) is revised and incorporated into new paragraph (c)(1)(v), as previously described. As a result, the former paragraph (c)(1) is removed.

Text from former paragraph (c)(2) is removed because it is generally incorporated into new paragraphs (c)(1)(i) through (c)(1)(iii), making the former paragraph (c)(2) unnecessary.

Text from former paragraph (c)(3), which required a petitioner to include various kinds of supporting information, is revised and incorporated into new paragraphs (c)(1)(iii), (c)(1)(iv), (c)(1)(vi), and (c)(1)(vii), as previously described. As a result, the former paragraph (c)(3) is removed.

In addition to the requirements in § 2.802(c)(1)(i)–(vii), new paragraph (c)(2) encourages the petitioner to consider the two other review criteria listed in new paragraph (b) of § 2.803 when preparing a PRM. The NRC does not intend to require specialized explanations that discourage potential petitioners from submitting PRMs. Paragraphs (c)(2)(i) and (ii) are intended to provide petitioners the opportunity to include information that will assist the NRC in its evaluation of the PRM under § 2.803(b). However, the NRC will not deny a petition solely on the basis that the petition did not provide information addressing paragraphs (c)(2)(i) and (ii).

New paragraph (c)(3) requires the PRM to designate a lead petitioner if the petition is signed by multiple petitioners. The NRC's former practice was to treat the first signature listed on a petition as that of the lead petitioner. New paragraph (c)(3) requires that a lead petitioner be designated in a PRM and codifies the NRC's practice of sending communications about the petition to the lead petitioner. New paragraph (c)(3) also alerts the public of the lead petitioner's responsibility to disseminate communications received from the NRC to all petitioners.

Paragraph (c)(1)(viii) adds a cross-reference to the environmental assessment requirements that apply to PRMs at 10 CFR 51.68.

Paragraph (d), [RESERVED]

Paragraph (d) of § 2.802 is reserved, and the subject matter addressed in former paragraph (d), on requests for suspension of adjudications involving licensing (''licensing proceedings'' in former paragraph (d)), is addressed without substantive change in paragraph (e).

Paragraph (e), Request for Suspension of an Adjudication Involving Licensing

Paragraph (e) of § 2.802 describes how a PRM petitioner may request a suspension of an adjudication in a licensing proceeding in which the PRM petitioner is a ''participant,'' on the basis of the matters addressed in the petitioner's PRM. The re-designation of the suspension provision from paragraph (d) to paragraph (e) is an administrative change intended to minimize the need for re-designations of paragraphs in future revisions to § 2.802. The NRC is not making changes to the legal requirements governing a PRM petitioner's request for suspension as a result of this re-designation.

Former paragraphs (e), (f), and (g) in § 2.802 are moved to § 2.803.

Paragraph (f), Amendment; Withdrawal

New paragraph (f) of § 2.802, which discusses amendment or withdrawal of a PRM by a petitioner, is added to inform petitioners where and how to submit these filings and what information should be included.

B. Section 2.803, Petition for Rulemaking—NRC Action

Section 2.803 describes how the NRC will process, consider, and make a determination on a PRM.

Paragraph (a), Notification of Receipt

New paragraph (a) of § 2.803 has no counterpart in the superseded version of § 2.803. New paragraph (a) of § 2.803 indicates that the NRC shall notify the petitioner that the NRC has received the PRM.

Paragraph (b), Docketing Review

New paragraph (b) of § 2.803 addresses docketing review—a matter that was formerly addressed in the superseded version of § 2.802(f). Paragraph (b) differs from former § 2.802(f) by stating clearly that the NRC will deny the PRM if it does not include the information required by § 2.802(c). It also differs from former § 2.802(f) by adding two new docketing criteria. Under the new docketing review process, the NRC will determine not only if the rulemaking changes requested in the petition are within the legal authority of the NRC but also that the PRM raises a potentially valid issue that warrants further detailed consideration by the NRC (*e.g.,* confirm that the NRC's regulations do not already provide what the PRM is requesting).

Paragraph (b) does not include the restriction in former § 2.802(f) limiting the docketing decision to the Executive Director for Operations, and is silent on which NRC official may make the docketing determination. Therefore, the Executive Director for Operations may delegate the docketing decision to the appropriate organizational level within the NRC staff.

Finally, paragraph (b) describes the process the NRC will use if the NRC determines that a PRM does not meet the requirements for docketing (*i.e.,* an ''*insufficient*'' PRM). Paragraph (b) differs from former § 2.802(f) by removing a 90-day period for a petitioner to fix and resubmit an insufficient PRM, with the deficiencies corrected. Under paragraph (b) a deficient PRM may now be resubmitted, with deficiencies addressed, at any time without prejudice or time limitation.

Paragraph (c), Docketing

New paragraph (c) of § 2.803 addresses docketing, which was addressed in former § 2.802(e). Paragraph (c)(1) lists three criteria, each of which must be met in order for the NRC to docket a PRM. That paragraph also expressly states that the NRC will assign a docket number to a PRM that is docketed. Paragraph (c)(2) describes how the NRC will make a docketed PRM available to the public, that is, by posting the document in ADAMS (the NRC's official records management

system), on the NRC's public Web site, and on the Federal rulemaking Web site (regulations.gov); and by publishing a notice of docketing in the **Federal Register**.

Paragraph (d), NRC Communication With Petitioners

New paragraph (d) of § 2.803 notifies the public that the NRC will send all communications to the lead petitioner identified in the petition, according to new paragraph § 2.802(c)(3), and that this communication will constitute notification to all petitioners. Therefore, any NRC obligation to inform a petitioner is satisfied when the NRC sends the required notification to the lead petitioner.

Paragraphs (e) Through (f), [RESERVED].

Newly designated paragraphs (e) through (f) of § 2.803 are marked ''Reserved.''

Paragraph (g), Public Comment on a Petition for Rulemaking; Hearings

New paragraph (g)(1) of § 2.803 incorporates information from former § 2.802(e) text pertaining to the NRC's discretion to request public comment on a docketed PRM. Information in the former § 2.802(e) that specified how a PRM may be published for public comment in the **Federal Register** is replaced by a concise statement specifying that the NRC, at its discretion, may solicit public comment on a docketed PRM.

When the NRC publishes a **Federal Register** notice (FRN) requesting public comment on a PRM, the NRC's current practice is to include standard language in the FRN cautioning the public not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. This new cautionary language is incorporated into this final rule. Paragraph (g)(2) includes this caveat so that affected stakeholders will be aware of this practice.

Paragraph (g)(3) denotes that no hearing will be held on a PRM unless the Commission determines to hold a hearing as a matter of its discretion. This rule of practice, formerly in § 2.803, is moved to paragraph 2.803(g)(3) and amended for clarity. The text ''the Commission deems it advisable'' is replaced with ''the Commission determines to do so, at its discretion.'' This amendment clarifies that the NRC has discretionary authority to hold a hearing on a docketed PRM.

Paragraph (h), Determination on a Petition for Rulemaking; Closure of Docket on a Petition for Rulemaking

Existing regulations in § 2.803 require the NRC to resolve PRMs by either issuing a notice of proposed rulemaking or denying the petition. New paragraph (h)(1) of § 2.803 codifies a nonexclusive list of the methods and criteria that the NRC may use to determine a course of action for a PRM. These methods and criteria include consideration of the issues raised in the PRM about its merits, the immediacy of an identified safety or security concern, the relative availability of resources, the relative issue priority compared to other NRC rulemaking activities, whether the NRC is already considering the issues in other NRC processes, the substance of public comments received, if requested, and the NRC's past decisions and current policy.

Paragraph (h)(1)(i) establishes that the NRC will determine whether a PRM will be granted based upon the merits of the PRM. For the purpose of this final rule, the term ''merits'' includes the completeness and technical accuracy of the documents, logic associated with the petitioner's desired rule change, and the appropriateness or worthiness of the desired change compared to the current regulatory structure (*e.g.,* existing regulation, associated regulatory guidance, and inspection program guidance).

Paragraph (h)(1)(ii) states that the NRC may determine whether a PRM will be docketed based upon the immediacy of the safety or security concerns raised in the PRM. By adding this paragraph, the NRC intends to first determine whether immediate regulatory action (*e.g.,* an order) is needed.

Paragraph (h)(1)(iii) states that the NRC may determine whether a PRM will be docketed based upon the availability of NRC resources and the priority of the issues raised in the PRM compared with other NRC rulemaking activities. By adding this paragraph, the NRC will establish that if immediate action is not necessary, the NRC will consider the availability of resources and compare the issues raised in the PRM to other NRC rulemaking issues to determine the PRM's priority relative to other rulemaking activities.

Paragraph (h)(1)(iv) states that the NRC may determine whether a PRM will be docketed based on whether the NRC is already considering the issues raised in the PRM in other NRC processes. The NRC has multiple processes for considering potential issues related to its mission: For example, the allegation process, formal and informal hearings, and Commission deliberation to determine appropriate action on issues not related to rulemaking. One resulting action could be to initiate a rulemaking, but the Commission has other options available, such as addressing the issue through an order, guidance, or an internal management directive. The NRC will use the most efficient process to resolve issues raised by a petitioner.

Paragraph (h)(1)(v) states that the NRC may determine a course of action on a PRM based on the substance of any public comments received, if public comments are requested. Although the NRC may decide not to request public comments on a PRM, if public comment is requested, the NRC will consider the information commenters provide when determining a course of action for a PRM.

Paragraph (h)(1)(vi) states that the NRC may determine what action will be taken on a PRM based on the NRC's past decisions and current policy related to the issues raised in the PRM. This paragraph will inform the public that the NRC could consider past Commission decisions when determining a course of action for a PRM.

Paragraph (h)(2) establishes a process for administrative closure of a PRM docket once the NRC has determined its course of action for the PRM using the methodology and criteria in paragraph (h)(1). Paragraph (h)(2) establishes that a PRM docket will be administratively closed when the NRC responds to the PRM by taking a regulatory action and publishing a document in the **Federal Register** that describes this action. New paragraphs (h)(2)(i) and (ii) provide two specific categories for administrative closure of a PRM docket. Paragraph (h)(2) states that the NRC will administratively close a PRM docket by taking a regulatory action in response to the PRM that establishes a course of action for the PRM. In this situation, the NRC will publish a notice in the **Federal Register** describing the determined regulatory action, including the related Docket ID, as applicable. Paragraph (h)(2)(i) explains that the NRC may administratively close a PRM docket by deciding not to undertake a rulemaking to address the issues that the PRM raised, effectively denying the PRM, and notifying the petitioner in writing why the PRM was denied. Paragraph (h)(2)(ii) explains that the NRC may administratively close a PRM docket by initiating a rulemaking action, such as addressing the PRM in an ongoing or planned rulemaking or initiating a new rulemaking activity. The NRC will

inform the petitioner in writing of its determination and the associated Docket ID of the rulemaking action.

Paragraph (h)(2)(i) provides that the NRC may administratively close a PRM docket if the NRC decides not to engage in rulemaking to address the issues in the PRM. The NRC will publish a notice in the **Federal Register** informing the public that the petition has been denied and the grounds for the denial. This notice will address the petitioner's request and any public comments received by the NRC. The PRM docket will be closed by this method when the NRC concludes that rulemaking should not be conducted in response to the PRM. In certain cases, the NRC may deny some of the issues raised in a PRM but also decide to address the remaining issues by initiating a rulemaking action, as described in paragraph (h)(2)(ii). In these instances, the **Federal Register** notice will identify the rulemaking Docket ID for the related rulemaking.

With regard to new rulemakings, paragraph (h)(2)(ii) provides that the NRC may administratively close a PRM docket if the NRC decides to address the subject matter of the PRM in a new rulemaking. The NRC will publish a notice in the **Federal Register** explaining the NRC's decision to initiate the new rulemaking and informing the public of the Docket ID of the new rulemaking. The NRC will also add a description of the new rulemaking in the Government-wide *Unified Agenda of Federal Regulatory and Deregulatory Actions* (the Unified Agenda). The PRM docket will be closed by this method when the NRC determines that issues raised in the PRM merit consideration in a rulemaking and that there is currently no other rulemaking (ongoing or planned) into which the petitioner's requested rulemaking could be incorporated.

With regard to planned rulemakings, paragraph (h)(2)(ii) provides that a PRM docket may be administratively closed if the NRC is currently planning a rulemaking related to the subject of the PRM and the NRC decides to address the PRM in that planned rulemaking. The NRC will publish a notice in the **Federal Register** explaining the NRC's decision to address the PRM in a planned rulemaking and informing the public of the Docket ID of the planned rulemaking. A PRM docket will be closed by this method when the NRC determines that issues raised in the PRM merit consideration in a rulemaking and a planned rulemaking exists in which the issues raised in the PRM could be addressed.

With regard to ongoing rulemakings, paragraph (h)(2)(ii) provides that a PRM docket may be administratively closed if the NRC has a rulemaking in progress that is related to the issues raised in the PRM. The NRC will publish a notice in the **Federal Register** notifying the public that the subject of the PRM will be addressed as part of the ongoing rulemaking. The PRM docket will be closed by this method when the NRC determines that issues raised in the PRM merit consideration in a rulemaking and an ongoing rulemaking exists in which the issues in the PRM can be addressed.

The list of potential rulemaking actions in new paragraph (h)(2)(ii) is not intended to be exhaustive because the NRC may initiate other rulemaking actions, at its discretion, on issues raised in the PRM. For example, the NRC could extend the comment period for a proposed rule that addresses the subject matter of the PRM to allow it to be addressed in the ongoing rulemaking.

For all PRM dockets that are closed by initiating a rulemaking action, as described in paragraph (h)(2), the NRC will include supplementary information in the published proposed and final rule discussing how the NRC decided to address the issues raised in the PRM.

As further discussed in new paragraph (i)(2) of § 2.803, if the NRC closes a PRM docket under paragraph (h)(2)(ii) by initiating a rulemaking action, resolution will require the ultimate publication of a final rule discussing how the PRM is addressed in the published final rule. However, if later in the rulemaking process the NRC decides to terminate the associated rulemaking, termination of that rulemaking also constitutes denial of the PRM. The NRC will describe the agency's grounds for denial in a **Federal Register** notice, which will include the reason for the NRC's decision not to publish a final rule on the rulemaking associated with the PRM. The **Federal Register** notice also will address the issues raised in the PRM and significant public comments, if public comments were solicited. As with denials earlier in the PRM process, the NRC will notify the petitioner of the denial of the PRM.

Paragraph (i), Petition for Rulemaking Resolution

Under the former text in § 2.803, the NRC was required to resolve PRMs either by addressing the PRM issues in a final rule or by denying the petition. New paragraph (i) of § 2.803, *Petition for rulemaking resolution,* expands and clarifies how a PRM is resolved. Resolution of a PRM requires the NRC to conclude all planned regulatory action on the issues presented by the PRM and to publish a **Federal Register** notice to inform the public that all planned regulatory action on the PRM is concluded. Resolution of a PRM may occur in whole or in part; however, complete resolution of a PRM does not occur until all PRM issues are addressed in final by the NRC. New paragraph (i) of § 2.803 describes three methods for resolving a PRM: (1) Publication of a final rule, (2) withdrawal of the PRM by the petitioner before the NRC has entered into the rulemaking process, or (3) denial of the PRM by the NRC at any stage of the process. For resolution of a PRM through publication of a final rule, the NRC will include a discussion in the **SUPPLEMENTARY INFORMATION** section of the published final rule of how the regulatory action addresses the issues raised by the petitioner. For resolution of a PRM through denial by the NRC at any stage of the regulatory process, the NRC will publish a **Federal Register** notice discussing the grounds for denial of the PRM. For resolution of a PRM through withdrawal by the petitioner, the NRC will publish a notice in the **Federal Register** to inform the public that the petitioner has withdrawn the docketed PRM. Although the NRC expects that withdrawal would occur infrequently, paragraph (i) explains the means for the NRC to resolve the petition and inform members of the public of the withdrawal and resolution of the PRM.

The former text in paragraph (g) of § 2.802 indicated that a semiannual summary of PRMs before the Commission will be publicly available for inspection and copying. This statement is removed from this final rule because the NRC no longer publishes this semiannual summary. Instead, members of the public can find updates on the status of PRMs by the means described in paragraph (j) of § 2.803.

Paragraph (j), Status of Petitions for Rulemakings and Rulemakings

New paragraph (j) of § 2.803 explains where the public can view the status of PRMs and adds the heading, *Status of petitions for rulemakings and rulemakings,* to indicate the subject of the paragraph. Paragraph (j)(1) provides the Web site addresses for the most current information on PRMs and on active rulemakings. Paragraph (j)(2) indicates that the NRC will provide a summary of planned and existing rulemakings in the Government-wide Unified Agenda. Paragraph (j)(3) explains that information on all docketed PRMs, rulemakings, and public comments is available online in ADAMS and in the Federal rulemaking Web site at *http://www.regulations.gov.*

As previously discussed, if the NRC closes a PRM docket by initiating a rulemaking action under new paragraph (h)(2)(ii) of § 2.803 but later determines that a final rule should not be published, the NRC will publish a notice in the **Federal Register** explaining the grounds for its denial of the PRM, including the reason for the NRC's decision not to issue a final rule. The notice will be added into the previously closed PRM docket, and the status of the PRM will be updated and made available to the public as described in paragraphs (j)(1) through (j)(3).

C. Section 2.811, Filing of Standard Design Certification Application; Required Copies

Paragraph (e), *Pre-application consultation,* of § 2.811 explains the pre-application consultation process for standard design certification applications and is revised by correcting references and updating the email address for pre-application consultation. Corrections to paragraph (e) consist of removing the references to ''§ 2.802(a)(1)(i) through (iii)'' and replacing them with ''§ 2.802(b)(1),'' with respect to the subject matters permitted for pre-application consultation, correcting the term ''petitioner'' to ''applicant''; replacing the reference ''§ 2.802(a)(2)'' with ''§ 2.802(b)(2),'' regarding limitations on pre-application consultations; and removing the unnecessary capitalization of the word ''before.'' In addition, the email address for pre-application consultation is updated by replacing ''*NRCREP@nrc.gov*'' with ''*Rulemaking.Comments@nrc.gov*.''

V. Summary of the NRC's Revised Petition for Rulemaking Process

Any person may submit a PRM to the NRC, requesting that the NRC adopt a new regulation, amend (revise the language of) an existing regulation, or revoke (withdraw) an existing regulation. A ''person'' may be an individual or an entity such as an organization, company (corporation), a governmental body (*e.g.,* a State or a municipality), or a Federally-recognized Indian tribe.

When a PRM is received by the NRC, the NRC acknowledges the receipt of the petition by sending correspondence to the petitioner informing the petitioner of the NRC's receipt. The NRC then assigns the PRM for consideration to the NRC technical staff.

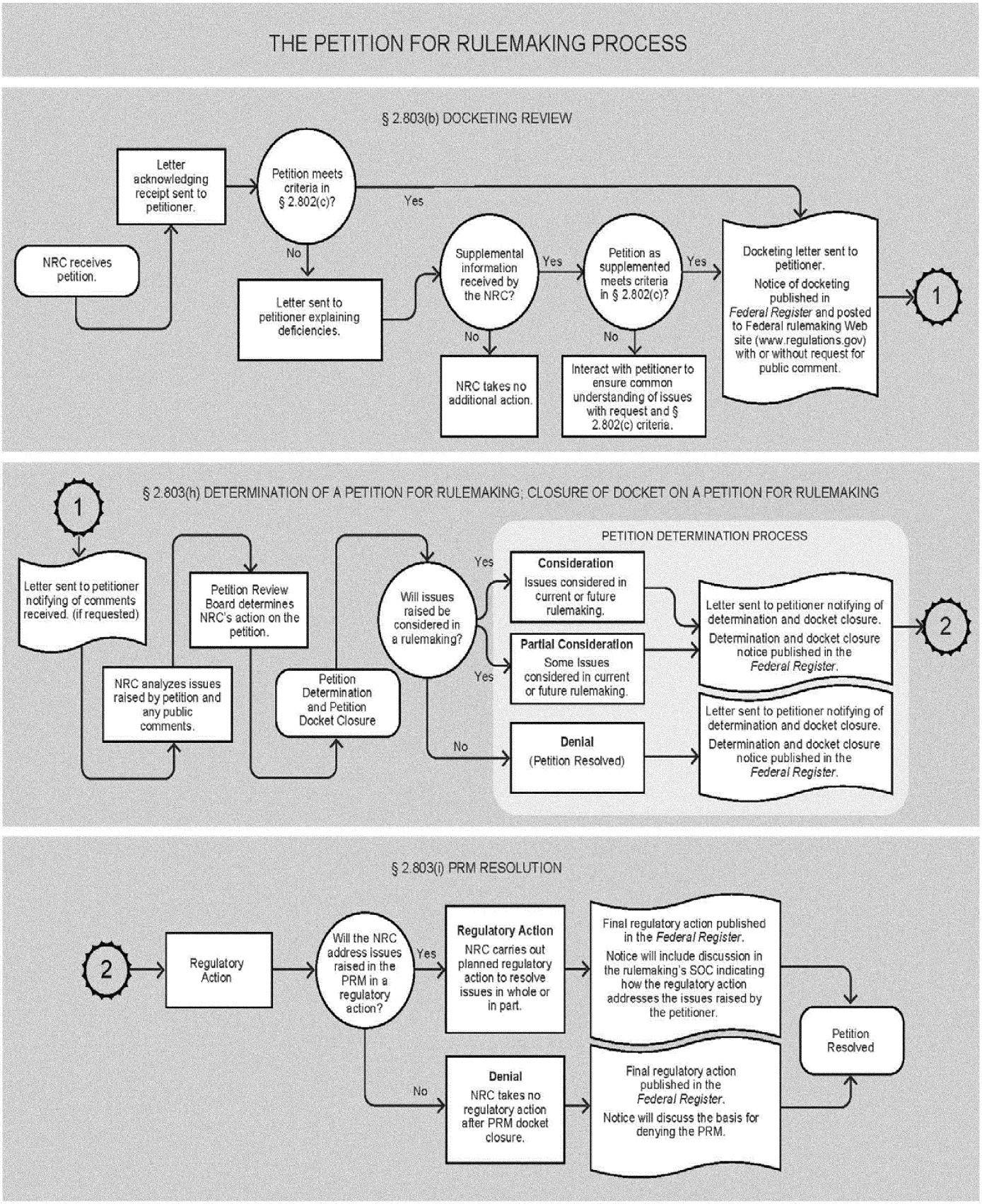
If the PRM does not include the information required by § 2.802, or the information provided is insufficient for the NRC to docket the petition, then the NRC sends a letter to the petitioner explaining the reasons why the NRC cannot docket the petition and begin to consider the requests in the petition. The NRC identifies what information is not included in the petition, or why the information provided is insufficient, and includes a reference to the corresponding paragraph in § 2.802(c) requiring the information.

The petitioner may resubmit the petition, with deficiencies addressed, at any time without prejudice or time limitation. If the petitioner provides the requested information and the information provided is determined by the NRC to be complete and meet the requirements in § 2.802(c), then the NRC dockets the petition and publishes a notice in the **Federal Register** announcing that the NRC has docketed the petition. The notice may or may not include an opportunity for members of the public to provide comments. In general, the NRC determines whether to provide an opportunity for public comment based upon a balancing of several factors, including whether the NRC needs additional information to help resolve the petition. Finally, the notice explains how members of the public can stay informed regarding any future NRC action that addresses the issues raised in the PRM.

The NRC's resolution of a PRM may occur, in whole or in part, by one or more of the following actions: (1) The NRC decides to adopt a final rule addressing the problem raised in the PRM (''granting'' the PRM); (2) the NRC decides not to adopt a new regulation or change an existing regulation as requested in the PRM (''denying'' the PRM); or (3) the petitioner decides to withdraw the request before the NRC has entered the rulemaking process. Complete resolution of the PRM does not occur until *all* portions of the PRM are addressed by the NRC in one of the three ways previously described. It is possible that the petitioner's concerns may not be addressed exactly as requested in the PRM. In this situation, the NRC would consider the PRM to be ''partially granted and partially denied,'' and the statement of considerations will explain how the final rule addresses the problem raised in the PRM, but why the NRC decided to adopt a regulatory approach, which is different than that described in the PRM.

If the PRM is denied by the NRC, or if the petition is withdrawn by the petitioner, the NRC will publish a notice in the **Federal Register** stating the grounds for the denial or informing the public that the petitioner has withdrawn the petition.

The NRC staff has developed a diagram entitled, ''The Petition for Rulemaking Process'' (Figure 1) (ADAMS Accession No. ML14259A474), which provides a visual representation of the NRC's PRM process under §§ 2.802 and 2.803, as amended in this final rule. This diagram is also available as a separate document on the NRC's public Web site at *http://www.nrc.gov/about-nrc/regulatory/rulemaking.html.*


THE PETITION FOR RULEMAKING PROCESS
§ 2.803(b) DOCKETING REVIEW
NRC receives petition.
Letter acknowledging receipt sent to petitioner.
Petition meets criteria in § 2.802(c)?
Yes
No
Letter sent to petitioner explaining deficiencies.
Supplemental information received by the NRC?
Yes
No
NRC takes no additional action.
Petition as supplemented meets criteria in § 2.802(c)?
Yes
No
Interact with petitioner to ensure common understanding of issues with request and § 2.802(c) criteria.
Docketing letter sent to petitioner.
Notice of docketing published in Federal Register and posted to Federal rulemaking Web site (www.regulations.gov) with or without request for public comment.
1
§ 2.803(h) DETERMINATION OF A PETITION FOR RULEMAKING; CLOSURE OF DOCKET ON A PETITION FOR RULEMAKING
1
Letter sent to petitioner notifying of comments received. (if requested)
NRC analyzes issues raised by petition and any public comments.
Petition Review Board determines NRC's action on the petition.
Petition Determination and Petition Docket Closure
Will issues raised be considered in a rulemaking?
PETITION DETERMINATION PROCESS
Yes
Consideration
Issues considered in current or future rulemaking.
Yes
Partial Consideration
Some Issues considered in current or future rulemaking.
No
Denial
(Petition Resolved)
Letter sent to petitioner notifying of determination and docket closure.
Determination and docket closure notice published in the Federal Register.
Letter sent to petitioner notifying of determination and docket closure.
Determination and docket closure notice published in the Federal Register.
2
§ 2.803(i) PRM RESOLUTION
2
Regulatory Action
Will the NRC address issues raised in the PRM in a regulatory action?
Yes
Regulatory Action
NRC carries out planned regulatory action to resolve issues in whole or in part.
Final regulatory action published in the Federal Register.
Notice will include discussion in the rulemaking's SOC indicating how the regulatory action addresses the issues raised by the petitioner.
No
Denial
NRC takes no regulatory action after PRM docket closure.
Final regulatory action published in the Federal Register.
Notice will discuss the basis for denying the PRM.
Petition Resolved

VI. Regulatory Analysis

This rule clarifies and streamlines the NRC's process for addressing PRMs. The amendments in this rule improve transparency and make the PRM process more efficient and effective. These amendments do not result in a cost to the NRC or to petitioners in this process, and a benefit accrues to the extent that potential confusion over the meaning of the NRC's regulations is removed.

The more substantive changes in this rule do not impose costs upon either the NRC or petitioners but instead benefit both. The process improvements for evaluating PRMs and activities addressing PRMs and establishing an administrative process for closing a PRM docket to reflect agency action on a PRM reduce burdens on petitioners, the NRC, and participants in the process.

The option of preserving the status quo is not preferred. Failing to correct errors and clarify ambiguities would result in continuing confusion over the meaning of the petition for rulemaking rules, which could lead to the unnecessary waste of resources. The NRC believes that this rule improves the consistency, timeliness, efficiency, and openness of the NRC's actions and increases the efficient use of the NRC's resources in its PRM process.

VII. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

VIII. Backfitting and Issue Finality

The NRC has determined that the backfit rule does not apply to this final rule because these amendments are administrative in nature and do not involve any changes that impose backfitting as defined in 10 CFR chapter 1, or are inconsistent with any of the issue finality provisions in 10 CFR part 52.

IX. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act, as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

X. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action that is a categorical exclusion under 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

XI. Paperwork Reduction Act Statement

This final rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget (OMB) control number.

XII. Congressional Review Act

This final rule is a rule as define in the Congressional Review Act (5 U.S.C. 801–808). However, OMB has not found it to be a major rule as defined in the Congressional Review Act.

XIII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC has revised its regulations to streamline the process the NRC uses when it receives a PRM. This action concerns the NRC's procedures governing its consideration and resolution of PRMs. These procedures do not constitute a ''government unique standard'' within the meaning and intention of the National Technology Transfer and Advancement Act of 1995.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through the methods indicated.

Document	ADAMS Accession No.
COMNJD–06–0004/COMEXM–06–0006, ''Streamlining the NRR Rulemaking Process''	ML060970295.
SRM–COMNJD–06–0004/COMEXM–06–0006, ''Streamlining the NRR Rulemaking Process''	ML061510316.
SECY–03–0131, ''Rulemaking Process Improvement Implementation Plan''	ML031360205.
SECY–07–0134, ''Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan''.	ML071780644.
SRM–SECY–07–0134, ''Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan''.	ML072980427.
SRM–COMGBJ–07–0002, ''Closing out Task Re: Rulemaking on Tables S–3 and S–4''	ML072180094.
Proposed Rule: Revisions to the Petition for Rulemaking Process	ML13107B459.
Comments on PR–10 CFR Part 2—Revisions to the Petition for Rulemaking Process	ML14149A306 (package).
Comment (01) of Scott Portzline on PR–10 CFR Part 2—Revisions to the Petition for Rulemaking Process	ML13140A166.
Comment (02) of Marvin I. Lewis re PR–10 CFR Part 2—Revisions to the Petition for Rulemaking Process	ML13178A162.
Comment (03) of Richard Vetter re PR–10 CFR Part 2—Revisions to the Petition for Rulemaking Process	ML13186A240.
Comment (04) of Alan Jacobson, Chair—Organization of Agreement States, regarding PR–10 CFR Part 2—Revisions to the Petition for Rulemaking Process.	ML13198A587.
Comment (05) of Pedro Salas, Director—Regulatory Affairs, AREVA NP Inc., regarding PR–10 CFR Part 2—Revisions to the Petition for Rulemaking Process.	ML13198A588.
Comment (06) of Ellen Ginsburg on behalf of Nuclear Energy Institute (NEI) re PR–10 CFR Part 2—Revisions to the Petition for Rulemaking Process.	ML13200A079.
Comment (07) of Scott Bauer on behalf of STARS Alliance re PR–10 CFR Part 2—Revisions to the Petition for Rulemaking Process.	ML13231A046.
The Petition for Rulemaking Process (diagram)	ML14259A474.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information; Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 2.

PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

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

Authority: Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note. Section 2.205(j) also issued under Sec. 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

■ 2. Revise § 2.802 to read as follows:

§ 2.802 Petition for rulemaking—requirements for filing.

(a) *Filing a petition for rulemaking.* Any person may petition the Commission to issue, amend, or rescind any regulation in 10 CFR chapter I. The petition for rulemaking should be addressed to the Secretary, Attention: Rulemakings and Adjudications Staff, and sent by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by email to *Rulemaking.Comments@nrc.gov;* or by hand delivery to 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern time) on Federal workdays.

(b) *Consultation with the NRC.* A petitioner may consult with the NRC staff before and after filing a petition for rulemaking by contacting the Chief, Rules, Announcements, and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 1–800–368–5642.

(1) In any consultation regarding the drafting or amendment of a petition for rulemaking, the assistance that the NRC staff may provide is limited to the following:

(i) Describing the process for filing, docketing, tracking, closing, amending, withdrawing, and resolving a petition for rulemaking;

(ii) Clarifying an existing NRC regulation and the basis for the regulation; and

(iii) Assisting the petitioner to clarify a petition for rulemaking so that the Commission is able to understand the issues of concern to the petitioner.

(2) In any consultation regarding the drafting or amendment of a petition for rulemaking, in providing the assistance permitted in paragraph (b)(1) of this section, the NRC staff will not draft or develop text or alternative approaches to address matters in the petition for rulemaking.

(3) In any consultation regarding a petition for rulemaking, the NRC staff will not advise a petitioner on whether a petition should be amended or withdrawn.

(c) *Content of petition.* (1) Each petition for rulemaking filed under this section must clearly and concisely:

(i) Specify the name of the petitioner, a telephone number, a mailing address, and an email address (if available) that the NRC may use to communicate with the petitioner;

(ii) If the petitioner is an organization, provide additional identifying information (as applicable) including the petitioner's organizational or corporate status, the petitioner's State of incorporation, the petitioner's registered agent, and the name and authority of the individual who signed the petition on behalf of the organizational or corporate petitioner.

(iii) Present the specific problems or issues that the petitioner believes should be addressed through rulemaking, including any specific circumstances in which the NRC's codified requirements are incorrect, incomplete, inadequate, or unnecessarily burdensome;

(iv) Cite, enclose, or reference publicly-available technical, scientific, or other data or information supporting the petitioner's assertion of the problems or issues;

(v) Present the petitioner's proposed solution to the problems or issues raised in the petition for rulemaking (*e.g.,* a proposed solution may include specific regulations or regulatory language to add to, amend in, or delete from 10 CFR chapter I);

(vi) Provide an analysis, discussion, or argument that explains how the petitioner's proposed solution solves the problems or issues identified by the petitioner; and

(vii) Cite, enclose, or reference any other publicly-available data or information supporting the petitioner's proposed solution; and

(viii) If required by 10 CFR 51.68 of this chapter, submit a separate document entitled ''Petitioner's Environmental Report,'' which contains the information specified in 10 CFR 51.45.

(2) To assist the NRC in its evaluation of the petition for rulemaking, the petitioner should clearly and concisely:

(i) Explain why the proposed rulemaking solution is within the authority of the NRC to adopt; and

(ii) Explain why rulemaking is the most favorable approach to address the problem or issue, as opposed to other NRC actions such as licensing, issuance of an order, or referral to another Federal or State agency.

(3) If the petition is signed by multiple petitioners, the petition must designate a lead petitioner who is responsible for disseminating communications received from the NRC to co-petitioners.

(d) [Reserved]

(e) *Request for suspension of an adjudication involving licensing.* The petitioner may request the Commission to suspend all or any part of any licensing proceeding to which the petitioner is a participant pending disposition of the petition for rulemaking.

(f) *Amendment; withdrawal.* If the petitioner wants to amend or withdraw a docketed petition for rulemaking, then the petitioner should include the docket number and the date that the original petition for rulemaking was submitted in a filing addressed to the Secretary, Attention: Rulemakings and Adjudications Staff, and sent by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; or by email to *Rulemaking.Comments@nrc.gov*.

■ 3. Revise § 2.803 to read as follows:

§ 2.803 Petition for rulemaking—NRC action.

(a) *Notification of receipt.* Following receipt of a petition for rulemaking, the NRC will acknowledge its receipt to the petitioner.

(b) *Docketing review.* (1) The NRC will evaluate the petition for rulemaking, including supporting data or information submitted under § 2.802(c), for sufficiency according to the review criteria in § 2.803(b).

(2) If the NRC determines that the petition for rulemaking does not include

the information set out in § 2.802(c), that the regulatory change sought by the petitioner is not within the legal authority of the NRC, or that the petition for rulemaking does not raise a potentially valid issue that warrants further consideration, then the NRC will notify the petitioner in writing and explain the deficiencies in the petition for rulemaking.

(3) The petitioner may resubmit the petition for rulemaking without prejudice.

(c) *Docketing.* (1) The NRC will docket a petition for rulemaking and assign a docket number to the petition if the NRC determines the following:

(i) The petition for rulemaking includes the information required by paragraph § 2.802(c),

(ii) The regulatory change sought by the petitioner is within the NRC's legal authority, and

(iii) The petition for rulemaking raises a potentially valid issue that warrants further consideration.

(2) A copy of the docketed petition for rulemaking will be posted in the NRC's Agencywide Documents Access and Management System (ADAMS) and on the Federal rulemaking Web site at: *http://www.regulations.gov.* The NRC will publish a notice of docketing in the **Federal Register** informing the public that the NRC is reviewing the merits of the petition for rulemaking. The notice of docketing will include the docket number and explain how the public may track the status of the petition for rulemaking.

(d) *NRC communication with petitioners.* If the petition is signed by multiple petitioners, any NRC obligation to inform a petitioner (as may be required under 10 CFR part 2, subpart H) is satisfied, with respect to all petitioners, when the NRC transmits the required notification to the lead petitioner.

(e) [Reserved]

(f) [Reserved]

(g) *Public comment on a petition for rulemaking; hearings.* (1) At its discretion, the NRC may request public comment on a docketed petition for rulemaking.

(2) The NRC will post all comment submissions at *http://www.regulations.gov* and enter the comment submissions into ADAMS, without removing identifying or contact information from comment submissions. Anyone requesting or aggregating comments from other persons for submission to the NRC is responsible for informing those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submissions.

(3) No adjudicatory or legislative hearing under the procedures of 10 CFR part 2 will be held on a petition for rulemaking unless the Commission determines to do so, at its discretion.

(h) *Determination on a petition for rulemaking; Closure of docket on a petition for rulemaking.* (1) *Determination.* Following docketing of a petition for rulemaking, the NRC's determination on the petition for rulemaking may be based upon, but is not limited to, the following considerations:

(i) The merits of the petition;

(ii) The immediacy of the safety, environmental, or security concern raised;

(iii) The availability of NRC resources and the priority of the issues raised in relation to other NRC rulemaking issues;

(iv) Whether the problems or issues are already under consideration by the NRC in other NRC processes;

(v) The substance of any public comment received, if comment is requested; and

(vi) The NRC's relevant past decisions and current policies.

(2) *Petition for rulemaking docket closure.* After the NRC determines the appropriate regulatory action in response to the petition for rulemaking, the NRC will administratively close the docket for the petition. The NRC will publish a notice describing that action with any related Docket Identification number (Docket ID), as applicable, in the **Federal Register**. The NRC may make a determination on a petition for rulemaking and administratively close the docket for the petition for rulemaking by:

(i) Deciding not to undertake a rulemaking to address the issue raised by the petition for rulemaking, and informing the petitioner in writing of the grounds for denial.

(ii) Initiating a rulemaking action (*e.g.,* initiating a new rulemaking, addressing the petition for rulemaking in an ongoing rulemaking, addressing the petition for rulemaking in a planned rulemaking) that considers the issues raised by a petition for rulemaking, and informing the petitioner in writing of this decision and the associated Docket ID of the rulemaking action, if applicable.

(i) *Petition for rulemaking resolution.* (1) *Petition for rulemaking resolution published in the* ***Federal Register***. The NRC will publish a **Federal Register** notice informing the public that it has concluded all planned regulatory action with respect to some or all of the issues presented in a petition for rulemaking. This may occur by adoption of a final rule related to the petition for rulemaking, denial by the NRC of the petition for rulemaking at any stage of the regulatory process, or the petitioner's withdrawal of the petition for rulemaking before the NRC has entered the rulemaking process. As applicable, the **Federal Register** notice will include a discussion of how the regulatory action addresses the issue raised by the petitioner, the NRC's grounds for denial of the petition for rulemaking, or information on the withdrawal. The notice will normally include the NRC's response to any public comment received (if comment is requested), unless the NRC has indicated that it will not be providing a formal written response to each comment received.

(2) *NRC decision not to proceed with rulemaking after closure of a petition for rulemaking docket.* If the NRC closes a petition for rulemaking docket under paragraph (h)(2)(ii) of this section but subsequently decides not to carry out the planned rulemaking to publication of a final rule, the NRC will notify the petitioner in writing of this decision and publish a notice in the **Federal Register** explaining the basis for its decision. The decision not to complete the rulemaking action will be documented as denial of the petition for rulemaking in the docket of the closed petition for rulemaking, in the Web sites, in the Government-wide *Unified Agenda of Federal Regulatory and Deregulatory Actions,* online in ADAMS, and at *http://www.regulations.gov* as described in paragraph (j) of this section.

(j) *Status of petitions for rulemaking and rulemakings.* (1) The NRC provides current information on rulemakings and petitions for rulemaking in the NRC Library at *http://www.nrc.gov/about-nrc/regulatory/rulemaking.html.*

(2) The NRC includes a summary of the NRC's planned and ongoing rulemakings in the Government-wide *Unified Agenda of Federal Regulatory and Deregulatory Actions* (the Unified Agenda), published semiannually. This Unified Agenda is available at *http://www.reginfo.gov/public/do/eAgendaMain/.*

(3) All docketed petitions, rulemakings, and public comments are posted online in ADAMS and at *http://www.regulations.gov.*

■ 4. In § 2.811, revise paragraph (e) to read as follows:

§ 2.811 Filing of standard design certification application; required copies.

* * * * *

(e) *Pre-application consultation.* A prospective applicant for a standard

design certification may consult with NRC staff before filing an application by writing to the Director, Division of New Reactor Licensing, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, with respect to the subject matters listed in § 2.802(b)(1). A prospective applicant also may telephone the Rules, Announcements, and Directives Branch, toll free on 1–800–368–5642, or send an email to *Rulemaking.Comments@nrc.gov* on these subject matters. In addition, a prospective applicant may confer informally with NRC staff before filing an application for a standard design certification, and the limitations on consultation in § 2.802(b)(2) do not apply.

Dated at Rockville, Maryland, this 1st day of October, 2015.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2015–25563 Filed 10–6–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2015–3780; Airspace Docket No. 15–ACE–5]

Modification to Restricted Areas R–3601A & R–3601B; Brookville, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends Restricted Areas R–3601A and R–3601B, Brookville, KS, to re-define the restricted area boundary segments described using the Missouri Pacific Railroad Track visual landmark. The restricted areas using agency information is also updated to include the military service of the using agency. This action does not affect the overall restricted area boundaries, designated altitudes, times of designation, or activities conducted within the restricted areas. Additionally, boundary segment amendments of the Smoky and Smoky High military operations areas (MOA), ancillary to the restricted areas amendments, are being made. Since R–3601A and R–3601B share boundaries with the Smoky and Smoky High MOAs, the FAA included discussion of the Smoky and Smoky High MOAs amendments in this rule. Lastly, the MOAs using agency is being amended to match the restricted areas using agency information.

DATES: Effective date 0901 UTC, December 10, 2015.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy 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 makes administrative changes to the descriptions of restricted areas R–3601A and R–3601B, Brookville, KS.

Background

In August 1970, the FAA published a rule in the **Federal Register** (35 FR 10107, June 19, 1970) establishing the Brookville, KS, restricted areas R–3601A and R–3601B in support of U.S. Air Force (USAF) weapons delivery training requirements. The two restricted areas were originally established laterally adjacent to each other with different ceilings to be activated for use individually, as required. Then, in July 2007, the FAA published another rule in the **Federal Register** (72 FR 35917, July 2, 2007) that combined the restricted areas lateral boundaries, divided the combined areas vertically instead of laterally, and expanded the vertical limits to flight level 230 (FL230). The lower portion of the combined area (surface to but not including FL180) was re-designated as R–3601A and the upper portion (FL180 to FL230) as R–3601B. The new configuration supported USAF high altitude release bomb training requirements for fighter aircraft and new medium-to-high altitude release bomb training requirement for bombers.

When the restricted areas lateral boundaries were combined in 2007, the boundaries descriptions for R–3601A and R–3601B used the Missouri Pacific Railroad Track to identify a segment of the restricted area boundaries. The railroad track was removed years ago and portions of the railroad right-of-way is mostly obscured by trees or has been plowed under for agriculture. Satellite imagery was used to confirm that the railroad right-of-way is no longer clearly visible and is of little use to Visual Flight Rules (VFR) aircraft trying to navigate by ground reference in the Salina, KS, local area.

The FAA worked with the USAF to re-define the affected boundary segments using geographic (latitude/longitude) coordinates only. The new restricted area boundary descriptions overlay the boundaries previously identified by the visual landmarks that no longer exist. As a result of amending the restricted area boundaries, corresponding amendments to the Smoky and Smoky High MOAs boundaries are also necessary to retain shared boundary segments between the restricted areas and the MOAs.

Additionally, the R–3601A and R–3601B using agency information does not reflect the military service of the using agency listed. To correct this absence of information, the using agency information for the restricted areas is being updated. To ensure standard using agency information for the restricted areas and MOAs supporting the Smoky Hill Air National Guard Range, the Smoky and Smoky High MOAs using agency information is also being updated.

Military Operations Areas (MOA)

MOAs are established to separate or segregate non-hazardous military flight activities from aircraft operating in accordance with instrument flight rules (IFR), and to advise pilots flying under VFR where these activities are conducted. IFR aircraft may be routed through an active MOA only by agreement with the using agency and only when air traffic control can provide approved separation from the MOA activity. VFR pilots are not restricted from flying in an active MOA, but are advised to exercise caution while doing so. MOAs are nonregulatory airspace areas that are established or amended administratively and published in the National Flight Data Digest (NFDD) rather than through rulemaking procedures. When a nonrulemaking action is ancillary to a rulemaking action, FAA procedures allow for the nonrulemaking changes to be included in the rulemaking action. Since the Smoky and Smoky High MOAs amendments are ancillary to the R–3601A and R–3601B amendments being made, the MOA changes are addressed

in this rule as well as being published in the NFDD.

The Smoky and Smoky High MOAs boundary descriptions are being amended to incorporate the geographic coordinates used in the R–3601A and R–3601B boundary descriptions to redefine the boundary segments previously defined by the Missouri Pacific Railroad Track. This amendment will ensure shared boundaries with the updated restricted area descriptions and prevent airspace conflict with any potential SUA overlap resulting from the redefined boundary segments. Also, the Smoky and Smoky High MOAs using agency information is being amended to match the associated restricted areas using agency amendments. The amended boundary descriptions and using agency information for the MOAs will be published in the NFDD; the rest of the MOAs legal descriptions remain unchanged.

The Rule

This action amends 14 CFR part 73 by modifying restricted areas R–3601A and R–3601B Brookville, KS. The FAA is taking this action to accurately define the restricted area boundaries using geographic coordinates to overcome the loss of the visual landmark used previously and update the using agency information to include the military service. The following restricted areas boundary and using agency information is amended as indicated:

The R–3601A and R–3601B boundary segments previously described by the Missouri Pacific Railroad Track are redefined using the geographic coordinates, ''lat. 38°39′45″ N., long. 97°46′01″ W.; to lat. 38°38′20″ N., long. 97°47′31″ W.''

The R–3601A and R–3601B using agency information is amended by prefacing the existing using agency with ''U.S. Air Force.''

This change does not affect the boundaries, designated altitudes, activities conducted within the restricted areas or the actual physical location of the airspace; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The corresponding restricted area boundary segment amendments noted above are also being made to the Smoky and Smoky High MOAs boundary information, as needed, to retain shared boundaries with R–3601A and R–3601B. And, the Smoky and Smoky High MOAs using agency information is amended to match the restricted areas using agency information. The amended Smoky and Smoky High MOAs boundary and using agency information changes addressed in this rule will be published in the NFDD as a separate action with a matching effective date.

This action does not affect the overall restricted area or MOA boundaries; designated altitudes; times of designation; or activities conducted within the restricted areas and MOAs.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5d. This action is an administrative change to the technical description of the affected restricted areas and is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exists that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.36 [Amended]

■ 2. Section 73.36 is amended as follows:

R–3601A Brookville, KS [Amended]

Boundaries. Beginning at lat. 38°45′20″ N., long. 97°46′01″ W.; to lat. 38°39′45″ N., long. 97°46′01″ W.; to lat. 38°38′20″ N., long. 97°47′31″ W.; to lat. 38°38′20″ N., long. 97°50′01″ W.; to lat. 38°35′00″ N., long. 97°50′01″ W.; to lat. 38°35′00″ N., long. 97°56′01″ W.; to lat. 38°45′20″ N., long. 97°56′01″ W.; to the point of beginning.

Designated altitudes. Surface to but not including FL180.

Time of designation. Monday through Saturday, 0900 to 1700 local time; other times by NOTAM 6 hours in advance.

Controlling agency. FAA, Kansas City ARTCC.

Using agency. U.S. Air Force, Air National Guard, 184th Air Refueling Wing, Detachment 1, Smoky Hill ANG Range, Salina, KS.

R–3601B Brookville, KS [Amended]

Boundaries. Beginning at lat. 38°45′20″ N., long. 97°46′01″ W.; to lat. 38°39′45″ N., long. 97°46′01″ W.; to lat. 38°38′20″ N., long. 97°47′31″ W.; to lat. 38°38′20″ N., long. 97°50′01″ W.; to lat. 38°35′00″ N., long. 97°50′01″ W.; to lat. 38°35′00″ N., long. 97°56′01″ W.; to lat. 38°45 20″ N., long. 97°56′01″ W.; to the point of beginning.

Designated altitudes. FL180 to FL230.

Time of designation. Monday through Saturday, 0900 to 1700 local time; other times by NOTAM 6 hours in advance.

Controlling agency. FAA, Kansas City ARTCC.

Using agency. U.S. Air Force, Air National Guard, 184th Air Refueling Wing, Detachment 1, Smoky Hill ANG Range, Salina, KS.

* * * * *

Issued in Washington, DC, on October 1, 2015.

Kenneth Ready,

Acting Manager, Airspace Policy Group.

[FR Doc. 2015–25543 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 150817734–5734–01]

RIN 0694–AG72

Revisions to the Unverified List (UVL)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by adding twelve (12) persons to the Unverified List (the ''Unverified List'' or UVL), adding additional addresses for four (4) persons currently listed on the UVL, and removing two (2) persons

from the UVL. The 12 persons are being added to the UVL on the basis that BIS could not verify their *bona fides* because an end-use check could not be completed satisfactorily for reasons outside the U.S. Government's control. New addresses are added for four current UVL persons because BIS has determined they are receiving U.S. exports at addresses not previously included in their UVL listings. Finally, two persons are removed from the UVL based on BIS's ability to verify those person's *bona fides* through the successful completion of end-use checks.

DATES: *Effective date:* This rule is effective: October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Kevin Kurland, Director, Office of Enforcement Analysis, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–4255 or by email at *UVLRequest@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Unverified List, found in Supplement No. 6 to Part 744 to the EAR, contains the names and addresses of foreign persons who are or have been parties to a transaction, as that term is described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR, and whose *bona fides* BIS has been unable to verify through an end-use check. BIS may add persons to the UVL when BIS or federal officials acting on BIS's behalf have been unable to verify a foreign person's *bona fides* (*i.e.,* legitimacy and reliability relating to the end use and end user of items subject to the EAR) because an end-use check, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for such purposes for reasons outside the U.S. Government's control.

End-use checks cannot be completed for a number of reasons, including reasons unrelated to the cooperation of the foreign party subject to the end-use check. For example, BIS sometimes initiates end-use checks and cannot find a foreign party at the address indicated on export documents, and cannot locate the party by telephone or email. Additionally, BIS sometimes is unable to conduct end-use checks when host government agencies do not respond to requests to conduct end-use checks, are prevented from scheduling such checks by a party to the transaction other than the foreign party that is the proposed subject of the end-use check, or the parties refuse to schedule them in a timely manner. Under these circumstances, although BIS has an interest in informing the public of its inability to verify the foreign party's *bona fides,* there may not be sufficient information to add the foreign persons at issue to the Entity List under § 744.11 of the EAR (Criteria for revising the Entity List). In such circumstances, BIS may add the foreign persons to the UVL.

Furthermore, BIS sometimes conducts end-use checks but cannot verify the *bona fides* of a foreign party. For example, BIS may be unable to verify *bona fides* if, during the conduct of an end-use check, a recipient of items subject to the EAR is unable to produce those items for visual inspection or provide sufficient documentation or other evidence to confirm the disposition of those items. The inability of foreign persons subject to end-use checks to demonstrate their *bona fides* raises concerns about the suitability of such persons as participants in future exports, reexports, or transfers (in-country) and indicates a risk that items subject to the EAR may be diverted to prohibited end uses and/or end users. However, BIS may not have sufficient information to establish that such persons are involved in activities described in part 744 of the EAR, preventing the placement of the persons on the Entity List. In such circumstances, the foreign persons may be added to the Unverified List.

As provided in § 740.2(a)(17) of the EAR, the use of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL is suspended. Additionally, under § 744.15(b) of the EAR, there is a requirement for exporters, reexporters, and transferors to obtain (and keep a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) to such persons, when the exports, reexports and transfers (in-country) are not subject to a license requirement.

Requests for removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of UVL listings will be made by the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of its *bona fides.*

Changes to the EAR

Supplement No. 6 to Part 744 (''the Unverified List'' or ''UVL'')

Among other things, this rule adds twelve (12) persons to the UVL by amending Supplement No. 6 to Part 744 of the EAR to include their names and addresses. BIS adds these persons in accordance with the criteria for revising the UVL set forth in § 744.15(c) of the EAR. The new entries consist of one person located in Canada, one person located in the Czech Republic, one person located in Georgia, four persons located in Hong Kong, and five persons located in the United Arab Emirates. Each listing is grouped within the UVL by country and accompanied by the party's name(s) in alphabetical order under the country, available alias(es) and address(es), as well as the **Federal Register** citation and the date the person was added to the UVL. The UVL is included in the Consolidated Screening List, available at *www.export.gov*.

This rule also adds new addresses for four current UVL persons in Hong Kong: (1) AST Technology Group (HK) Ltd.; (2) E-Chips Technology; (3) Ling Ao Electronic Technology Co. Ltd., a.k.a. Voyage Technology (HK) Co. Ltd.; and (4) Narpel Technology Co., Limited. BIS has determined that these persons are receiving U.S. exports at addresses other than those originally included in their UVL entries.

Lastly, this rule removes from the UVL two entries: One located in Hong Kong and one located in Pakistan.

The following entry (at three different locations) under the country heading Hong Kong is removed:

Ditis Hong Kong Ltd., Room 227–228, 2/F, Metre Centre II, 21 Lam Hing Street, Kowloon Bay, Kowloon, Hong Kong *and* Ditis Hong Kong Ltd., Rooms 1318–1320, Hollywood Plaza, 610 Nathan Road, Mong Kok, Kowloon, Hong Kong *and* Ditis Hong Kong Ltd., Room 205, 2/F, Sunley Centre, 9 Wing Tin Street, Kwai Chung, New Territories, Hong Kong.

The following entry under the country heading Pakistan is removed:

Fauji Fertilizer Company Ltd., 156 The Mall, Rawalpindi, Cantt, Pakistan.

These persons are removed from the UVL based on BIS's ability to confirm their *bona fides* through the successful completion of end-use checks. The removal of the above referenced persons from the UVL eliminates the restrictions against the use of license exceptions and the requirements specific to exports, reexports and transfers (in-country) not otherwise requiring a license to these persons, as described in § 744.15 of the EAR. However, the removal of these persons from the UVL does not remove other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of persons from the UVL nor the removal of UVL-based restrictions and requirements relieves a person of the obligation to obtain a

license if the person knows that an export or reexport of any item subject to the EAR is destined to an end user or end use set forth in part 744, other than § 744.15, of the EAR. Additionally, these removals do not relieve persons of their obligation to apply for export, reexport or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, ''BIS's 'Know Your Customer' Guidance and Red Flags,'' when persons are involved in transactions that are subject to the EAR.

Savings Clause

Shipments (1) removed from license exception eligibility or that are now subject to requirements in § 744.15 of the EAR as a result of this regulatory action,; (2) eligible for export, reexport, or transfer (in-country) without a license before this regulatory action; and (3) on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on October 7, 2015, pursuant to actual orders, may proceed to that UVL listed person under the previous license exception eligibility or without a license so long as the items have been exported from the United States, reexported or transferred (in-country) before November 6, 2015. Any such items not actually exported, reexported or transferred (in-country) before midnight, on November 6, 2015, are subject to the requirements in § 744.15 of the EAR in accordance with this regulation.

Export Administration Act

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, the President, through 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), and as extended by the Notice of August 7, 2015 (80 FR 48233 (Aug. 11, 2015) has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866.

2. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable to this rule—which is adding 12 persons, removing two persons, and updating the addresses of four other persons listed on the UVL—because this regulation involves military or foreign affairs under § 553(a)(1). BIS implements this rule to protect U.S. national security or foreign policy interests by requiring a license for items being exported, reexported, or transferred (in country) involving a party or parties to the transaction who are listed on the UVL. If this rule were delayed to allow for notice and comment and a delay in effective date, the entities being added to the UVL by this action and those entities operating at previously unlisted addresses would continue to be able to receive items without additional oversight by BIS and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, publishing a proposed rule would give these parties notice of the U.S. Government's intention to place them on the UVL, and create an incentive for these persons to accelerate receiving items subject to the EAR in furtherance of activities contrary to the national security or foreign policy interests of the United States, and/or take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing once a final rule is effective.

The Department finds there is good cause to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment, under 5 U.S.C. 553(b)(B), and a thirty day delay of the effective date, under 5 U.S.C. 553(d)(3), to the provision of this rule removing two persons from the UVL because doing so is contrary to the public interest and unnecessary. The removals are being made following the completion of successful end-use checks. If the rule were to be delayed to allow for public comment, U.S. exporters may face unnecessary economic losses as they turn away potential sales because the customer remained a listed person on the UVL even after BIS was able to verify that entity's *bona fides* through an end-use check. By publishing without prior notice and comment, BIS allows the entity to receive U.S. exports as quickly as possible following their cooperation in a successful end-use check. By quickly removing entities from the UVL following the successful completion of an end-use check, BIS encourages other entities to cooperate in end-use checks requested by BIS. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

3. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under the following control numbers: 0694–0088, 0694–0122, 0694–0134, and 0694–0137. The addition, revision, and removal of individuals to the UVL do not change the collection of information requirements placed on the public by the UVL implementing regulations.

4. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730 to 774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59

FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 17, 2014, 79 FR 56475 (September 19, 2014); Notice of November 7, 2014, 79 FR 67035 (November 12, 2014); Notice of January 21, 2015, 80 FR 3461 (January 22, 2015); Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

■ 2. Supplement No. 6 to Part 744 is amended by:

■ a. Adding an entry for ''Canada'' in alphabetical order;

■ b. Adding an entry for ''Czech Republic'' in alphabetical order;

■ c. Adding an entry for ''Georgia'' in alphabetical order;

■ d. Revising the entry for ''AST Technology Group (HK) Ltd.'', under ''Hong Kong'';

■ e. Removing the entry for ''Ditis Hong Kong Ltd.'' under ''Hong Kong'';

■ f. Revising the entry for ''E-Chips Technology'' under ''Hong Kong'';

■ g. Adding 3 entries for ''Foot Electronics Co. Ltd.'', ''GA Industry Co. Ltd.'', and ''Hua Fu Technology Co. Ltd.'' in alphabetical order, under ''Hong Kong'';

■ h. Revising the entry for ''Ling Ao Electronic Technology Co. Ltd., a.k.a. Voyage Technology (HK) Co. Ltd.'' under ''Hong Kong'';

■ i. Revising the entry for ''Narpel Technology Co., Limited'' under ''Hong Kong'';

■ j. Adding an entry for ''Yogone Electronics Co.'' in alphabetical order, under ''Hong Kong'';

■ k. Removing the entry for ''Fauji Fertilizer Company Ltd.'' under ''Pakistan''; and

■ l. Adding 5 entries, in alphabetical order, under the ''United Arab Emirates''.

The additions and revisions read as follows:

Supplement No. 6 to Part 744—Unverified List

* * * * *

Country	Listed person and address	**Federal Register** citation and date of publication
CANADA	Rizma, Inc., 1403–8 McKee Avenue, Toronto, Ontario M2N 7E5, Canada.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
* *	* * *	* *
CZECH REPUBLIC	Bonitopto S.R.O., Vancurova 1084/10, Ostrov 363 01, Czech Republic; *and,* Jachymovska 178, Ostrov 363 01, Czech Republic.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
GEORGIA	Spars Ltd., a.k.a. Spars Trading Ltd., Room 1, House 11, Nutsubdize 111 marker, Tbilisi, Georgia, 0183.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
HONG KONG	AST Technology Group (HK) Ltd., Flat 6, 20/F, Mega Trade Centre, 1–9 Mei Wan Street, Tsuen Wan, Hong Kong; *and* Unit 2209, 22/F, Wu Chung House, 213 Queen's Road East, Wan Chai, Hong Kong; *and* Unit 2103, 21/F, Sino Centre, 582–592 Nathan Road, Mong Kok, Kowloon, Hong Kong.	80 FR 4779 01/29/15; 80 FR [INSERT FR PAGE NUMBER], 10/7/15.
* *	* * *	* *
	E-Chips Technology, Unit 4, 7/F, Bright Way Tower, No. 33 Mong Kok Road, Mong Kok, Kowloon, Hong Kong; *and* Flat 1205, 12/F, Tai Sang Bank Building, 130–132 Des Voeux Road Hong Kong.	80 FR 4779 01/29/15; 80 FR [INSERT FR PAGE NUMBER], 10/7/15.
	Foot Electronics Co. Ltd., Unit 2103, 21/F, Sino Centre, 582–592 Nathan Road, Mong Kok, Kowloon, Hong Kong; *and* Rm. 19C, Lockhart Centre, 301–307 Lockhart Road, Wan Chai, Hong Kong.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
	GA Industry Co. Ltd., Room 1103, Hang Seng Mong Kok Building, 677 Nathan Road, Kowloon, Hong Kong.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
* *	* * *	* *
	Hua Fu Technology Co. Ltd., Rm 1209, 12/F, Workingbond Commercial Centre, 162 Prince Edward Road West, Mong Kok, Kowloon, Hong Kong.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
* *	* * *	* *
	Ling Ao Electronic Technology Co. Ltd., a.k.a. Voyage Technology (HK) Co. Ltd., Room 17, 7/F, Metro Centre Phase 1, No. 32 Lamhing St., Kowloon Bay, Hong Kong; *and* 15B, 15/F, Cheuk Nang Plaza, 250 Hennessy Road, Hong Kong; *and* Flat C, 11/F, Block No. 2, 62 Hoi Yu Street, Kowloon, Hong Kong; *and* Room C1–D, 6/F, Wing Hing Industrial Building, 14 Hing Yip Street, Kwun Tong, Kowloon, Hong Kong.	80 FR 4779 01/29/15; 80 FR [INSERT FR PAGE NUMBER], 10/7/15.

Country	Listed person and address	Federal Register citation and date of publication
* * *	* * *	* *
	Narpel Technology Co., Limited, Unit A, 6/F, Yip Fat Factory Building, Phase 1, No 77 Hoi Yuen Road, Kwun Tong, Kowloon, Hong Kong; *and* Room 4C, 8/F, Sunbeam Centre, 27 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong; *and* Room 1905, Nam Wo Hong Building, 148 Wing Lok Street, Sheung Wan, Hong Kong; *and* 15B, 15/F, Cheuk Nang Plaza, 250 Hennessy Road, Wan Chai, Hong Kong.	79 FR 34217, 06/16/14; 80 FR 4779 01/29/15; 80 FR [INSERT FR PAGE NUMBER], 10/7/15.
* * *	* * *	* *
	Yogone Electronics Co., Unit 602, 6/F, Silvercord Tower 2, 30 Canton Road, Tsim Sha Tsui, Kowloon, Hong Kong.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
* * *	* * *	* *
UNITED ARAB EMIRATES	* * *	* * *
	Gulf Modern Solutions Engineering Company, No. 14, 35B Street, Al Satwa Road, Dubai, UAE.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
	Masomi General Trading, Unit No. B605, Baniyas Complex, Baniyas Square, P.O. Box 39497, Dubai, UAE.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
	Recaz Star General Trading LLC, #307 Naser Lootah Building, Khalid bin Waleed Road, Dubai, UAE.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
	Renat International General Trading, Office #H241, Building #1G, Ajman Free Zone, Ajman, UAE; *and* Building #H1, Behind China Mall, Ajman Free Zone Area, Ajman, UAE.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
* * *	* * *	* *
	Trade Star FZC, Sheikh Zayed Road, Al Mossa Tower 1, 17th Floor, Dubai, UAE; and P.O. Box 51159, Sharjah, UAE; *and* ELOB Office #E55G–31, Hamriyah Free Zone, Sharjah, UAE.	80 FR [INSERT FR PAGE NUMBER], 10/7/15.
* * *	* * *	* *

Dated: October 1, 2015.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2015–25450 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 300

[Docket No. 130722646–5874–03]

RIN 0648–BD54

International Fisheries; Pacific Tuna Fisheries; Establishment of Tuna Vessel Monitoring System in the Eastern Pacific Ocean

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

ACTION: Final rule.

SUMMARY: NMFS is issuing regulations under the Tuna Conventions Act to implement Resolution C–14–02 of the Inter-American Tropical Tuna Commission (IATTC) by establishing requirements for any U.S. commercial fishing vessel that is 24 meters (78.74 feet) or more in overall length engaging in fishing activities for either tuna or tuna-like species in the eastern Pacific Ocean. This rule is necessary to ensure full U.S. compliance with its international obligations under the IATTC Convention.

DATES: This rule is effective January 1, 2016.

ADDRESSES: Copies of supporting documents prepared for this final rule, including the Categorical Exclusion memo, Regulatory Impact Review, Final Regulatory Flexibility Analysis (FRFA), and other supporting documents, are available via the Federal eRulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2013–0117, or by contacting the Regional Administrator, William W. Stelle, Jr., NMFS West Coast Region, 7600 Sand Point Way NE., Bldg

1, Seattle, WA 98115–0070 or by email to *RegionalAdministrator.WCRHMS@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Rachael Wadsworth, NMFS WCR, 562–980–4036.

SUPPLEMENTARY INFORMATION:

Background

On May 19, 2015, the National Marine Fisheries Service (NMFS) published a supplemental proposed rule in the **Federal Register** (80 FR 28572) to implement C–14–02, ''Resolution (Amended) on the Establishment of a Vessel Monitoring System (VMS).'' This Resolution was adopted by the Inter-American Tropical Tuna Convention (IATTC) at its 87th meeting in July 2014. The supplemental proposed rule revised a proposed rule (79 FR 7152) published on February 6, 2014 in the **Federal Register**.

The public comment period for the supplemental proposed rule was open until June 18, 2015, and NMFS accepted public comment at a hearing held at the NMFS West Coast Region (WCR) Long Beach office on June 9, 2015. The public comment period for the original proposed rule was open until March 10, 2014, and NMFS accepted public comment at a hearing held at the NMFS WCR Long Beach office on February 28, 2014.

The final rule is implemented under the authority of the Tuna Conventions Act (16 U.S.C. 951 *et seq.*), which directs the Secretary of Commerce, after approval by the Secretary of State, to promulgate regulations as may be necessary to implement resolutions adopted by the IATTC. This authority has been delegated to NMFS.

The supplemental proposed rule contained additional background information, including information on the IATTC, the international obligations of the United States as an IATTC member, and the need for regulations. The differences between this final rule and the supplemental proposed rule are explained below.

New Regulations

This final rule establishes requirements for any U.S. commercial fishing vessel that is 24 meters (78.74 feet) or more in overall length and engaging in fishing activities for tuna or tuna-like species in the Convention Area, and for which either of the following permits is required: Pacific highly migratory species permit under 50 CFR 660.707, or high seas fishing permit under 50 CFR 300.13. The Convention Area is bounded by the west coast of the Americas and on the north, south, and west respectively, by the 50° N. and 50° S. parallels, and the 150° W. meridian.

Commercial fishing vessels that are 24 meters or more in overall length are required to install, activate, carry, and operate VMS units (also known as ''mobile transmitting units''). The VMS units and mobile communications service providers must be type-approved by NOAA for fisheries in the IATTC Convention Area. Information for current NOAA type-approved VMS units can be obtained from: NOAA, Office of Law Enforcement (OLE), 1315 East-West Hwy, Suite 3301, Silver Spring, MD 20910–3282; telephone at (888) 210–9288. Or, by contacting NOAA OLE VMS Helpdesk: Telephone: (888) 219–9228, ext. 2; email: *ole.helpdesk@noaa.gov;* or online by going to *http://www.nmfs.noaa.gov/ole/about/our_programs/vessel_monitoring.html* (click ''approved VMS units''). The business hours of the NOAA OLE VMS Helpdesk are: Monday through Friday, except Federal holidays, 7 a.m. to 11 p.m., Eastern Time.

Federal funds may be available to vessel owners or operators for reimbursement for type-approved VMS units. The VMS units must be installed by a VMS dealer approved by a type-approved VMS unit manufacturer. To qualify for reimbursement, the VMS unit must be purchased and installed before December 1, 2015, and reimbursement must be requested no later than December 15, 2015. The availability of reimbursement funds for the cost of purchasing a VMS unit is not guaranteed; the funds are available on a first-come, first-served basis. Information on the VMS Reimbursement Program is available online at: *http://www.psmfc.org/program/vessel-monitoring-system-reimbursement-program-vms?pid=17.*

Compliance with the existing VMS requirements at 50 CFR parts 300, 660, or 665 would satisfy these new requirements relating to the installation, carrying, and operation of VMS units, provided that (1) the VMS unit and mobile communications service provider are type-approved by NOAA for fisheries in the Convention Area, (2) the VMS unit is operated continuously at all times while the vessel is at sea, unless the Assistant Director, NOAA Office of Law Enforcement, Pacific Islands Division (or designee) (AD) authorizes a VMS unit to be shut down, and (3) the requirements for the case of VMS unit failure are followed.

This final rule also updates: (1) The definition of ''Convention Area,'' and (2) the description of the purpose and scope of part 300, subpart C, § 300.20 of Title 50 of the Code of Federal Regulations (CFR).

Public Comments and Responses

NMFS received comments on both the original and supplemental proposed rules during the public comment periods. For the original proposed rule, four persons participated in the public hearing, one of whom also submitted written comments. NMFS also received a written comment from a commenter that did not attend the public hearing. NMFS received one written comment in response to the supplemental proposed rule and no persons participated in the public hearing.

Five of the six commenters expressed concern about the burden of operating the VMS units while participating in fisheries for species other than tuna. These same commenters raised questions and provided suggestions regarding the flexibility of the VMS requirements as they apply to vessels that participate in other fisheries. One commenter indicated support for the VMS requirements for tuna fisheries as a worthwhile method to enhance monitoring. Summaries of the comments received for both the supplemental and original proposed rules and NMFS' responses appear below.

Comment 1: The proposed rule allows a condition for shutting down the VMS unit after the end of the fishing season, but this condition is too strict and could negatively impact vessels which participate in other fisheries. This could be easily addressed by requiring the VMS unit be turned on only when that vessel will be targeting tuna or tuna-like species.

Response: NMFS believes that allowing more VMS on and off flexibility would weaken the effectiveness of using VMS position information to monitor the locations of vessels. Allowing VMS power-downs, aside from the in-port and after a fishing season exemptions provided in the rule, could also encourage non-compliance and compromise the integrity of the VMS. Lastly, additional fees are imposed on vessel owners and operators for shutting down VMS units as well as reactivating VMS units after they are shut down. For these reasons, NMFS believes that the benefits of requiring position reports everywhere at sea, aside from the exemptions provided in the rule, outweigh the burden.

Comment 2: The proposed rule would require that all vessels turn on VMS units when leaving port, regardless of whether a vessel plans to participate in tuna fisheries. There are a number of affected vessels that participate in

fisheries other than tuna fisheries. Some of these vessels only opportunistically fish for tuna. For example, the coastal purse seine vessels that fish for tuna typically make infrequent trips (*e.g.,* fewer than 3 trips a year) that are short in duration (*e.g.,* fewer than 18 hours), and they do not fish for tuna in some years due to lack of availability in the U.S. exclusive economic zone, though they remain active in tuna fisheries.

Response: In addition to the rationale outlined in the response to Comment 1 above, the United States is obligated, as a member of the IATTC, to implement Resolution C–14–02, which calls for each IATTC Member to require that its commercial fishing vessels harvesting tuna or tuna-like species be equipped with VMS. Therefore, VMS requirements in this final rule apply to any U.S. commercial fishing vessel that is 24 meters or more in overall length and engaging in fishing activities for tuna or tuna-like species in the Convention Area, and for which either of the following permits is required: Pacific highly migratory species permit under 50 CFR 660.707, or high seas fishing permit under 50 CFR 300.13.

Since the original proposed rule stage, NMFS revised the VMS requirements to reduce the burden on vessels by allowing an additional option for a vessel owner or operator to shut down a VMS unit. If a vessel owner or operator receives verbal or written authorization by the AD, the VMS unit may be shut down, if, after the end of the fishing season, the vessel will no longer engage in fishing activities in the Convention Area for which either a Pacific highly migratory species permit or a high seas fishing permit is required.

Comment 3: VMS requirements for other U.S. fisheries enable vessels to call in to declare the type of fishing trip, which creates a VMS requirement on a trip-by-trip basis. Providing additional flexibility to vessels for trips in which they do not pursue any of the species for which the IATTC has established conservation and management measures could reduce administrative costs and the potential for unintended losses in fishing opportunity.

Response: NMFS does not agree that only requiring VMS operation when on specific trips for tuna or tuna-like species and providing declaration reports would provide an adequate monitoring system or reduce burden on vessel owners and operators. As described in responses to Comment 2, NMFS believes that allowing more VMS unit power-downs, aside from the in-port and after a fishing season exemptions as provided in the rule, could also encourage non-compliance and compromise the integrity of the VMS. In addition, there may be fees associated with shutting down and powering back on VMS units that could ultimately increase the cost burden on vessel owners and operators. Using a declaration system could also increase administrative burdens by increasing the number of activation and deactivation reports and approvals of requests from NOAA OLE.

NMFS notes that, since the original proposed rule, NOAA added an additional option for a vessel owner or operator to shut down a VMS unit. In this final rule, if a vessel owner or operator receives verbal or written authorization by the AD (or designee), the VMS unit may be shut down, if, after the end of the fishing season, the vessel will no longer engage in fishing activities in the Convention Area for which either a Pacific highly migratory species permit or a high seas fishing permit is required.

For these reasons, NMFS believes that the benefits of requiring position reports everywhere at sea, aside from the exceptions provided in the rule, outweigh any associated burden.

Comment 4: The commenter asked for clarification as to whether VMS requirements apply to vessels that did not fish for tuna in the last year.

Response: Regardless of whether the vessel fished for tuna or tuna-like species in the Convention Area in a previous calendar year or fishing season, the VMS requirements of the rule apply to any vessel engaging in fishing activities for tuna or tuna-like species in the Convention Area, and for which either a Pacific highly migratory species permit or high seas fishing permit is required.

Comment 5: The commenter requested clarification as to the confidentiality of the information collected under the VMS rule and asked if it could be utilized for any purposes by: State law enforcement, state fishery managers (*e.g.,* for fisheries managed by the State), or Federal fishery managers and enforcement (*e.g.,* for investigations or management decisions in fisheries other than tuna).

Response: Information collected under the VMS requirements of this rule will be handled in accordance with the Trade Secrets Act, 18 U.S.C. 1905, and NOAA Administrative Order 216–100 for confidential fisheries data. The vessel owner and operator must make the vessel's position data obtained from the VMS unit or other means immediately and always available for inspection by NOAA personnel, U.S. Coast Guard (USCG) personnel, and authorized officers. If the vessel owner or operator is under investigation, or an enforcement action has been initiated for violation of federal or state marine natural resource laws, then the VMS data can be used by fishery officials for the purpose of verifying information related to the investigation and as evidence of the violation.

Comment 6: The commenter asked for further clarification as to how the data collection for VMS works and how often the VMS data is being collected and about NMFS' ability to detect the location of a vessel outside of the hourly ping rates. Another commenter suggested that because of recent judicial rulings NMFS would be required to increase the VMS reporting interval to more than once per hour.

Response: The VMS data (or position reports) will be transmitted to NOAA-approved mobile communications service providers, which will then securely relay the data to the NOAA OLE, the USCG, and other entities that are authorized to receive and relay position reports. The frequency of reporting intervals required by NMFS in a fishery depends on the defined need of the monitoring program for that fishery. NMFS believes that an hourly reporting interval will be sufficient given the level of monitoring to be conducted under this rule. Generally, the vessel location is only transmitted to NOAA OLE with the position reports. However, during irregular events, such as loss of power to VMS units or if the vessel crosses a pre-set boundary line, the vessel location may also be transmitted to NOAA OLE.

No recent judicial rulings justify or require that NMFS increase the reporting interval of the VMS units covered by this final rule because of recent judicial rulings. If determined necessary for the needs of the monitoring program, NMFS could make a fleet-wide change to this reporting interval through the notice and comment rulemaking process. This rule sets up the reporting interval at once per hour, and maintains that rate for normal operations, and we will not change that default rate except through the notice and comment rulemaking process. However, NOAA maintains the ability to temporarily, and under special circumstances only, increase the reporting interval, to support active enforcement investigations of specific vessels. Under these circumstances NOAA would be responsible for the costs of the increased reporting interval.

Comment 7: The proposed rule states that a vessel cannot leave the port until receiving ''verbal or written confirmation from the AD that proper transmissions are being received from

the VMS unit.'' The rule would not allow a vessel to turn the unit back on while away from port. For example, if a vessel is participating in a non-HMS, non-high seas fishery, and receives information that tuna or tuna-like species have appeared in catchable volume within the Convention Area, the vessel operator would have to return to port and receive written confirmation from the AD that the unit is transmitting. There is no guarantee that by the time the operator complies with the proposed rule's requirements, a catchable amount of fish will be within range. Neither the AD nor NOAA OLE's VMS Helpdesk are available 24-hours a day and are closed on weekends, thus it is likely a vessel operator will suffer economic harm as a result of the inability to turn on the VMS unit remotely. The commenter asked if there a system in place to generate the required confirmation during non-business hours.

Response: The referenced requirement applies in the case that the vessel owner and operator have chosen to shut down the VMS unit while at port or otherwise not at sea, or after the end of the fishing season. NMFS notes such power-up notifications from vessel owners or operators to the AD or the NOAA OLE's VMS Helpdesk may take place after office hours, although the AD acknowledgement of receipt will take place during business hours. The AD makes best efforts to minimize delays in its responses to vessel owners or operators. NMFS recognizes that the office hours of the AD do not always coincide with fishing operations, but notes that the owner and operator of a fishing vessel need not wait until immediately prior to the port departure time to turn on the VMS unit and submit the on/off report to NOAA.

As described in responses to Comments 2 and 3, NMFS revised the VMS requirements since the original proposed rule stage, to allow an additional condition to authorize a vessel owner or operator to shut down a VMS unit. If a vessel owner or operator receives verbal or written authorization by the AD, the VMS unit may be shut down if, after the end of the fishing season, the vessel will no longer engage in fishing activities in the Convention Area for which either a Pacific highly migratory species permit or a high seas fishing permit is required.

Comment 8: The commenter asked NMFS to clarify if emails need to be sent to NOAA OLE from port every night before turning the VMS unit off. The commenter also asked if these messages could be sent from a smart phone, or if a telephone call would be sufficient as opposed to written request.

Response: Vessel owners or operators are required to notify the AD or the NOAA OLE's VMS Helpdesk via facsimile, email, or web-form prior to shut-down of VMS units. The notification need not be at night, and need not be ''every night.'' Currently, voice calls from telephones are not an authorized communication method to notify the AD when shutting down the VMS unit because a written record of the request is needed to facilitate enforcement and compliance. The type-approved VMS units required by this final rule are capable of two-way communication, which includes the ability to send emails. Notices to the AD or NOAA OLE's VMS Helpdesk can also be sent by any device that is capable of these forms of communication, such as a smart phone.

Vessel owners and operators should also be aware of fees charged by communication service providers to shut down VMS units and to reactivate the VMS units after they are powered off.

Changes From the Supplemental Proposed Rule

In § 300.26(c)(5) and (d), under the heading, ''Vessel monitoring system (VMS),'' the references to ''50 CFR 300.219, 50 CFR 660.712, or 50 CFR 665.19'' have been replaced by ''part 300 of this title, part 660 of this title, or part 665'' to clarify that future VMS requirements that may be added to any section in those three parts would also be deemed to satisfy the VMS requirements under this rule. Also in § 300.26, paragraph (d) has been clarified to say that NOAA may pay for the VMS-associated costs for VMS carried and operated under part 300 of this title, part 660 of this title, or part 665 of this title, but only to the extent that the applicable regulations specify costs are the responsibility of NOAA.

In § 300.26, paragraph (c)(1) has been revised to clarify that ''NOAA, the USCG, and other authorized entities are authorized to receive and relay transmissions from the VMS unit.'' This revision was intended to clarify that the vessel owner and operator do not need to provide additional authorization to NOAA, the USCG, and other authorized entities. In § 300.26, paragraph (d) has been revised for consistency with the previously described change in paragraph (c)(1). Therefore, the following language was removed from the paragraph: ''. . . the owner or operator has authorized NOAA to receive and relay transmissions from the VMS unit . . . .''

In § 300.26, paragraph (c)(1) was revised to clarify the that it is the responsibility of the vessel owner or operator to arrange for a NOAA-approved mobile communications service provider to receive and relay transmissions from the VMS unit to NOAA at a default reporting interval of at least once per hour. Therefore, the following language was removed from the paragraph ''. . . the owner and operator must authorize NOAA to set up the reporting interval of the VMS unit as once per hour . . . .''

In § 300.26, paragraph (d) was revised to clarify that NOAA is responsible for the cost of any temporary increase in the default reporting interval to support active enforcement investigations of specific vessels.

In addition, throughout § 300.26, several references to ''the SAC, or Special-Agent-In-Charge'' have been replaced by ''the AD, or Assistant Director'' to reflect a change in title. AD means the Assistant Director, NOAA Office of Law Enforcement, Pacific Islands Division (or designee).

In § 300.26, paragraph (a)(2) has been revised to add ''ext. 2'' after the phone number for the NOAA Office of Law Enforcement's VMS Helpdesk.

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the Tuna Conventions Act of 1950, as revised, and other applicable laws.

National Environmental Policy Act

This action is categorically excluded from the requirement to prepare an environmental assessment in accordance with NOAA Administrative Order (NAO) 216–6. A memorandum for the file has been prepared that sets forth the decision to use a categorical exclusion and a copy of is available from NMFS (see **ADDRESSES**).

Executive Order 12866

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

Regulatory Flexibility Act

A Final Regulatory Flexibility Analysis (FRFA) was prepared. A copy of this analysis is available from NMFS (see **ADDRESSES**). The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), and a summary of the analyses completed to support the action is included directly below.

The analysis provided in the IRFA is not repeated here in its entirety. The need for, the reasons why action by the agency is being considered, and the

objectives of the action are explained in the supplementary information above, as well as the preambles to the proposed rule and supplemental proposed rule and are not repeated here. Each vessel that is expected to be affected is considered a small business according to the Small Business Administration's revised size standards (79 FR 33647, July 12, 2014). The action is not expected to have a significant or disproportional economic impact on these small business entities.

As discussed in the preamble, the provisions in the rule would apply to commercial fishing vessels that are 24 meters or more in overall length and engaging in fishing activities for tuna or tuna-like species in the IATTC Convention Area, and for which either of the following permits is required: (1) Pacific highly migratory species permit under 50 CFR 660.707, or (2) high seas fishing permit under 50 CFR 300.13. To estimate affected entities, the number of vessels authorized to fish for highly migratory species in the EPO through highly migratory species and high seas fishing permits was considered a reasonable proxy. As of August 2015, approximately 15 vessels did not have VMS units installed and would be subject to the regulations in the final rule. Gear types for U.S. West Coast commercial vessels that would be impacted include purse seine and hook-and-line (*i.e.,* bait and troll/jig).

No public comments specific to the IRFA were received and, therefore, no public comments are addressed in this FRFA. Certain comments with socio-economic implications are addressed in the comment and response section of the preamble, specifically, the response to Comments 1, 2, and 3. As described in responses to Comments 2 and 3, NMFS revised the VMS requirements since the original proposed rule stage. The requirements lessen the burden on fishermen.

Because the action will not have any significant impacts to small entities, there was no need to include additional alternatives that would minimize any disproportionate adverse economic burdens on a substantial number of small entities while achieving the objectives of the action.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the West Coast Region, and the guide will be sent to vessels that hold a Pacific highly migratory species permit and/or a high seas fishing permit for fisheries in the IATTC Convention Area. The guide and this final rule will be available upon request and on the West Coast Region Web site: *http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/highly_migratory_species_rules_req.html.*

Paperwork Reduction Act Collections of Information

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget (OMB) under control number (0648–0690). Public reporting burden for VMS is estimated as an average per individual response for each requirement. The estimated time for initial VMS unit installation is 4 hours. The estimated time to maintain or repair a VMS unit is 1 hour annually. The estimated response time for respondents to prepare and submit activation reports is estimated to be 5 minutes per report. The estimated response time to prepare and submit each on/off report is also 5 minutes. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 300 are amended as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'', add an entry in alphanumeric order for ''300.26'' to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
300.26	–0690
* * * * *	

Title 50—Wildlife and Fisheries

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart C—Eastern Pacific Tuna Fisheries

■ 3. The authority citation for 50 CFR part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.*

■ 4. Section 300.20 is revised to read as follows:

§ 300.20 Purpose and scope.

The regulations in this subpart are issued under the authority of the Tuna Conventions Act of 1950 (Act) and apply to persons and vessels subject to the jurisdiction of the United States.

The regulations implement resolutions of the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of stocks of highly migratory fish resources in the Convention Area.

■ 5. In § 300.21, the definition for ''Convention Area'' is revised and definitions for ''Commercial'', ''Vessel monitoring system (VMS)'', and ''VMS unit'' are added in alphabetical order to read as follows:

§ 300.21 Definitions.

* * * * *

Commercial with respect to commercial fishing, means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce through sale, barter or trade.

* * * * *

Convention Area or *IATTC Convention Area,* means all waters of the eastern Pacific Ocean within the area bounded by the west coast of the Americas and by the following lines: The 50° N. parallel from the coast of North America to its intersection with the 150° W. meridian; the 150° W. meridian to its intersection with the 50° S. parallel; and the 50° S. parallel to its intersection with the coast of South America.

* * * * *

Vessel monitoring system (VMS) means an automated, remote system that provides information about a vessel's identity, location and activity, for the purposes of routine monitoring, control, surveillance and enforcement of area and time restrictions and other fishery management measures.

VMS unit, sometimes known as a ''mobile transmitting unit,'' means a transceiver or communications device, including all hardware and software that is carried and operated on a vessel as part of a VMS.

■ 6. In § 300.24, paragraphs (y) through (bb) are added to read as follows:

§ 300.24 Prohibitions.

* * * * *

(y) Fail to install, activate, or operate a VMS unit as required in § 300.26(c).

(z) In the event of VMS unit failure or interruption; fail to repair or replace a VMS unit; fail to notify the Special-Agent-In-Charge, NOAA Office of Law Enforcement, Pacific Islands Division (or designee); and follow the instructions provided; or otherwise fail to act as provided in § 300.26(c)(4).

(aa) Disable, destroy, damage or operate improperly a VMS unit installed under § 300.26, or attempt to do any of the same, or fail to ensure that its operation is not impeded or interfered with, as provided in § 300.26(e).

(bb) Fail to make a VMS unit installed under § 300.26 or the position data obtained from it available for inspection, as provided in § 300.26 (f) and (g).

■ 7. Section 300.26 is added to subpart C to read as follows:

§ 300.26 Vessel monitoring system (VMS).

(a) *Assistant Director (AD), NOAA Office of Law Enforcement, Pacific Islands Division (or designee) and VMS Helpdesk contact information and business hours.* (1) The contact information for the AD for the purpose of this section: 1845 Wasp Blvd., Building 176, Honolulu, HI 96818; telephone: (808) 725–6100; facsimile: 808–725–6199; email: *pidvms@noaa.gov;* business hours: Monday through Friday, except Federal holidays, 8 a.m. to 4:30 p.m., Hawaii Standard Time.

(2) The contact information for the NOAA Office of Law Enforcement's VMS Helpdesk is telephone: (888) 219–9228, ext. 2; email: *ole.helpdesk@noaa.gov.* The business hours of the VMS Helpdesk are Monday through Friday, except Federal holidays, 7 a.m. to 11 p.m., Eastern Time.

(b) *Applicability.* This section applies to any U.S. commercial fishing vessel that is 24 meters or more in overall length and engaging in fishing activities for tuna or tuna-like species in the Convention Area, and for which either of the following permits is required: Pacific highly migratory species permit under § 660.707, or high seas fishing permit under § 300.13 of this part.

(c) *Provisions for Installation, Activation and Operation*—(1) *VMS Unit Installation.* The vessel owner or operator must obtain and have installed on the fishing vessel, in accordance with instructions provided by the AD and the VMS unit manufacturer, a VMS unit that is type-approved by NOAA for fisheries in the IATTC Convention Area. The vessel owner or operator shall arrange for a NOAA-approved mobile communications service provider to receive and relay transmissions from the VMS unit to NOAA at a default reporting interval of at least once per hour. NOAA, the USCG, and other authorized entities are authorized to receive and relay transmissions from the VMS unit. The NOAA OLE VMS Helpdesk is available to provide instructions for VMS installation and a list of the current type-approved VMS units and mobile communication service providers.

(2) *VMS Unit Activation.* If the VMS unit has not yet been activated as described in this paragraph, or if the VMS unit has been newly installed or reinstalled, or if the mobile communications service provider has changed since the previous activation, or if directed by the AD, the vessel owner or operator must, prior to leaving port:

(i) Turn on the VMS unit to make it operational;

(ii) Submit a written activation report to the AD, via mail, facsimile or email, that includes the vessel's name; the vessel's official number; the VMS unit manufacturer and identification number; and telephone, facsimile or email contact information for the vessel owner or operator; and

(iii) Receive verbal or written confirmation from the AD that the proper VMS unit transmissions are being received from the VMS unit.

(3) *VMS Unit Operation.* The vessel owner and operator shall continuously operate the VMS unit at all times, except that the VMS unit may be shut down while the vessel is in port or otherwise not at sea, or if, after the end of the fishing season, the vessel will no longer be engaging in fishing activities in the Convention Area for which either a Pacific highly migratory species permit or a high seas fishing permit is required, provided that the owner or operator:

(i) Prior to shutting down the VMS unit, reports to the AD or the NOAA Office of Law Enforcement's VMS Helpdesk via facsimile, email, or web-form the following information: The intent to shut down the VMS unit; the vessel's name; the vessel's official number; an estimate for when the vessel's VMS may be turned back on; and telephone, facsimile or email contact information for the vessel owner or operator. In addition, the vessel owner or operator shall receive verbal or written confirmation from the AD before shutting down the VMS unit after the end of the fishing season; and

(ii) When turning the VMS unit back on, report to the AD or the NOAA Office of Law Enforcement's VMS Helpdesk, via mail, facsimile or email, the following information: That the VMS unit has been turned on; the vessel's name; the vessel's official number; and telephone, facsimile or email contact information for the vessel owner or operator; and

(iii) Prior to leaving port, receive verbal or written confirmation from the AD that proper transmissions are being received from the VMS unit.

(4) *Failure of VMS unit.* If the VMS unit has become inoperable or transmission of automatic position reports from the VMS unit has been interrupted, or if notified by NOAA or the USCG that automatic position

reports are not being received from the VMS unit or that an inspection of the VMS unit has revealed a problem with the performance of the VMS unit, the vessel owner or operator shall comply with the following requirements:

(i) If the vessel is at port: The vessel owner or operator shall repair or replace the VMS unit and ensure it is operable before the vessel leaves port.

(ii) If the vessel is at sea: The vessel owner, operator, or designee shall contact the AD by telephone, facsimile, or email at the earliest opportunity during the AD's business hours and identify the caller and vessel. The vessel operator shall follow the instructions provided by the AD which could include, but are not limited to, ceasing fishing, stowing fishing gear, returning to port, and/or submitting periodic position reports at specified intervals by other means; and repair or replace the VMS unit and ensure it is operable before starting the next trip.

(5) *Related VMS Requirements.* Installing, carrying and operating a VMS unit in compliance with the requirements in part 300 of this title, part 660 of this title, or part 665 of this title relating to the installation, carrying, and operation of VMS units shall be deemed to satisfy the requirements of this paragraph (c), provided that the VMS unit is operated continuously and at all times while the vessel is at sea, unless the AD authorizes a VMS unit to be shut down as described in paragraph (c)(3) of this section, the VMS unit and mobile communications service providers are type-approved by NOAA for fisheries in IATTC Convention Area, and the specific requirements of paragraph (c)(4) of this section are followed. If the VMS unit is owned by NOAA, the requirement under paragraph (c)(4) of this section to repair or replace the VMS unit will be the responsibility of NOAA, but the vessel owner and operator shall be responsible for ensuring that the VMS unit is operable before leaving port or starting the next trip.

(d) *Costs.* The vessel owner and operator shall be responsible for all costs associated with the purchase, installation and maintenance of the VMS unit and for all charges levied by the mobile communications service provider as necessary to ensure the transmission of automatic position reports to NOAA as required in paragraph (c) of this section. However, if NOAA is paying for the VMS-associated costs because the VMS unit is carried and operated under a requirement of part 300 of this title, part 660 of this title, or part 665 of this title, the vessel owner and operator shall not be responsible for costs that those regulations specify are the responsibility of NOAA. In addition, NOAA is responsible for the cost of any temporary increase in the default reporting interval to support active enforcement investigations of specific vessels.

(e) *Tampering.* The vessel owner and operator must ensure that the VMS unit is not tampered with, disabled, destroyed, damaged or maintained improperly, and that its operation is not impeded or interfered with.

(f) *Inspection.* The vessel owner and operator must make the VMS unit, including its antenna, connectors and antenna cable, available for inspection by authorized officers.

(g) *Access to data.* The vessel owner and operator must make the vessel's position data obtained from the VMS unit or other means immediately and always available for inspection by NOAA personnel, USCG personnel, and authorized officers.

[FR Doc. 2015–25474 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–22–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1625

3046–AA72

Apprenticeship Programs; Corrections

AGENCY: Equal Employment Opportunity Commission.

ACTION: Correcting amendments.

SUMMARY: The EEOC is correcting a cross-reference in its regulation concerning the procedures for requesting an exemption for apprenticeship programs from the Age Discrimination in Employment Act (ADEA) pursuant to Section 9 of the Act.

DATES: *Effective:* October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Carol R. Miaskoff, Assistant Legal Counsel, at (202) 663–4645 (voice) or Raymond L. Peeler, Senior Attorney-Advisor, at (202) 663–4537 (voice) or (202) 663–7026 (TDD). Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY), or the Publications Information Center at 1–800–669–3362 (toll free).

SUPPLEMENTAL INFORMATION:

Background

In 1996, the Commission issued a regulation finding that apprenticeship programs were covered by the Age Discrimination in Employment Act of 1967 (ADEA),[1] with limited exceptions. One of those exceptions occurs when the EEOC exercises its authority under section 9 of the ADEA to establish reasonable exemptions from the Act's prohibitions on employment discrimination against individuals aged 40 or above.[2] By regulation, the EEOC has approved one exemption for apprenticeship programs created under the Manpower Development and Training Act of 1962 or the Economic Opportunity Act of 1964,[3] and has outlined procedures for stakeholders to request other exemptions from EEOC.[4] The apprenticeship program regulation cross-referenced these agency procedures on how to request an ADEA Section 9 exemption, citing 29 CFR 1627.15.

Need for Correction

When the EEOC most recently exercised its exemption authority on an unrelated matter, in 2007, it also moved the procedures for requesting an exemption to a new section—29 CFR 1625.30. However, the Commission neglected to update the cross-reference in the apprenticeship program regulation to reflect this change. The regulation originally cross-referenced in the apprenticeship program regulation, 29 CFR 1627.15, no longer exists. Therefore, the EEOC replaces the now incorrect reference in 29 CFR 1625.21 with language reflecting the new citation for the agency's procedures for requesting an administrative exemption from ADEA prohibitions—29 CFR 1625.30.

Retrospective Regulatory Review

Although the EEOC's rulemakings on apprenticeship programs and administrative exemptions are not currently a priority for regulatory review, the Commission is taking this action, consistent with the EEOC Plan for Retrospective Analysis of Existing Rules,[5] based on stakeholder input and efforts to enhance clarity in the EEOC's regulations.[6]

[1] 29 U.S.C. 621 *et seq.*

[2] 29 U.S.C. 628.

[3] 29 CFR 1625.31(a).

[4] 29 CFR 1625.30.

[5] A copy of the EEOC's Final Plan for Retrospective Analysis of Existing Regulations is available at *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm* (last visited Oct. 5, 2012).

[6] This error was brought to the EEOC's attention by attorneys inquiring about the procedures for seeking an EEOC exemption from ADEA prohibitions for an apprenticeship program that would build workplace skills for disadvantaged

Continued

Regulatory Procedures

The Commission finds that public notice-and-comment on this rule is unnecessary, because the revision makes no substantive change; it merely corrects an internal cross-referencing error. The rule is therefore exempt from the notice-and-comment requirements of 5 U.S.C. 553(b) under 5 U.S.C. 553(b)(B). This technical correction also is not ''significant'' for purposes of Executive Order 12866, as reaffirmed by E.O. 13563, and therefore is not subject to review by Office of Management and Budget.

Regulatory Analysis

Since this technical correction contains no substantive changes to the law, EEOC certifies that it contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35), it requires no formal cost-benefit analysis pursuant to E.O. 12866, it creates no significant impact on small business entities subject to review under the Regulatory Flexibility Act, and it imposes no new economic burden requiring further analysis under the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This correction is defined as a rule under the Congressional Review Act, but not as a major rule. As a result, it was provided to Congress and the General Accountability Office pursuant to the requirements of 5 U.S.C. 801 as interpreted by Office of Management and Budget Memorandum M–99–13.

List of Subjects in 29 CFR Part 1625

Advertising, Age, Employee benefit plans, Equal employment opportunity, and Retirement.

For the reasons stated in the preamble, the Equal Employment Opportunity Commission amends 29 CFR part 1625 as follows:

PART 1625—AGE DISCRIMINATION IN EMPLOYMENT ACT

■ 1. The authority citation for 29 CFR part 1625 continues to read as follows:

Authority: 29 U.S.C. 621–634; 5 U.S.C. 301; Pub. L. 99–502, 100 Stat. 3342; Secretary's Order No. 10–68; Secretary's Order No. 11–68; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807; Executive Order 12067, 43 FR 28967.

■ 2. Revise § 1625.21 to read as follows:

youth but not be available to older people covered by the ADEA.

§ 1625.21 Apprenticeship programs.

All apprenticeship programs, including those apprenticeship programs created or maintained by joint labor-management organizations, are subject to the prohibitions of sec. 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 623. Age limitations in apprenticeship programs are valid only if excepted under sec. 4(f)(1) of the Act, 29 U.S.C. 623(f)(1), or exempted by the Commission under sec. 9 of the Act, 29 U.S.C. 628, in accordance with the procedures set forth in 29 CFR 1625.30.

For the Commission.

Jenny R. Yang,

Chair.

[FR Doc. 2015–25491 Filed 10–6–15; 8:45 am]

BILLING CODE 6570–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0974, FRL–9935–15–Region 8]

Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Ozone, 2008 Lead, and 2010 NO_2 National Ambient Air Quality Standards; North Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of State Implementation Plan (SIP) revisions from the State of North Dakota to demonstrate the State meets infrastructure requirements of the Clean Air Act (Act, CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for ozone on March 12, 2008; lead (Pb) on October 15, 2008; and nitrogen dioxide (NO_2) on January 22, 2010. Section 110(a) of the CAA requires that each state submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA.

DATES: This rule is effective November 6, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket Identification Number EPA–R08–OAR–2012–0974. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 8, Office of Partnerships and Regulatory Assistance, Air Program, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m.–4:00 p.m., excluding federal holidays. An electronic copy of the State's SIP compilation is also available at *http://www.epa.gov/region8/air/sip.html*.

FOR FURTHER INFORMATION CONTACT: Abby Fulton, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, 303–312–6563, *fulton.abby@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Infrastructure requirements for SIPs are provided in section 110(a)(1) and (2) of the CAA. Section 110(a)(2) lists the specific infrastructure elements that a SIP must contain or satisfy. The elements that are the subject of this action are described in detail in our notice of proposed rulemaking (NPR) published on July 15, 2015 (80 FR 41450).

The NPR proposed approval of North Dakota's submissions with respect to the following CAA section 110(a)(2) infrastructure elements for the 2008 ozone, 2008 Pb, and 2010 NO_2 NAAQS: (A), (B), (C) with respect to minor NSR and PSD requirements, (D)(i)(II) elements 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M); and D(i)(I) elements 1 and 2 for the 2008 Pb and 2010 NO_2 NAAQS. The NPR also proposed approval of element 4 of CAA section 110(a)(2)(D)(i)(II) for the 2006 fine particulate matter ($PM_{2.5}$) NAAQS. EPA will act separately on infrastructure element (D)(i)(I), interstate transport elements 1 and 2 for the 2008 ozone NAAQS. The reasons for our approvals are provided in detail in the NPR.

II. Response to Comments

No comments were received on our July 15, 2015 NPR.

III. Final Action

EPA is approving the following infrastructure elements for the 2008

ozone, 2008 Pb, and 2010 NO_2 NAAQS: CAA 110(a)(2) (A), (B), (C) with respect to minor NSR and PSD requirements, (D)(i)(II) elements 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is approving element 4 of 110(a)(2)(D)(i)(II) for the 2006 $PM_{2.5}$ NAAQS. Finally, EPA is approving D(i)(I) elements 1 and 2 for the 2008 Pb and 2010 NO_2 NAAQS. EPA will act separately on infrastructure element (D)(i)(I), interstate transport elements 1 and 2 for the 2008 ozone NAAQS.[1]

IV. 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 action merely approves relevant state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, Oct. 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, Aug. 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, Feb. 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 7, 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 CAA section 307(b)(2).)

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.

[1] This action also corrects an error to a **Federal Register** citation in our NPR (80 FR 41450, July 15, 2015) on page 41454. The NPR incorrectly cites approval of the State's SIP-approved minor NSR program at 60 FR 43401 rather than the correct citation of 42 FR 26977 (May 26, 1977).

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

Dated: September 21, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

40 CFR part 52 is amended to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart JJ—North Dakota

■ 2. Section 52.1833 is amended by adding paragraph (d) to read as follows:

§ 52.1833 Section 110(a)(2) infrastructure requirements.

* * * * *

(d) EPA is approving the following infrastructure elements for the 2008 ozone, 2008 Pb, and 2010 NO_2 NAAQS: CAA 110(a)(2) (A), (B), (C) with respect to minor NSR and PSD requirements, (D)(i)(II) elements 3 and 4, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is approving element 4 of 110(a)(2)(D)(i)(II) for the 2006 $PM_{2.5}$ NAAQS. Finally, EPA is approving D(i)(I) elements 1 and 2 for the 2008 Pb and 2010 NO_2 NAAQS.

[FR Doc. 2015–25347 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0605; A–1–FRL–9935–31–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Sulfur Content of Fuels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island on June 26, 2014, with supplemental submittals on March 25, 2015 and August 28, 2015. This SIP revision includes a regulation that has been revised to require a lower sulfur content for petroleum-based distillate and residual fuel oils. In addition, outdated provisions in the regulation have been removed. The intended effect of this action is to approve this regulation into the Rhode Island SIP. This action is

being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective December 7, 2015, unless EPA receives adverse comments by November 6, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2014–0605 by one of the following methods:

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

2. *Email: mcconnell.robert@epa.gov.*

3. *Fax:* (617) 918–0046.

4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2014–0605, Bob McConnell, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Bob McConnell, Acting Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109—3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Instructions: Direct your comments to Docket ID No EPA–R01–OAR–2014–0605. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

In addition, copies of the state submittals are also available for public inspection during normal business hours, by appointment at the State Air Agency; Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Anne K. McWilliams, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1697, fax number (617) 918–0697, email *mcwilliams.anne@epa.gov.*

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

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

I. Background and Purpose

In section 169A(a)(1) of the 1977 Amendments to the Clean Air Act (CAA), Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas [1] which impairment results from manmade air pollution.'' Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35714), the Regional Haze Rule. The Regional Haze Rule revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas.

On May 22, 2012, EPA approved Rhode Island's initial Regional Haze plan into the SIP. See 77 FR 30214. As part of the Rhode Island Regional Haze Plan, the Rhode Island Department of Environmental Management (RI DEM) stated that it intended to adopt low-sulfur fuel oil requirements.[2] As discussed in our proposed approval of Rhode Island's Regional Haze Plan, although we encouraged Rhode Island to pursue its stated intention of adopting a low-sulfur fuel oil strategy, this measure was not considered a necessary requirement in order to approve Rhode Island's Regional Haze SIP for the first implementation period. See 77 FR 11798; February 28, 2012.

II. Rhode Island's SIP Revision

On June 26, 2014, with supplemental submittals on March 25, 2015 and August 28, 2015, the RI DEM submitted a SIP revision to EPA. This SIP revision includes Rhode Island's revised Air

[1] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value (44 FR 69122, November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions (42 U.S.C. 7472(a)).

[2] Sulfates play a major role in the formation of Regional Haze in the Northeast. See the Northeast States for Coordinated Air Use Management (NESCAUM) document *Contributions to Regional Haze in the Northeast and Mid-Atlantic United States,* August 2006.

Pollution Control Regulation No. 8, ''Sulfur Content of Fuels,'' (excluding Section 8.7 ''Fuel Supply Shortages'' which was not submitted by the State) effective on June 24, 2014. The amended regulation lowers the allowable limits for the sulfur content of petroleum-based distillate and residual fuel oils and removes some outdated provisions. The outdated provisions pertained to emissions bubbling at facilities, conversion and conservation incentives for fuel switching, and twenty-four hour averaging for demonstrating compliance for coal burning devices. The outdated provisions are described in more detail in the next section.

III. EPA's Evaluation of Rhode Island's SIP Revision

RI DEM Regulation No. 8, ''Sulfur Content of Fuels,'' was previously approved into the Rhode Island SIP on January 8, 1986. See 51 FR 755. The SIP-approved rule states that ''no person shall store for sale, offer for sale, sell or deliver for use in Rhode Island and no person shall use or store high sulfur fuel.'' High sulfur fuel oil is defined in the regulation to be ''any fuel except fuel oil containing more than 0.55 pounds of sulfur per million Btu (British thermal unit) heat release potential or fuel oil containing more than 1.0 percent sulfur by weight.''

The revised rule, effective June 24, 2014, states that no person shall store for sale, offer for sale, sell or deliver for use in Rhode Island and no person shall use any fuel oil having a sulfur content in excess of that in the following table:

Fuel type	Percent by weight	Effective date(s)
Distillate Oil, Biodiesel or Alternative Fuel	0.5% (5000 parts million (ppm))	Current requirement.
Distillate Oil, Biodiesel or Alternative Fuel	0.05% (500 ppm)	July 1, 2014 through June 30, 2018.
Distillate Oil, Biodiesel or Alternative Fuel	0.0015% (15 ppm)	On and after July 1, 2018.
Residual Oil	1.0%	Current requirement.
Residual Oil	0.5%	On and after July 1, 2018.

These sulfur content emission limits are more stringent than the previously required 1% limit. In addition, the revised rule maintains the previously SIP-approved requirement that no person shall store for sale, offer for sale, sell or deliver for use in Rhode Island any solid fossil fuel containing more than 0.55 pounds of sulfur per million Btu heat release potential.

An exemption from the requirements of Regulation No. 8 extends to fuel used in combination with an approved stack cleaning process provided that the emissions from the stack are no greater than if the applicable sulfur content fuel were used, fuel used for fuel blending with ultra-low sulfur fuel to meet the applicable standard, and fuel oil which met the applicable requirements when received for storage in Rhode Island.

In addition, the revised rule does not include three flexibilities allowed in the previously SIP-approved rule. Specifically, the following sections are not included in the revised rule: (1) ''Emission Bubbling,'' whereby a facility with more than one fuel burning device could propose to meet total emission control requirements for a given pollutant through a mix of different control technologies; (2) ''Conversion and Conservation Incentive,'' which allowed the continued use of high sulfur fuel, for up to 30 months, for select facilities, so that monies saved from the price differential between high sulfur fuel and low sulfur fuel could be used to finance the necessary modifications or installation of pollution control needed to meet the low sulfur limits; and (3) ''Sulfur Variability in Coal,'' which established a 24-hour averaging period for demonstrating compliance.

The Clean Air Act (CAA) section 110(*l*) provides that EPA shall not approve any implementation plan revision if it would interfere with any applicable requirement concerning attainment and reasonable progress, or any other applicable requirement of the CAA, *i.e.* demonstrate anti-backsliding. As noted above, the revised rule contains more stringent emission limits than the SIP-approved rule and does not include some of the flexibilities allowed by the SIP-approved rule. Therefore, the anti-backsliding requirements of section 110(*l*) have been met.

EPA has determined that the approval of Rhode Island's revised Regulation No. 8, effective June 24, 2014, as submitted by the State, will strengthen the Rhode Island SIP. Therefore, EPA is approving Rhode Island's June 26, 2014, with supplemental submittals on March 25, 2015 and August 28, 2015, SIP revision.

IV. Final Action

EPA is approving, and incorporating into the Rhode Island SIP, Rhode Island's revised Air Pollution Control Regulation No. 8 ''Sulfur Content of Fuels,'' (excluding Section 8.7 ''Fuel Supply Shortages'' which was not submitted by the State) effective in the State of Rhode Island on June 26, 2014.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective December 7, 2015 without further notice unless the Agency receives relevant adverse comments by November 6, 2015.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 7, 2015 and no further action will be taken on the proposed rule.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 7, 2015 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Rhode Island's Air Pollution Control Regulation No. 8, ''Sulfur Content of Fuels,'' excluding Section 8.7 ''Fuel Supply Shortages,'' as described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 7, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 21, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart OO—Rhode Island

■ 2. In § 52.2070, the table in paragraph (c), ''EPA-Approved Rhode Island Regulations'', is amended by revising the entry for ''Air Pollution Control Regulation 8'' to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED RHODE ISLAND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	* *	* *
Air Pollution Control Regulation 8.	Sulfur Content of Fuels	6/26/2014	10/7/2015 [Insert **Federal Register** citation].	Excluding Section 8.7 "Fuel Supply Shortages" which was not submitted by the State.
*	*	*	* *	* *

* * * * *

[FR Doc. 2015–25334 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0395; FRL–9933–74]

Butanedioic Acid, 2-Methylene-, Homopolymer, Sodium Salt; Inert Ingredient Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of butanedioic acid, 2-methylene-, homopolymer, sodium salt; when used as an inert ingredient in a pesticide chemical formulation. Itaconix Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of butanedioic acid, 2-methylene-, homopolymer, sodium salt on food or feed commodities.

DATES: This regulation is effective October 7, 2015. Objections and requests for hearings must be received on or before December 7, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0395, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl*.

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0395 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 7, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2015–0395, by one of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

II. Background and Statutory Findings

In the **Federal Register** of July 17, 2015 (80 FR 42462) (FRL–9929–13), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide

petition (PP IN–10818) filed by Itaconix Corporation, 2 Marin Way, Stratham, NH 03885. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of butanedioic acid, 2-methylene-, homopolymer, sodium salt; CAS Reg. No. 26099–89–8. That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Butanedioic acid, 2-methylene-, homopolymer, sodium salt conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 3936 is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, butanedioic acid, 2-methylene-, homopolymer, sodium salt meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to butanedioic acid, 2-methylene-, homopolymer, sodium salt.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that butanedioic acid, 2-methylene-, homopolymer, sodium salt could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of butanedioic acid, 2-methylene-, homopolymer, sodium salt is 3936 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since butanedioic acid, 2-methylene-, homopolymer, sodium salt conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found butanedioic acid, 2-methylene-, homopolymer, sodium salt to share a common mechanism of toxicity with any other substances, and butanedioic acid, 2-methylene-, homopolymer, sodium salt does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that butanedioic acid, 2-methylene-, homopolymer, sodium salt does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an

additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of butanedioic acid, 2-methylene-, homopolymer, sodium salt, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of butanedioic acid, 2-methylene-, homopolymer, sodium salt.

VIII. Other Considerations

A. Existing Exemptions From a Tolerance

Not Available.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for butanedioic acid, 2-methylene-, homopolymer, sodium salt.

IX. Conclusion

Accordingly, EPA finds that exempting residues of butanedioic acid, 2-methylene-, homopolymer, sodium salt from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 17, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, alphabetically add ''Butanedioic acid, 2-methylene-, homopolymer, sodium salt, minimum number average molecular weight (in amu), 3936'' to the table to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * * *	
Butanedioic acid, 2-methylene-, homopolymer, sodium salt, minimum number average molecular weight (in amu), 3936	26099–89–8
* * * * *	

[FR Doc. 2015–25567 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 12

[PS Docket No. 13–75; PS Docket No. 11–60; FCC 15–95]

Improving 911 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Federal Communications Commission (Commission) clarifies annual reliability certification requirements for Covered 911 Service Providers in response to a Petition for Reconsideration. Specifically, the Commission clarifies that Covered 911 Service Providers may implement and certify an alternative measure for any of the elements specified in the certification as long as they provide an explanation of how such alternative measures are reasonably sufficient to mitigate the risk of failure. This clarification provides flexibility for Covered 911 Service Providers, including those with Internet protocol (IP)-based networks, to certify alternative measures in lieu of diversity audits and tagging of critical 911 circuits as long as they explain how such alternatives will mitigate risk at least to a comparable extent as the measures specified in the Commission's rules.

DATES: Effective November 6, 2015.

FOR FURTHER INFORMATION CONTACT: Eric P. Schmidt, Attorney Advisor, Public Safety and Homeland Security Bureau, (202) 418–1214 or *eric.schmidt@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order on Reconsideration* in PS Docket No. 13–75 and PS Docket No. 11–60, released on July 30, 2015. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, or online at *https://www.fcc.gov/document/911-reliability-certification-order-reconsideration.*

Synopsis of Order on Reconsideration

I. Introduction

1. In December 2013, the Commission adopted rules requiring 911 communications providers to take reasonable measures to provide reliable service, as evidenced by an annual certification.[1] Covered entities must certify whether they have implemented specified best practices or reasonable alternative measures with respect to critical 911 circuit diversity, central office backup power, and diverse network monitoring. These rules responded to significant, but avoidable, vulnerabilities in 911 network architecture, maintenance, and operation revealed during a June 2012 derecho storm that left 3.6 million people in six states without 911 service for several hours to several days. In light of these preventable failures, the Commission determined that the discharge of its statutory responsibility for promoting the safety of life and property no longer justifies relying solely on the implementation of key best practices on a voluntary basis. The Commission added, however, that its adoption of a mandatory certification process seeks to maximize flexibility and account for differences in network architectures without sacrificing 911 service reliability.

2. In this *Order on Reconsideration,* the Commission revises its rules to clarify certain 911 reliability certification requirements in response to a ''Motion for Clarification or, in the Alternative, Petition for Partial Reconsideration'' filed by Intrado, Inc.[2] In so doing, we rely on two guiding principles from the *911 Reliability Order.* First, ensuring reliability of 911 service is a critical aspect of our statutory mandate to act for the purpose of promoting safety of life and property. Second, while all Americans have an expectation of reliable 911 service, appropriate actions to improve and maintain reliability may vary by service provider and location.

3. Specifically, we clarify that under section 12.4 of the Commission's rules, Covered 911 Service Providers may implement and certify an alternative measure for *any* of the specific certification elements, as long as they provide an explanation of how such alternative measures are reasonably sufficient to mitigate the risk of failure. We believe that this should include an explanation of how the alternative will mitigate such risk at least to a comparable extent as the measures specified in our rules. While it may be possible that an alternative measure that cannot be shown to be comparable in reducing the risk of failure could be deemed reasonably sufficient in a particular case, a provider advancing such an alternative measure will face a heavy burden in demonstrating why comparability cannot be achieved, how the risk of failure has been reduced, and why, given the level to which the risk has been reduced, the measure taken to achieve this result should be regarded as reasonably sufficient to address the vulnerabilities at issue. Accordingly, we revise our rules to eliminate ambiguities arising from the instructions in sections 12.4(c)(1)(ii) and 12.4(c)(3)(ii) for making the alternative certification for the circuit auditing and network monitoring requirements, respectively.

II. Background

A. 911 Reliability Order

4. The 911 Reliability Order adopted section 12.4 of our rules, which defines the scope of Covered 911 Service Providers and sets forth the elements for an annual certification requirement with respect to circuit auditing, backup power, and network monitoring. As pertinent here, under the circuit auditing portion of the certification, the elements specified by the rules require Covered 911 Service Providers to certify annually whether they have (1) audited the physical diversity of critical 911 circuits or equivalent data paths to any public safety answering point (PSAP) served, (2) tagged such circuits to reduce the probability of inadvertent loss of diversity between audits, and (3) eliminated all single points of failure in critical 911 circuits or equivalent data paths serving each PSAP. If a Covered 911 Service Provider has not implemented the third element (*i.e.,* the elimination of all single points of failure), it must certify whether it has taken alternative measures to mitigate the risk of critical 911 circuits that are not physically diverse or is taking steps to remediate any issues that it has identified with respect to 911 service to the PSAP. Respondents also may certify that the circuit auditing requirement is not applicable because they do not operate any critical 911 circuits. The network monitoring portion of the overarching certification requirement contains a similar approach with respect to its elements (*i.e.,* conducting audits of aggregation points for gathering network monitoring data, conducting audits of monitoring links, and implementing physically diverse aggregation points and links). The backup power portion of the certification—which is not at issue here—requires Covered 911 Service

[1] *Improving 911 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies,* PS Docket Nos. 13–75, 11–60, Report and Order, 28 FCC Rcd 17476 (2013), *available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db1212/FCC-13-158A1.pdf* (*911 Reliability Order*).

[2] Intrado, Inc., Motion for Clarification or, in the Alternative, Petition for Partial Reconsideration, PS Docket Nos. 13–75, 11–60 (Feb. 18, 2014) (*Intrado Petition*).

Providers to indicate whether they provide at least 24 hours of backup power at any central office that directly serves a PSAP or at least 72 hours at any central office that hosts a selective router, and whether they have implemented certain design and testing procedures for backup power equipment.

5. The elements that comprise these certification requirements are designed to reinforce the core responsibility imposed by section 12.4(b) of our rules, which is to take reasonable measures to provide reliable 911 service with respect to circuit diversity, central-office backup power, and diverse network monitoring. Section 12.4(b) provides, however, that ''[i]f a Covered 911 Service Provider cannot certify that it has performed a given element, the Commission may determine that such provider nevertheless satisfies the requirements of this subsection (b) based upon a showing in accordance with subsection (c) that it is taking alternative measures with respect to that element that are reasonably sufficient to mitigate the risk of failure, or that one or more certification elements are not applicable to its network.'' The Commission intended this certification approach to be more flexible than uniform standards, while providing assurance to PSAPs and the public that known vulnerabilities in 911 networks will be identified and corrected promptly.

B. Intrado Petition

6. The *Intrado Petition* seeks clarification or reconsideration of certification requirements under sections 12.4(c)(1) and 12.4(c)(3) to the extent that they would require all Covered 911 Service Providers to audit and tag 911 circuits, and audit network monitoring links, without the option of certifying reasonable alternative measures in lieu thereof. Intrado, which provides services such as call routing and location information over an Internet protocol (IP)-based network, argues that ''[a]uditing and tagging are concepts derived from the traditional 911 architecture of the [incumbent local exchange carriers (ILECs)], where the ILEC 911 service provider presumably controls the physical path of the circuit from the selective router to the serving wire center and knows whether it is diverse at any given moment.'' Intrado's network, by contrast, ''disperses critical functions into geographically diverse and redundant locations and uses dual paths and different network providers to transmit its Critical 911 Circuits.''

7. Intrado observes that the structure and numbering of section 12.4(c) can be interpreted to require that *all* Covered 911 Service Providers must audit and tag critical 911 circuits and audit network monitoring links, and may rely on alternative measures only with respect to eliminating single points of failure in those facilities. Read in isolation, certain statements in the *911 Reliability Order* may also suggest that the option of certifying alternative measures applies only to remedial actions—*i.e.,* how to cure an absence of complete physical diversity identified through audits and tagging. Intrado argues that this interpretation would appear inconsistent with section 12.4(b), which provides that if a Covered 911 Service Provider ''cannot certify that it has performed *a given element,''* it may nevertheless satisfy the ''reasonable measures'' requirement through a certification of alternative measures.

8. Intrado argues that two issues may prevent it and other IP-based providers from being able to audit and certify the precise path of their circuits or equivalent data paths for 911 call traffic at any given time. First, ''the underlying carriers could conflate their respective physical paths so that they are combined on one of their networks or on the network of a third-party carrier for one or more segments,'' in which case ''Intrado has no way of ensuring that the underlying provider informs Intrado if such conflation occurs.'' Second, ''a significant portion of Intrado's facilities rely on multiprotocol label switching (MPLS) technology, which does not permit the underlying provider—let alone Intrado—to track its circuit path at any given moment.''

9. Intrado cites the apparent conflict between sections 12.4(b) and 12.4(c) as a basis for requesting clarification of those rules such that ''[p]roviders may take reasonable alternative measures to meet the Commission's standards in lieu of implementing *any* of the best practices adopted by the Order.'' It adds that ''[t]his would include confirming that Providers may take reasonable alternative measures instead of conducting Diversity Audits, tagging Critical 911 Circuits, or auditing Monitoring Links.'' Intrado argues that ''a narrow interpretation of the rules could require Providers to focus on form over substance and divert resources away from implementing innovative alternative measures that improve network reliability to focus on complying with a 'one-size-fits-all' certification obligation.''

C. Comments

10. In response, the Commission received one comment and one reply comment, both in support of Intrado's position. Texas 911 Entities ''support[s] the Commission . . . providing additional clarification or interpretation regarding the Order in the context of more modern 9–1–1 network designs,'' including MPLS networks and situations ''where the network provided by a subcontractor or commercial vendor may be one component of a larger governmental entity solution.'' AT&T ''fully supports the *Intrado Petition* as a broad request for clarification and reconsideration of the *911 Reliability Order* and accompanying proposed rules'' but argues that any relief should extend to ''all Covered 911 Service Providers,'' not just to IP-based providers similarly situated to Intrado.

III. Discussion

A. Network Reliability During the Transition to Next Generation 911 (NG911)

11. We first clarify that the certification framework adopted in the *911 Reliability Order* was intended to allow flexibility for all Covered 911 Service Providers to rely on reasonable alternative measures in lieu of any given element of the certification set forth in section 12.4(c). The overarching purpose of the certification, including the attestation of a responsible corporate officer, is to hold service providers accountable for decisions affecting 911 reliability. We agree with Intrado that ''[t]he Commission did not intend the certification process to be prescriptive, but adopted a certification mechanism that provides Covered 911 Service Providers with flexibility and a means of demonstrating that they are taking reasonable measures to ensure the reliability of their 911 service.'' Inflexible insistence on specified actions as part of each certification despite technical considerations that show those actions may not be appropriate in all cases would undermine this principle of flexibility without advancing the Commission's goal of improving 911 reliability.

12. Moreover, flexibility is essential to support and encourage the transition to NG911. In the *911 Reliability Order,* the Commission stated that ''we intend today's rules to apply to current 911 networks, as well as NG911 networks to the extent they provide functionally equivalent capabilities to PSAPs.'' At that time, the Commission was ''not persuaded that NG911 technologies have evolved to the point that reliability certification rules should apply to entities beyond those that offer core services functionally equivalent to current 911 and E911 capabilities'' but it noted that it may ''revisit this

distinction in the future as technology evolves.'' Accordingly, the *911 Reliability Order* contemplated a review of the certification rules in five years, noting that such a review should ''include consideration of whether [the rules] should be revised or expanded to cover new best practices or additional entities that provide NG911 capabilities, or in light of our understanding about how NG911 networks may differ from legacy 911 service.''

13. Events since the adoption of the *911 Reliability Order* have underscored that the NG911 transition is well underway in many parts of the Nation.[3] In recognition of this transition, the Commission intended its 911 reliability rules to be technology-neutral and made clear that functionally equivalent 911 capabilities should be treated consistently for purposes of the certification. We reaffirm that principle here. Accordingly, we do not intend to create disparate certification standards for IP-based providers, or to discourage the implementation of NG911 by imposing certification requirements that would not be appropriate for IP-based networks. Rather, we clarify that the certification framework adopted in the *911 Reliability Order* allows flexibility for all Covered 911 Service Providers—legacy and IP-based—to certify reasonable alternative measures to mitigate the risk of failure in lieu of specified certification elements, and we amend our rules to eliminate any ambiguity on this point. In keeping with the Commission's statement in the *911 Reliability Order* that reliability certification requirements should be ''consistent with current best practices but also flexible enough to account for differences in 911 and NG911 networks,'' we believe that our implementation of the certification should be guided by these same principles.

14. To be clear, this flexibility is limited by the substantive standard in Section 12.4(b) of requiring ''reasonable measures'' to provide reliable 911 service, and is not an invitation for any Covered 911 Service Provider to avoid certification obligations. As provided in the *911 Reliability Order,* if a Covered 911 Service Provider certifies that it has taken alternative measures to mitigate the risk of failure, or that a certification element is not applicable to its network, its certification is subject to a more detailed Bureau review. If the Bureau's review indicates that a provider's alternative measures are not reasonably sufficient to ensure reliable 911 service, the Bureau should first engage with the provider and other interested stakeholders (*e.g.,* affected PSAPs) to address any shortcomings. To the extent that such a collaborative process does not yield satisfactory results, the Bureau may order remedial action consistent with its delegated authority. We intend this process to allow flexibility to employ alternative—but reliable—network designs and technologies, not to create an exception that would swallow the rule.

B. Clarification of Certification Requirements

1. Circuit Auditing

15. We clarify that Covered 911 Service Providers responding to the circuit auditing portion of the certification under section 12.4(c)(1) may certify their implementation of reasonable alternative measures in lieu of auditing and tagging critical 911 circuits, provided that they include an explanation of such alternative measures and why they are reasonable under the circumstances. Accordingly, we amend section 12.4(c)(1)(ii) to make clear that this option applies to all of the elements of section 12.4(c)(1)(i) and not just subsection 12.4(c)(1)(i)(C).

16. The circuit auditing requirement adopted in the *911 Reliability Order* was based upon a CSRIC best practice urging network operators to ''periodically audit the physical and logical diversity called for by network design of their network segment(s) and take appropriate measures as needed.'' As Intrado argues, however, appropriate measures to preserve physical and logical diversity may differ between circuit-switched time division multiplexing (TDM) and IP-based networks because IP-based routing and, in the event of an outage, re-routing can occur dynamically over many possible paths. Further, as the Texas 911 Entities observe, ''the ability of an underlying MPLS technology provider to track its circuit paths at any given moment may not be technically feasible, or what the Commission intended in the context of that technology.'' As discussed above, the certification process is intended to be flexible to account for these types of technical considerations and to allow for alternative measures where appropriate. Our assessment of whether such measures are reasonably sufficient to mitigate the risk of failure may be informed by, but not limited to, the question whether the measures specified in our rules are technically feasible.

17. As the *Intrado Petition* acknowledges, the option to certify alternative measures allows the Commission to ''maintain oversight because Providers would still be required to disclose to the agency what steps were taken to accomplish these reliability goals.'' Such information will help demonstrate whether the alternative measures chosen by the Covered 911 Service Provider constitute a reasonable approach for addressing the risks that the circuit auditing and tagging elements are designed to ameliorate. While technical infeasibility is not a prerequisite to the use of alternative measures, explanations of alternative measures with respect to circuit audits and tagging should nevertheless include an assessment of the technical feasibility of circuit audits and tagging in light of the respondent's network architecture. We also expect such explanations to describe affirmative steps in lieu of audits and tagging to mitigate the risk of a service disruption due to a lack of physical diversity; we will not consider it sufficient or reasonable to respond that no circuit diversity measures are necessary under the circumstances. Technology transitions have already resulted in a variety of hybrid 911 network architectures in which some functions are provided over legacy TDM circuits and others are provided over IP-based infrastructure. In such cases, our rules as revised will permit the provider to certify reasonable alternative measures with respect to either portion of the network.

18. The *Intrado Petition* also reflects a shift in 911 network architecture from facilities owned and operated by a single provider to a combination of network transport and data processing elements that may be provided by multiple entities. Intrado states that ''in contrast to legacy ILEC providers that own and control the transport facilities over which 911 calls and data are transported, Intrado procures transport services for the delivery of 911 calls and for ALI/ANI from third party transport providers.'' Our rules as revised in this *Order on Reconsideration* will account for such arrangements while preserving accountability for reliable service. The *911 Reliability Order* briefly addressed auditing of critical 911 circuits leased

[3] *See 911 Governance and Accountability; Improving 911 Reliability,* PS Docket Nos. 14–193 and 13–75, Policy Statement and Notice of Proposed Rulemaking, 29 FCC Rcd 14208 (2014), *available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-14-186A1.pdf* (*911 Governance NPRM*). Among other things, the *911 Governance NPRM* proposed to adopt additional certification requirements for NG911 providers regarding software and database configuration and testing, as well as situational awareness and information sharing. We do not address those proposals here and emphasize that our response to the *Intrado Petition* is limited to clarification of existing certification obligations adopted in the *911 Reliability Order.*

from third parties, stating that ''[i]n cases where a party provides 911 services directly to a PSAP (pursuant to contract or tariff) over leased facilities, the auditing obligation would apply to that party, and not to the facilities lessor.'' The Commission also suggested that Covered 911 Service Providers could contract with facilities lessors, if necessary, to audit and tag leased circuits, but that the entity providing 911 service under a direct contractual relationship with each PSAP would remain responsible for certifying compliance with those requirements. We reaffirm those principles here, but clarify that Covered 911 Service Providers (*i.e.,* the entities with direct contractual relationships with PSAPs) that rely on such contracts may implement and certify reasonable alternative measures as set forth above. We emphasize, however, that the contracting out of certain functions, or the determination of a PSAP to contract with more than one entity for various aspects of 911 service, does not absolve individual entities of their respective obligations for reliable 911 service. While respondents may certify reasonable alternative measures to mitigate the risk of failure due to insufficient physical diversity of leased circuits, we will not consider it reasonable or sufficient to indicate that such circuits are not a Covered 911 Service Provider's responsibility because they belong to a third party.

19. Where Covered 911 Service Providers are leasing or subcontracting for critical 911 circuits, the Commission's assessment of whether alternative measures in lieu of circuit audits or tagging are reasonable under the circumstances will be informed, in part, by certification responses identifying the parties involved, as well as details about the contractual provisions—or lack thereof—governing such relationships. For example, do IP-based Covered 911 Service Providers increase the diversity of their networks by dividing traffic among two different MPLS service providers? In cases where a PSAP depends on IP network access for its 911 services, Covered 911 Service Providers might also promote reliability of each PSAP's IP network access by ordering redundant access for the PSAP from multiple providers (such as ILEC, cable, and wireless providers). In addition, for cases where MPLS is used to provide 911 services, MPLS service level agreements, reliability objectives, and remedies specified for failure to meet such requirements and/or objectives may also ensure accountability for reliable service. We will expect Covered 911 Service Providers that provide critical 911 circuits to PSAPs in partnership with other service providers or that share responsibility for circuit diversity with another service provider to include a description of such arrangements and the identity of such third parties as part of their explanation of alternative measures. Descriptions of alternative measures may also include references to any services provided under contract where circuit diversity is not expressly defined, but is instead achieved through a service level agreement providing comparable assurances of resiliency. These and other affirmative steps, in lieu of circuit audits and tagging, may demonstrate reasonable measures to provide reliable service, depending on individual circumstances, while improving the Commission's situational awareness regarding NG911 deployment and resiliency. Explanations submitted through the annual certification process will have the added benefit of providing the Commission with up-to-date, empirical information about the transition to NG911 throughout the Nation.

2. Network Monitoring

20. Finally, and for the reasons discussed above, we clarify that Covered 911 Service Providers responding to the network monitoring portion of the certification under section 12.4(c)(3) may certify their implementation of reasonable alternative measures in lieu of conducting diversity audits of monitoring links and aggregation points for network monitoring data, provided that they include an explanation of such alternative measures and why they are reasonable under the circumstances. Accordingly, we amend the text of section 12.4(c)(3)(ii) to make clear that this option applies to all of the elements of section 12.4(c)(3)(i) and not just subsection 12.4(c)(3)(i)(C).

21. Intrado argues that ''[b]ased on the text of the [*911 Reliability Order*], it appears that the Commission intended to permit Providers either to implement . . . best practices or take reasonable alternative measures with respect to . . . network monitoring elements, just as Providers may do for backup power.'' We agree. As the Commission observed in the *911 Reliability Order,* ''it is a sound engineering practice to design network monitoring architectures with visibility into the network through physically diverse aggregation points and monitoring links interconnecting to [network operations centers (NOCs)] to help avoid single points of failure.'' This requirement was based, however, on a CSRIC best practice recommending more generally that network operators ''should monitor their network to enable quick response to network issues.'' Intrado argues that ''it would be exceedingly difficult and may not be possible in all cases'' for an IP-based service provider to ''audit its Monitoring Links as those functions are defined in the Commission's rules'' without the option of certifying reasonable alternative measures. At least one other commenter in the 911 reliability proceeding indicated plans to route network monitoring traffic on a more resilient IP-enabled network, suggesting that many of the same technical limitations on circuit auditing discussed above with respect to critical 911 circuits may also extend to network monitoring facilities. We therefore amend our rules to clarify that the certification framework allows flexibility for Covered 911 Service Providers to implement and certify alternative measures, as long as they demonstrate that those alternative measures are reasonably sufficient under the circumstances to mitigate the risk of a network monitoring failure as set forth above.

IV. Procedural Matters

A. Paperwork Reduction Act

22. This document contains a non-substantive and non-material modification of information collection requirements that were previously reviewed and approved by the Office of Management and Budget (OMB) under OMB Control No. 3060–1202. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

23. In this present document, we have assessed the effects of various requirements adopted in the *911 Reliability Order* and clarified the effect of certain recordkeeping, retention, and reporting requirements for Covered 911 Service Providers. We find that these actions are in the public interest because they reduce the burdens of these recordkeeping, retention, and reporting requirements without undermining the goals and objectives behind the requirements. The amendments we adopt today will reduce the burden on businesses with fewer than 25 employees.

B. Supplemental Final Regulatory Flexibility Analysis

24. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared the following Supplemental Final Regulatory Flexibility Analysis (FRFA) relating to this *Order on Reconsideration.* As discussed in the initial FRFA in this proceeding, the Commission sought comment on alternatives for small entities including: (1) The establishment of different compliance and reporting requirements; (2) clarification, consolidation, or simplification of compliance or reporting requirements for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. As the Commission stated in the FRFA, ''[w]hile we acknowledge that small or rural service providers may have limited resources or operate in remote areas, 911 is no less a critical public service in any part of the nation, and we decline to establish two tiers of 911 reliability based on economics or geography.'' Accordingly, we intend our 911 reliability certification requirements—including the clarifications set forth in this *Order on Reconsideration*—to apply to all Covered 911 Service Providers without exceptions based on size or location, and we also decline to create a specific waiver procedure for entities to seek exemption from the rules.

25. That said, the Commission's certification approach to 911 reliability continues to ''allow[ ] flexibility for small or rural providers to comply with our rules in the manner most appropriate for their networks, and certain requirements will, by their nature, only apply to larger providers.'' In contrast to more prescriptive reliability requirements, the option to certify reasonable alternative measures in lieu of specified best practices minimizes regulatory burdens on small entities by recognizing a variety of acceptable approaches to providing reliable 911 service. If anything, the clarifications provided above offer additional flexibility to small entities by making clear that they may certify reasonable alternative measures in lieu of circuit audits and tagging depending on their individual circumstances and network architecture. Thus, the rules as clarified in this *Order on Reconsideration* continue to take into account the unique interests of small entities as required by the RFA.

C. Congressional Review Act

26. The Commission will send a copy of this *Order on Reconsideration* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

V. Ordering Clauses

27. Accordingly, *it is ordered,* pursuant to sections 1, 4(i), 4(j), 4(o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 405, 615a–1, and 615c of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j) & (o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 405, 615a–1, and 615c, and sections 1.108 and 1.429 of the Commission's rules, 47 CFR 1.1, 1.429, that this Order on Reconsideration *is adopted.*

28. *It is further ordered* that Part 12 of the Commission's rules, 47 CFR part 12, *is amended* as set forth in the Appendix, and that such rule amendments *shall be effective* 30 days after publication in the **Federal Register**.

29. *It is further ordered* that the Motion for Clarification or, in the Alternative, Petition for Partial Reconsideration of Intrado, Inc., *is granted* to the extent described herein.

30. *It is further ordered* that the Commission *shall send* a copy of this Order on Reconsideration to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

31. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

List of Subjects in 47 CFR part 12

Resiliency, Redundancy and Reliability of Communications.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 12 as follows:

PART 12—RESILIENCY, REDUNDANCY, AND RELIABILITY OF COMMUNICATIONS

■ 1. The authority citation for part 12 is revised to read as follows:

Authority: Sections 1, 4(i), 4(j), 4(o), 5(c), 201(b), 214(d), 218, 219, 251(e)(3), 301, 303(b), 303(g), 303(j), 303(r), 307, 309(a), 316, 332, 403, 405, 615a-1, 615c, 621(b)(3), and 621(d) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154 (j), 154 (o), 155(c), 201(b), 214(d), 218, 219, 251(e)(3), 301, 303(b), 303(g), 303(j), 303(r), 307, 309(a), 316, 332, 403, 405, 615a-1, 615c, 621(b)(3), and 621(d) unless otherwise noted.

■ 2. Amend § 12.4 by revising paragraphs (c)(1)(ii) introductory text and (c)(3)(ii) introductory text to read as follows:

§ 12.4 Reliability of covered 911 service providers.

* * * * *

(c) * * *

(1) * * *

(ii) If a Covered 911 Service Provider does not conform with all of the elements in paragraph (c)(1)(i) of this section with respect to the 911 service provided to one or more PSAPs, it must certify with respect to each such PSAP:

* * * * *

(3) * * *

(ii) If a Covered 911 Service Provider does not conform with all of the elements in paragraph (c)(3)(i) of this section, it must certify with respect to each such 911 Service Area:

* * * * *

[FR Doc. 2015–25459 Filed 10–6–15; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1823, 1846, and 1852

RIN 2700–AE17

NASA Federal Acquisition Regulation Supplement: Drug- and Alcohol-Free Workforce and Mission Critical Systems Personnel Reliability Program (NFS Case 2015–N002)

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is issuing a final rule amending the NASA FAR Supplement (NFS) to remove requirements related to the discontinued Space Flight Mission Critical Systems Personnel Reliability Program and to revise requirements related to contractor drug and alcohol testing.

DATES: Effective November 6, 2015.

FOR FURTHER INFORMATION CONTACT: Marilyn Chambers, NASA, Office of Procurement, email: *Marilyn.Chambers@nasa.gov*, or 202–358–5154.

SUPPLEMENTARY INFORMATION:

I. Background

The revision to this rule is part of NASA's retrospective plan under Executive Order (EO) 13563 completed in August 2011. NASA published a proposed rule in the **Federal Register** at 80 FR 26519 on May 8, 2015, to amend the NASA FAR Supplement (NFS) to remove 1846.370, NASA contract clauses, and the related clause at 1852.246–70, Mission Critical Space System Personnel Reliability Program. Additionally, Subpart 1823.5, Drug-Free Workplace, and the associated clause at 1852.223–74, Drug- and Alcohol-Free Workforce are amended to make revisions related to the removal of the Mission Critical Space System Personnel Reliability Program and also to clarify and update the clause and its prescription. One respondent submitted public comments on the proposed rule.

II. Discussion and Analysis

NASA has reviewed the public comment submitted in the development of the final rule. A discussion of the comments and the changes made as a result of those comments is provided, as follows:

A. Changes

There is one minor change made in the final rule in response to the public comment received.

B. Analysis of Public Comment

One respondent submitted five comments.

Comment: The respondent found the policy on the use of a controlled substance to be extremely limited and with additional monitoring requirements to ensure proper monitoring or assignment to a less critical position during the term of usage.

Response: The policy on the use of a controlled substance has not been changed in this rule. It permits the use of such substances when a doctor prescribes their use or for other uses authorized by law.

Comment: The respondent recommended referencing Appendix C, in addition to Appendices A and B of NASA Procedural Requirements (NPR) 3792.1, NASA's Plan for a Drug Free Workplace, for use as a guide for contractors to use when determining if an employee is in a sensitive position and subject to drug and alcohol testing. Appendix C of the Procedural Requirements provides the most detailed guidance, and should be included in the revised section. Additionally, the respondent stated that contractors should be required to follow the NPR and not use the NPR as guidance only.

Response: NASA agrees the policy should have referenced Appendix C, NASA Guidelines for Determining Testing Designated Positions (TDPs) Subject to Random Drug Testing, of NPR 3792.1. To avoid future errors when the NPR is updated resulting in changes to specific appendices, 1852.223–74 Drug- and alcohol-free workforce, paragraph (b)(2), is revised to generically reference the guidance on designating TDP contained in the NPR rather than referencing a specific appendix. While the guidance on designating TDP is helpful information for contractors, the NPR is a NASA-internal policy, which applies only to NASA civil servants. Therefore, contractors must make TDP determinations for their employees as part of complying with the requirements set forth in NFS 1852.223–17.

Comment: The respondent recommended that the list of substances tested for be updated a minimum of every six months or as necessary.

Response: The NASA drug testing program in this rule follows the ''Mandatory Guidelines for Federal Workplace Drug Testing Programs'' published by the Department of Health and Human Services, 73 FR 71858, and the procedures in 49 CFR part 40, ''Procedures for Transportation Workplace Drug and Alcohol Testing Programs.'' These regulations list which substances will be tested for. Changes to these regulations are outside the scope of this rule.

Comment: The respondent recommends a variety of changes to the post-accident drug testing requirements of the rule, including expanding it to when there is any injury or property damage over $500; requiring the contractor always submit post-accident drug test results and requiring identification of the individual tested to the Government. Additionally, the respondent recommends hair follicle testing in lieu of urine testing.

Response: NASA does not concur with these recommended changes. The requirements for post-accident drug testing in the rule were thoughtfully considered to balance the seriousness of the accident, the contributing factors, the privacy of individuals tested, and the burden to contractors in conducting drug tests. The method of testing, *i.e.,* hair follicle versus urine, is determined by the Department of Health and Human Services and Department of Transportation regulations referenced previously.

Comment: The respondent recommends that the rule include a requirement for a drug-free workplace policy with the following components: A written policy, access to employee assistance, employee education, supervisor training, and drug testing.

Response: This rule sets forth NASA's contractor drug testing policy, based on Department of Health and Human Services and Department of Transportation regulations referenced previously. The other elements listed are required under the Federal Acquisition Regulation clause at 52.223–6, Drug-Free Workplace.

III. Executive Orders 12866 and 13563

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

IV. Regulatory Flexibility Act

NASA has prepared a Final Regulatory Flexibility Analysis consistent with the Regulatory Flexibility Act (FRFA), 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule is necessary to amend the NASA FAR Supplement (NFS) to remove requirements related to the Mission Critical Space System Personnel Reliability Program, which was discontinued effective April 8, 2014. The NFS contained a clause at 1852.246–70, Mission Critical Space System Personnel Reliability Program, which implemented the requirements of the Program on NASA contracts involving critical positions designated in accordance with 14 CFR 1214.5, Mission Critical Space System Personnel Reliability Program. With the discontinuance of the Program, the clause is no longer necessary and is removed.

Removal of the NFS clause at 1852.246–70 necessitated changes to the prescription at NFS 1823.570–2, Contract clause and to the clause at 1852.223–74, Drug- and Alcohol-Free

Workforce. The NFS clause at 1852.223–74 directed the inclusion of the Drug- and Alcohol-Free Workforce clause at 1852.223–74 in all solicitations and contracts containing the clause at 1852.246–70, Mission Critical Space Systems Personnel Reliability Program. Because NASA's contractor drug and alcohol testing requirements are based on the statutory requirements of the Civil Space Employee Testing Act of 1991, Public Law 102–195, sec. 21, 105 Stat. 1616 to 1619, the terms ''mission critical space systems'' and ''mission critical positions/duties,'' used in the Act, and previously used in the Program, were carried over to the drug and alcohol testing clause as a point of reference for defining contract personnel and contract functions which come under the civil space employee testing requirements. Other revisions to correct and clarify the requirements in 1852.223–74, Drug- and Alcohol-Free Workforce, include—

- Moving the guidance on the use of a controlled substance from the definition to a separate paragraph;
- Referencing NASA Procedural Requirements (NPR) 3792.1, NASA's Plan for a Drug Free Workplace, on ''Testing Designated Positions'' (TDPs) for federal employees, as a guide for contractors to use when designating ''sensitive'' positions;
- Updating outdated references to the Mandatory Guidelines for Federal Workplace Drug Testing Programs, published by the Department of Health and Human Services and Department of Transportation's procedures at 49 CFR part 40 and updating the list of drugs required to be tested in accordance with the Mandatory Guidelines for Federal Workplace Drug Testing Programs; and
- Clarifying that post-accident testing is required when the contractor determines the employee's actions are reasonably suspected of having caused or contributed to an accident resulting in death or personal injury requiring immediate hospitalization or damage to Government or private property estimated to exceed $20,000 and that the contracting officer may request the results of this post-accident testing.

The rule does not change the application of the clause at 1852.223–74, Drug- and Alcohol-Free Workforce. This proposed rule imposes no new reporting requirements.

This rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that would meet the objectives of the rule. Excluding small business concerns that may be subject to the rule would not be in the best interest of the small business concerns or the Government, because drug and alcohol testing of contractors performing functions related to mission critical space systems is statutorily mandated and is necessary in order to protect human life and the nation's civil space assets.

V. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 1823, 1846, and 1852

Government procurement.

Manuel Quinones,

Federal Register Liaison.

Accordingly, 48 CFR parts 1823, 1846, and 1852 are amended as follows:

PART 1823—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

1. The authority citation for part 1823 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.1823.570–1.

■ 2. Section 1823.570–1 is revised to read as follows:

1823.570–1 Definitions.

Employee in a sensitive position means a contractor or subcontractor employee who has been granted access to classified information; a contractor or subcontractor employee in other positions that the contractor or subcontractor determines could reasonably be expected to affect safety, security, National security, or functions other than the foregoing requiring a high degree of trust and confidence; and includes any employee performing in a position designated ''mission critical'' or performing mission-critical duties. The term also includes any applicant who is tentatively selected for a position described in this paragraph.

Mission Critical Space Systems means the collection of all space-based and ground-based systems used to conduct space missions or support activity in space, including, but not limited to, the crewed space system, space-based communication and navigation systems, launch systems, and mission/launch control.

Mission Critical Positions/Duties means positions or duties which, if performed in a faulty, negligent, or malicious manner, could jeopardize mission critical space systems and/or delay a mission.

Use, in violation of applicable law or Federal regulation, of alcohol includes having, while on duty or during a preemployment interview, an alcohol concentration of 0.04 percent by weight or more in the blood, as measured by chemical test of the individual's breath or blood. An individual's refusal to submit to such test is presumptive evidence of use, in violation of applicable law or Federal regulation, of alcohol.

■ 3. Section 1823.570–2 is revised to read as follows:

1823.570–2 Contract clause.

The contracting officer shall insert the clause at 1852.223–74, Drug- and Alcohol-Free Workforce, in all solicitations and contracts exceeding $5 million in which work is performed by an employee in a sensitive position. However, the contracting officer shall not insert the clause at 1852.223–74 in solicitations and contracts for commercial items.

PART 1846—QUALITY ASSURANCE

■ 4. The authority citation for part 1846 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

■ 5. Section 1846.370 is revised to read as follows:

1846.370 NASA contract clauses.

The contracting officer shall insert the clause at 1852.246–73, Human Space Flight Item, in solicitations and contracts for human space flight hardware and flight-related equipment if the highest available quality standards are necessary to ensure astronaut safety.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. The authority citation for part 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

■ 7. Amend section 1852.223–74 by revising the date of the clause and paragraphs (a) and (b) to read as follows:

1852.223–74 Drug- and alcohol-free workforce.

* * * * *

Drug- and Alcohol-Free Workforce (Nov 2015)

(a) Definitions.

Employee in a sensitive position means a contractor or subcontractor

employee who has been granted access to classified information; a contractor or subcontractor employee in other positions that the contractor or subcontractor determines could reasonably be expected to affect safety, security, National security, or functions other than the foregoing requiring a high degree of trust and confidence; and includes any employee performing in a position designated mission critical or performing mission critical duties. The term also includes any applicant who is tentatively selected for a position described in this paragraph.

Mission Critical Space Systems means the collection of all space-based and ground-based systems used to conduct space missions or support activity in space, including, but not limited to, the crewed space system, space-based communication and navigation systems, launch systems, and mission/launch control.

Mission Critical Positions/Duties means positions or duties which, if performed in a faulty, negligent, or malicious manner, could jeopardize mission critical space systems and/or delay a mission.

(b)(1) The Contractor shall institute and maintain a program for achieving a drug- and alcohol-free workforce. As a minimum, the program shall provide for pre-employment, reasonable suspicion, random, post-accident, and periodic recurring (follow-up) testing of contractor employees in sensitive positions for use, in violation of applicable law or Federal regulation, of alcohol or a controlled substance. The Contractor may establish its testing or rehabilitation program in cooperation with other contractors or organizations.

(2) In determining which positions to designate as ''sensitive,'' the contractor may use the guidelines for determining testing designated positions in NASA Procedural Requirements (NPR) 3792.1, NASA's Plan for a Drug Free Workplace, as a guide for the criteria and in designating ''sensitive'' positions for contractor employees.

(3) This clause neither prohibits nor requires the Contractor to test employees in a foreign country. If the Contractor chooses to conduct such testing, this does not authorize the Contractor to violate foreign law in conducting such testing.

(4) The Contractor's program shall conform to the ''Mandatory Guidelines for Federal Workplace Drug Testing Programs'' published by the Department of Health and Human Services (73 FR 71858) and the procedures in 49 CFR part 40, ''Procedures for Transportation Workplace Drug and Alcohol Testing Programs.''

(i) The Contractor shall test for the following drugs: Marijuana, Cocaine, Amphetamines, Opiates and Phencyclidine (PCP) in accordance with the Mandatory Guidelines for Federal Workplace Drug Testing Programs Mandatory Guidelines, Section 3.1, and 49 CFR 40.85.

(ii) The contractor shall comply with the requirements and procedures for alcohol testing at 49 CFR part 40.

(iii) The use of a controlled substance in accordance with the terms of a valid prescription, or other uses authorized by law shall not be subject to the requirements this clause.

(5) The contractor shall conduct post-accident testing when the contractor determines the employee's actions are reasonably suspected of having caused or contributed to an accident resulting in death or personal injury requiring immediate hospitalization or damage to Government or private property estimated to exceed $20,000. Upon request, the Contractor shall provide the results of post-accident testing to the Contracting Officer.

* * * * *

1852.246–70 [Removed and Reserved]

■ 8. Section 1852.246–70 is removed and reserved.

[FR Doc. 2015–25394 Filed 10–6–15; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2015–0043]

RIN 2127–AL59

Federal Motor Vehicle Theft Prevention Standard; Final Listing of 2016 Light Duty Truck Lines Subject to the Requirements of This Standard and Exempted Vehicle Lines for Model Year 2016

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination that there are no new model year (MY) 2016 light duty truck lines subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard because they have been determined by the agency to be high-theft or because they have major parts that are interchangeable with a majority of the covered major parts of passenger car or MPV lines. This final rule also identifies those vehicle lines that have been granted an exemption from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria.

DATES: The amendment made by this final rule is effective October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Consumer Standards Division, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, 1200 New Jersey Avenue SE., (NVS–131, Room W43–302), Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–4807. Her fax number is (202) 493–0073.

SUPPLEMENTARY INFORMATION: The theft prevention standard (49 CFR part 541) applies to (1) all passenger car lines; (2) all multipurpose passenger vehicle (MPV) lines with a gross vehicle weight rating (GVWR) of 6,000 pounds or less; (3) low-theft light-duty truck (LDT) lines with a GVWR of 6,000 pounds or less that have major parts that are interchangeable with a majority of the covered major parts of passenger car or MPV lines; and (4) high-theft LDT lines with a GVWR of 6,000 pounds or less.

The purpose of the theft prevention standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines subject to the requirements of the standard.

Section 33104(d) provides that once a line has become subject to the theft prevention standard, the line remains subject to the requirements of the standard unless it is exempted under § 33106. Section 33106 provides that a manufacturer may petition annually to have one vehicle line exempted from the requirements of § 33104, if the line is equipped with an antitheft device meeting certain conditions as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft prevention

standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of those LDT lines that have been determined to be high theft pursuant to 49 CFR part 541, those LDT lines that have been determined to have major parts that are interchangeable with a majority of the covered major parts of passenger car or MPV lines and those vehicle lines that are exempted from the theft prevention standard under section 33104. Appendix A to Part 541 identifies those LDT lines that are or will be subject to the theft prevention standard beginning in a given model year. Appendix A–I to Part 541 identifies those vehicle lines that are or have been exempted from the theft prevention standard.

For MY 2016, there are no new LDT lines that will be subject to the theft prevention standard in accordance with the procedures published in 49 CFR part 542. Therefore, Appendix A does not need to be amended.

For MY 2016, the list of lines that have been exempted by the agency from the parts-marking requirements of Part 541 is amended to include ten vehicle lines newly exempted in full. The ten exempted vehicle lines are the BMW X1(MPV), Lincoln MKX, Chevrolet Spark, Honda CRV, Jaguar XF, Maserati Ghibli, Mazda CX–3, Mercedes-Benz smart Line Chassis, Toyota Sienna and the Audi TT.

When publishing the August 11, 2014 final rule (See 79 FR 46715), the agency erroneously omitted the Chrysler 200 vehicle line from the Appendix A–I listing of ten vehicles that were exempted from the parts marking requirements for MY 2015. This notice corrects that error.

We note that the agency also removes from the list being published in the **Federal Register** each year certain vehicles lines that have been discontinued more than 5 years ago. Therefore, the agency is removing the Chevrolet Cobalt, Mercury Sable, Taurus X, Pontiac G6, Saturn Aura, Kia Amanti, Lexus SC and the Suzuki XL–7 vehicle lines from the Appendix A–I listing. The agency will continue to maintain a comprehensive database of all exemptions on our Web site. However, we believe that re-publishing a list containing vehicle lines that have not been in production for a considerable period of time is unnecessary.

The vehicle lines listed as being exempt from the standard have previously been exempted in accordance with the procedures of 49 CFR part 543 and 49 U.S.C., 33106. Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331. For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register**.

Regulatory Impacts

A. Executive Order 12866, Executive Order 13563 and the Department of Transportation's regulatory policies provide for making determinations on whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Orders. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

This final rule was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It will not impose any new burdens on vehicle manufacturers. This document informs the public of previously granted exemptions. Since the only purpose of this final rule is to inform the public of previous actions taken by the agency no new costs or burdens will result.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their rules on small businesses, small organizations and small governmental jurisdictions. I have considered the effects of this rulemaking action under the Regulatory Flexibility Act and certify that it would not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is only to inform the public of agency's previous actions.

C. 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 as it merely informs the public about previous agency actions. Accordingly, no environmental assessment is required.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. As discussed above, this final rule only provides better information to the public about previous agency actions.

E. Unfunded Mandates 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 ($120.7 million as adjusted annually for inflation with base year of 1995). The assessment may be combined with other assessments, as it is here.

This final rule will not result in expenditures by State, local or tribal governments or automobile manufacturers and/or their suppliers of more than $120.7 million annually. This document informs the public of previously granted exemptions. Since the only purpose of this final rule is to inform the public of previous actions taken by the agency, no new costs or burdens will result.

F. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, ''Civil Justice Reform,'' [1] the agency has considered whether this final rule has any retroactive effect. We conclude that it would not have such an effect as it only informs the public of previous agency actions. In accordance with

[1] *See* 61 FR 4729, February 7, 1996.

section 33118 when the Theft Prevention Standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. Paperwork Reduction Act

The Department of Transportation has not submitted an information collection request to OMB for review and clearance under the Paperwork reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This rule does not impose any new information collection requirements on manufacturers.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 541 is amended as follows:

PART 541—[AMENDED]

■ 1. The authority citation for Part 541 continues to read as follows:

Authority: 49 U.S.C. 33101, 33102, 33103, 33104, 33105 and 33106; delegation of authority at 49 CFR 1.95.

■ 2. Appendix A–I to Part 541 is revised to read as follows:

Appendix A–I to Part 541—Lines With Antitheft Devices Which Are Exempted From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543

Manufacturer	Subject lines
BMW	MINI.
	X1 (MPV).[1]
	X1(2012–2015).[2]
	X3.
	X4.
	X5.
	Z4.
	1 Car Line.
	3 Car Line.
	4 Car Line.
	5 Car Line.
	6 Car Line.
	7 Car Line.
CHRYSLER	200.[3]
	300C.
	Jeep Cherokee.
	Fiat 500.
	Town and Country MPV.
	Jeep Grand Cherokee.
	Jeep Patriot.
	Jeep Wrangler.
	Dodge Charger.
	Dodge Challenger.
	Dodge Dart.
	Dodge Journey.
FORD MOTOR CO	C-Maxx.
	Edge.
	Escape.
	Explorer.
	Fiesta.
	Focus.
	Fusion.
	Lincoln MKX.[1]
	Lincoln Town Car.
	Mustang.
	Mercury Mariner.
	Mercury Grand Marquis.
	Taurus.
GENERAL MOTORS	Buick Lucerne.
	Buick LaCrosse.
	Buick LaCrosse/Regal.
	Buick Verano.
	Cadillac ATS.
	Cadillac CTS.
	Cadillac DTS/Deville.
	Cadillac SRX.
	Cadillac XTS/Deville.
	Chevrolet Camaro.
	Chevrolet Corvette.
	Chevrolet Cruze.
	Chevrolet Equinox.
	Chevrolet Impala/Monte Carlo.
	Chevrolet Malibu.
	Chevrolet Sonic.
	Chevrolet Spark.[1]

Manufacturer	Subject lines
	GMC Terrain.
	Pontiac G6.
	Saturn Aura.
HONDA	Accord.
	Acura TL.
	Civic.
	CRV.[1]
HYUNDAI	Azera.
	Genesis.
	Equus.
JAGUAR	F-Type.
	XF.[1]
	XJ.
	XK.
	Land Rover Discovery Sport.
	Land Rover LR2.
	Land Rover Range Rover Evoque.
MASERATI	Ghibli.[1]
	Quattroporte.
MAZDA	2.
	3.
	5.
	6.
	CX–3.[1]
	CX–5.
	CX–7.
	CX–9.
	MX–5 Miata.
	Tribute.
MERCEDES-BENZ	smart USA fortwo.
	smart Line Chassis.[1]
	SL-Line Chassis (SL-Class) (the models within this line are):
	SL400.
	SL550.
	SL 63/AMG.
	SL 65/AMG.
	SLK-Line Chassis (SLK-Class) (the models within this line are):
	SLK 250.
	SLK 300.
	SLK 350.
	SLK 55 AMG.
	S-Line Chassis (S/CL/S-Coupe Class)[4] (the models within this line are):
	S450.
	S500.
	S550.
	S600.
	S55.
	S63 AMG.
	S65 AMG.
	CL55.
	CL65.
	CL500.
	CL550.
	CL600.
	NGCC Chassis Line (CLA/GLA- Class) (the models within this line are):
	CLA250.
	CLA250 4MATIC.
	CLA45 4MATIC AMG.
	GLA250.
	GLA45 AMG.
	C-Line Chassis (C-Class/CLK/GLK-Class) (the models within this line are):
	C63 AMG.
	C240.
	C250.
	C300.
	C350.
	CLK 350.
	CLK 550.
	CLK 63AMG.
	GLK250.
	GLK350.
	E-Line Chassis (E-Class/CLS Class) (the models within this line are):
	E55.
	E63 AMG.

Manufacturer	Subject lines
	E320 BLUETEC.
	E350 BLUETEC.
	E320/E320DT CDi.
	E350/E500/E550.
	E400 HYBRID.
	CLS400.
	CLS500.
	CLS55 AMG.
	CLS63 AMG.
MITSUBISHI	Eclipse.
	Endeavor.
	Galant.
	iMiEV.
	Lancer.
	Outlander.
	Outlander Sport.
	Mirage.
NISSAN	Altima.
	Cube.
	Juke.
	Leaf.
	Maxima.
	Murano.
	NV200 Taxi.
	Pathfinder.
	Quest.
	Rogue.
	Sentra.
	Versa (2008–2011).
	Versa Hatchback.
	Versa Note.
	Infiniti G (2003–2013).
	Infiniti M (2004–2013).
	Infiniti Q70.
	Infiniti Q50/60.
	Infiniti QX60.
PORSCHE	911.
	Boxster/Cayman.
	Macan.
	Panamera.
SAAB	9–3.
	9–5.
SUBARU	Forester.
	Impreza.
	Legacy.
	B9 Tribeca.
	Outback.
	WRX.
	XV Crosstrek.
SUZUKI	Kizashi.
TESLA	Model S.
	Model X.
TOYOTA	Camry.
	Corolla.
	Highlander.
	Lexus ES.
	Lexus GS.
	Lexus LS.
	Prius.
	RAV4.
	Sienna.[1]
VOLKSWAGEN	Audi A3.
	Audi A4.
	A4 Allroad MPV.
	Audi A6.
	Audi A8.
	Audi Q3.
	Audi Q5.
	Audi TT.[1]
	Beetle.
	Eos.
	Golf/Rabbit/GTI/R32.
	Jetta.
	New Beetle (renamed “Beetle” in MY 2012).

Manufacturer	Subject lines
VOLVO	Passat. Tiguan. S60.

[1] Granted an exemption from the parts marking requirements beginning with MY 2016.
[2] The X1 carline was replaced by the X1 MPV line beginning in MY 2016. According to BMW, production of its X1 carline ceased in MY 2015.
[3] Granted an exemption from the parts marking requirements beginning with MY 2015.
[4] According to Mercedes-Benz, the CL-Class was renamed the S-Coupe Class beginning with MY 2015.

Under authority delegated in 49 CFR part 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2015–25369 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 140707555–5880–02]

RIN 0648–XD370

Endangered and Threatened Wildlife and Plants; Final Rule To List the Dusky Sea Snake and Three Foreign Corals Under the Endangered Species Act

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

ACTION: Final rule.

SUMMARY: We, NMFS, issue a final rule to list three foreign corals and the dusky sea snake under the Endangered Species Act (ESA). We considered comments submitted on the proposed listing rule and have determined that the three foreign corals (*Cantharellus noumeae, Siderastrea glynni,* and *Tubastraea floreana*) and the dusky sea snake (*Aipysurus fuscus*) should be listed as endangered species. We will not designate critical habitat for any of the species because the geographical areas occupied by these species are entirely outside U.S. jurisdiction, and we have not identified any unoccupied areas within U.S. jurisdiction that are currently essential to the conservation of any of these species.

DATES: This final rule is effective November 6, 2015.

ADDRESSES: Chief, Endangered Species Division, NMFS Office of Protected Resources (F/PR3), 1315 East West Highway, Silver Spring, MD 20910, USA.

FOR FURTHER INFORMATION CONTACT: Dwayne Meadows, Ph.D., NMFS, Office of Protected Resources, (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from WildEarth Guardians to list 81 marine species as threatened or endangered under the Endangered Species Act (ESA). We found that the petitioned actions may be warranted for 27 of the 81 species and announced the initiation of status reviews for each of the 27 species (78 FR 63941, October 25, 2013; 78 FR 66675, November 6, 2013; 78 FR 69376, November 19, 2013; 79 FR 9880, February 21, 2014; and 79 FR 10104, February 24, 2014). On December 16, 2014, we published a proposed rule to list the dusky sea snake (*Aipysurus fuscus*) and three foreign corals (*Cantharellus noumeae, Siderastrea glynni,* and *Tubastraea floreana*) as endangered species, and we proposed to list the Banggai cardinalfish (*Pterapogon kauderni*) and Harrisson's dogfish (*Centrophorus harrissoni*) as threatened species (79 FR 74953). We requested public comment on information in the status reviews and proposed rule, and the comment period was open through February 17, 2015. This final rule provides a discussion of the information we received during the public comment period and our final determination on the petition to list the three foreign corals (*Cantharellus noumeae, Siderastrea glynni,* and *Tubastraea floreana*) and the dusky sea snake (*Aipysurus fuscus*) under the ESA. Our final determinations for the other species proposed for listing in the December 16, 2014, proposed rule (79 FR 74953; Banggai cardinalfish (*Pterapogon kauderni*) and Harrisson's dogfish (*Centrophorus harrissoni*)) will be made in a subsequent rule. The status of the findings and relevant **Federal Register** notices for those and the other 21 species can be found on our Web site at *http://www.nmfs.noaa.gov/pr/species/petition81.htm.*

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we consider first whether a group of organisms constitutes a ''species'' under the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines a ''species'' to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.''

Section 3 of the ESA defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' We interpret an ''endangered species'' to be one that is presently in danger of extinction. A ''threatened species,'' on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

Section 4(a)(1) of the ESA requires us to determine whether any species is endangered or threatened due to any one or a combination of the following five threat factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We are also required to make listing determinations based solely on the best scientific and commercial data available, after conducting a review of the species' status and after taking into account efforts being made by any state or foreign nation to protect the species.

In making a listing determination, we first determine whether a petitioned species meets the ESA definition of a ''species.'' Next, using the best available information gathered during the status

review for the species, we complete a status and extinction risk assessment. In assessing extinction risk for these four species, we considered the demographic viability factors developed by McElhany *et al.* (2000) and the risk matrix approach developed by Wainwright and Kope (1999) to organize and summarize extinction risk considerations. The approach of considering demographic risk factors to help frame the consideration of extinction risk has been used in many of our status reviews, including for Pacific salmonids, Pacific hake, walleye pollock, Pacific cod, Puget Sound rockfishes, Pacific herring, scalloped hammerhead sharks, and black abalone (see *http://www.nmfs.noaa.gov/pr/species/* for links to these reviews). In this approach, the collective condition of individual populations is considered at the species level according to four demographic viability factors: Abundance, growth rate/productivity, spatial structure/connectivity, and diversity. These viability factors reflect concepts that are well-founded in conservation biology and that individually and collectively provide strong indicators of extinction risk.

We then assess efforts being made to protect the species, to determine if these conservation efforts are adequate to mitigate the existing threats. Section 4(b)(1)(A) of the ESA requires the Secretary, when making a listing determination for a species, to take into consideration those efforts, if any, being made by any State or foreign nation to protect the species.

Summary of Comments

In response to our request for comments on the proposed rule, we received three comments on the three foreign corals, and the Australian Government Department of the Environment submitted a letter neither supporting nor opposing our proposed listing of the dusky sea snake. The letter stated that the dusky sea snake is listed under Australia's Environment Protection and Biodiversity Conservation Act, and thus it is currently illegal to kill, injure, take or trade dusky sea snakes. Because this information was acknowledged and considered in our status review, this information did not affect the proposal to list the species as endangered under the ESA. Three parties commented on the three corals.

Comment 1: One commenter suggested active outside involvement in the recovery of the species, including partnerships with reef aquarists.

Response: We agree with the commenter that partnerships enhance recovery of listed species and that reef aquarists are a potential partner. We will look for opportunities to partner with parties interested in the recovery of these species.

Comment 2: One commenter focused on the threat of carbon dioxide emissions and climate change. They claimed we, and the Departments of Commerce and Interior, should develop a National Climate Recovery Plan to protect a wide variety of resources and that we should define adverse modification under section 7 of the ESA for these proposed species. This commenter also requested we designate critical habitat for these species and suggested we alter our conclusion to say with certainty that each of the three coral species is definitively threatened by climate change, ocean warming, and sea level rise, and alter our discussion of regulatory mechanisms and the effects of listing as a result.

Response: We note that action to develop a National Climate Recovery Plan is not part of the determination for listing that is the subject of this action and thus cannot be considered further here. As we noted in the proposed rule, we cannot designate critical habitat for these species, as their range is entirely outside U.S. jurisdiction and we have no evidence that unoccupied areas within our jurisdiction are necessary for the conservation of any of the species. Because we cannot designate critical habitat for these species, we have no reason to define adverse modification of critical habitat under Section 7 of the ESA for these corals. The commenter provided no species-specific information on climate change-related threats, so we cannot change our conclusion that habitat modification resulting from climate change is a potential threat to all three species of coral. Similarly, based on the same lack of new species-specific information, we cannot change our discussion of the adequacy of regulatory mechanisms to address these threats or the likely effects of listing.

Comment 3: A researcher provided information on studies of the symbiotic *Symbodinium* algae residing in five specimens of *Siderastrea glynni.* This researcher claims to have identified two symbiont species in *S. glynni, Symbodinium goreauii* and *Symbodinium trenchii.* The researcher believes there is evidence that the *Symbodinium trenchii* occurring in *S. glynni* is of Caribbean origin and suggests this provides evidence that *S. glynni* is from an introduction of *Siderastrea siderea* to the eastern Pacific and is not some kind of separate rare endemic species.

Response: We understand that *Symbodinium trenchii* and *Symbodinium goreauii* also occur in other regions of the Pacific as symbionts with other coral species. We are also aware that the strain of *Symbodinium trenchii* occurring in *S. glynni* also occurs in Caribbean corals, including species of *Siderastrea* (Pettay *et al.,* 2015). According to Guzman (personal communication (the person who described *S. glynni*)), the research for the original description of *S. glynni* found that the species was more closely related to a fossil species from Baja California, Mexico than to the Caribbean *S. siderea.* If *S. glynni* has a long history in the eastern Pacific as some of the data suggest (Forsman *et al.,* 2005), it could have been the source of, or another host for, the strain of *Symbodinium trenchii* that recently entered the Caribbean Sea. Alternatively, a Caribbean *Siderastrea siderea* could have recently invaded the eastern Pacific through the Panama Canal after the evolution of the Caribbean strain of *Symbodinium trenchii.* Under this scenario then, *S. glynni* would not be a unique species (Forsman *et al.,* 2005). The direction and timing of movement of the strain of *Symbodinium trenchii* that occurs in *S. glynni* across the Isthmus of Panama between the Caribbean Sea and the eastern Pacific Ocean is thus uncertain, and the data on these symbionts may not be adequate to definitely distinguish among the competing hypotheses for the origin and taxonomy of *S. glynni.* Guzman (personal communication) is skeptical that the symbiont data provided by the commenter provides definitive evidence regarding the taxonomic status of the species. We agree, and thus decline to alter the existing published taxonomy of the species.

Status Reviews

Status reviews for the petitioned species addressed in this finding were conducted by NMFS staff. Separate draft status reviews were completed for dusky sea snake (Manning, 2014), and the three foreign corals (Meadows, 2014). In order to complete the status reviews, we compiled information on the species' biology, ecology, life history, threats, and conservation status from information contained in the petition, our files, a comprehensive literature search, and consultation with experts. We also considered information submitted by the public and peer reviewers. Prior to publication of the proposed rule, all status reviews were subjected to peer review. Peer reviewer comments are available at *http://*

www.cio.noaa.gov/services_programs/prplans/PRsummaries.html.

The status review reports provide a thorough discussion of life history, demographic risks, and threats to the particular species. We considered all identified threats, both individually and cumulatively, to determine whether the species responds in a way that causes actual impacts at the species level. The collective condition of individual populations was also considered at the species level, according to the four demographic viability factors discussed above.

The proposed rule (79 FR 74953, December 16, 2014) summarizes general background information on the species' natural history, range, reproduction, population structure, distribution and abundance; none of which has changed since the proposed rule. All of that information is incorporated herein by reference.

Species Determinations

Based on the best available scientific and commercial information described above and in the status review reports, we have determined that the dusky sea snake (*Aipysurus fuscus*) and the three foreign corals (*Cantharellus noumeae, Siderastrea glynni,* and *Tubastraea floreana*) are taxonomically-distinct species and therefore meet the definition of ''species'' pursuant to section 3 of the ESA and are eligible for listing under the ESA.

Summary of Threat Factors Affecting the Four Species

Next we consider whether any one or a combination of the five threat factors specified in section 4(a)(1) of the ESA contribute to the extinction risk of these species. None of the information we received from public comment on the proposed rule affected any of our discussion or conclusions regarding any of the section 4(a)(1) factors or their interactions for these species, so we incorporate the discussion of these factors from the proposed rule (79 FR 74953, December 16, 2014) by reference herein.

Extinction Risk

None of the information we received from public comment on the proposed rule affected our extinction risk evaluations of these four species. As such, our evaluations for these species remain the same as in the status review reports and the discussion in the proposed rule (79 FR 74953, December 16, 2014), and that discussion is incorporated herein by reference.

Conservation Efforts

Finally, we considered conservation efforts to protect each species and evaluated whether these conservation efforts are adequate to mitigate the existing threats to the point where extinction risk is significantly lowered and the species' status is improved. None of the information we received from public comment on the proposed rule affected any of our discussion or conclusions regarding conservation efforts to protect the dusky sea snake or the three foreign coral species, so we incorporate the discussion of these efforts from the proposed rule (79 FR 74953, December 16, 2014) by reference herein.

Final Determination

We have reviewed the best available scientific and commercial information, including the petition, the information in the status review reports, public comment, and the comments of peer reviewers. Based on the best available information, we find that the dusky sea snake (*Aipysurus fuscus*) and the three foreign corals (*Cantharellus noumeae, Siderastrea glynni,* and *Tubastraea floreana*) are in danger of extinction throughout all of their ranges. We assessed the ESA section 4(a)(1) factors and demographic risk factors and conclude that the dusky sea snake is at very low and declining abundance, has a very restricted range and a presumed low rate of dispersal, and is experiencing high rates of hybridization throughout its range. We also conclude that *Cantharellus noumeae* has a small, restricted range, likely low growth rate and genetic diversity, and may be threatened by development, water pollution, sedimentation, heavy metals, and potential illegal activities. *Siderastrea glynni* is affected by the lack of known populations in the wild, a small captive population in a single location, likely low growth rates and genetic diversity, and potential increased threats from El Niño, climate change, disease, habitat degradation and other development (should the species be reintroduced to Panama). *Tubastraea floreana* is affected by a small, restricted range, documented declines, likely low levels of genetic diversity, and threats from El Niño, climate change, development, and illegal activities. After considering efforts being made to protect each of these species, we could not conclude that the existing or proposed conservation efforts would alter the extinction risk for any of these species. Therefore, we are listing each of these species as endangered.

Effects of Listing

Conservation measures provided for species listed as endangered or threatened under the ESA include recovery actions (16 U.S.C. 1533(f)); Federal agency requirements to consult with NMFS under section 7 of the ESA to ensure their actions do not jeopardize the species or result in adverse modification or destruction of critical habitat should it be designated (16 U.S.C. 1536); designation of critical habitat if prudent and determinable (16 U.S.C. 1533(a)(3)(A)); and prohibitions on taking (16 U.S.C. 1538). In addition, recognition of the species' plight through listing promotes conservation actions by Federal and state agencies, foreign entities, private groups, and individuals. Because the ranges of these four species are entirely outside U.S. jurisdiction, the main effects of these endangered listings are prohibitions on export and import.

Identifying Section 7 Consultation Requirements

Section 7(a)(2) (16 U.S.C. 1536(a)(2)) of the ESA and NMFS/USFWS regulations require Federal agencies to consult with us to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. It is unlikely that the listing of these species under the ESA will increase the number of section 7 consultations, because these species occur entirely outside of the United States and are unlikely to be affected by Federal actions.

Critical Habitat

Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(5)) as: (1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species. Section 4(a)(3)(A) of the ESA (16 U.S.C. 1533(a)(3)(A)) requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. However, critical habitat shall not be designated in foreign countries or other areas outside U.S. jurisdiction (50 CFR 424.12(h)).

The best available scientific and commercial data as discussed above identify the geographical areas occupied by *Aipysurus fuscus, Cantharellus noumeae, Siderastrea glynni,* and *Tubastraea floreana* as being entirely outside U.S. jurisdiction, so we cannot designate occupied critical habitat for these species. We can designate critical habitat in areas in the United States currently unoccupied by the species, if the area(s) are determined by the Secretary to be essential for the conservation of the species. Based on the best available information, we have not identified unoccupied area(s) in U.S. water that are currently essential to the conservation of any of these four species. Therefore, based on the available information, we do not designate critical habitat for *Aipysurus fuscus, Cantharellus noumeae, Siderastrea glynni,* or *Tubastraea floreana.*

Identification of Those Activities That Would Likely Constitute a Violation of Section 9 of the ESA

On July 1, 1994, NMFS and FWS published a policy (59 FR 34272) that requires us to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not likely constitute a violation of section 9 of the ESA. Because we are listing the dusky sea snake and the three foreign corals as endangered, all of the prohibitions of section 9(a)(1) of the ESA will apply to these species. These include prohibitions against the import, export, use in foreign commerce, or ''take'' of the species. These prohibitions apply to all persons subject to the jurisdiction of the United States, including in the United States, its territorial sea, or on the high seas. Take is defined as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' The intent of this policy is to increase public awareness of the effects of this listing on proposed and ongoing activities within the species' ranges. Activities that we believe could (subject to the exemptions set forth in 16 U.S.C. 1539) result in a violation of section 9 prohibitions for these species include, but are not limited to, the following:

(1) Possessing, delivering, transporting, or shipping any individual or part (dead or alive) taken in violation of section 9(a)(1);

(2) Delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce any individual or part, in the course of a commercial activity;

(3) Selling or offering for sale in interstate or foreign commerce any individual or part;

(4) Importing or exporting any individual or part;

(5) Releasing captive animals into the wild without a permit issued under section 10(a)(1)(A). Although animals held non-commercially in captivity at the time of listing are exempt from the prohibitions of import and export, the individual animals are considered listed and afforded most of the protections of the ESA, including most importantly, the prohibition against injuring or killing. Release of a captive animal has the potential to injure or kill the animal. Of an even greater conservation concern, the release of a captive animal has the potential to affect wild populations through introduction of diseases or inappropriate genetic mixing; and

(6) Harming captive animals by, among other things, injuring or killing a captive animal, through experimental or potentially injurious care or conducting research or sexual breeding activities on captive animals, outside the bounds of normal animal husbandry practices. Captive sexual breeding of corals is considered potentially injurious. Furthermore, the production of coral progeny has conservation implications (both positive and negative) for wild populations. Experimental or potentially injurious care or procedures and research or sexual breeding activities of corals or dusky sea snake may, depending on the circumstances, be authorized under an ESA section 10(a)(1)(A) permit for scientific research or the enhancement of the propagation or survival of the species.

Identification of Those Activities That Would Not Likely Constitute a Violation of Section 9 of the ESA

Although the determination of whether any given activity constitutes a violation is fact dependent, we consider the following actions, depending on the circumstances, as being unlikely to violate the prohibitions in ESA section 9:

(1) Take authorized by, and carried out in accordance with the terms and conditions of, an ESA section 10(a)(1)(A) permit issued by NMFS for purposes of scientific research or the enhancement of the propagation or survival of the species;

(2) Continued possession of parts that were in possession at the time of listing. Such parts may be non-commercially exported or imported; however the importer or exporter must be able to provide evidence to show that the parts meet the criteria of ESA section 9(b)(1) (*i.e.,* held in a controlled environment at the time of listing, in a non-commercial activity);

(3) Continued possession of live corals or dusky sea snakes that were in captivity or in a controlled environment (*e.g.,* in aquaria) at the time of this listing, so long as the prohibitions under ESA section 9(a)(1) are not violated. Facilities must provide evidence that the animals were in captivity or in a controlled environment prior to listing. We suggest such facilities submit information to us on the animals in their possession (*e.g.,* size, age, description of animals, and the source and date of acquisition) to establish their claim of possession (see **FOR FURTHER INFORMATION CONTACT**); and

(4) Provision of care for live corals or dusky sea snakes that were in captivity at the time of listing. These individuals are still protected under the ESA and may not be killed or injured, or otherwise harmed, and, therefore, must receive proper care. Normal care of captive animals necessarily entails handling or other manipulation of the animals, and we do not consider such activities to constitute take or harassment of the animals so long as adequate care, including veterinary care, when such practices, procedures, or provisions are not likely to result in injury, is provided.

Section 11(f) of the ESA gives NMFS authority to promulgate regulations that may be appropriate to enforce the ESA. NMFS may promulgate future regulations, including to regulate holding of these species, if necessary. NMFS will provide the public with the opportunity to comment on future proposed regulations.

Revisions to the NMFS Lists

We revise and add table subheadings in the Code of Federal Regulations to accommodate these new listings in our list of endangered species at 50 CFR 224.101 and revisions to the table subheadings for our list of threatened species at 50 CFR 223.102. We add the subheading ''Corals'' to our table at 50 CFR 224.101. This subheading has already been added to our table at 50 CFR 223.102 in a previous rulemaking (79 FR 20802; April 14, 2014). We are revising the subheading of ''Sea Turtles'' in the endangered species table at 50 CFR 224.101 and the threatened species table at 50 CFR 223.102 by changing the subheading to ''Reptiles.'' This new subheading will encompass all currently listed sea turtles as well as other marine reptiles like the dusky sea snake. These revisions and addition are not substantive changes, but having these headings will help the public identify

and locate species of interest in a more efficient manner.

References

A complete list of the references used in this final rule is available upon request (see **ADDRESSES**).

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus,* 675 F. 2d 825 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA) (See NOAA Administrative Order 216–6).

Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this final rule is exempt from review under Executive Order 12866. This final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Executive Order 13132, Federalism

In accordance with E.O. 13132, we determined that this final rule does not have significant Federalism effects and that a Federalism assessment is not required.

List of Subjects in 50 CFR Parts 223 and 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Dated: September 30, 2015.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 223 and 224 are amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, §§ 223.201 and 223.202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102, amend the table in paragraph (e) by removing the table subheading ''Sea Turtles [2]'' and adding in its place ''Reptiles [2]'' to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
REPTILES [2]					
*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[2] Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

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PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 3. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 4. In § 224.101, paragraph (h), amend the table by:

■ A. Removing the table subheading ''Sea Turtles [2]'' and adding in its place ''Reptiles [2]'';

■ B. Adding an entry for ''dusky sea snake'' in alphabetical order under the new ''Reptiles [2]'' table subheading;

■ C. Adding a ''Corals'' table subheading to follow the ''Molluscs'' table subheading; and

■ D. Adding entries for three species of coral in alphabetical order by scientific name under the ''Corals'' table subheading.

The additions read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
REPTILES [2]					
Sea snake, dusky	*Aipysurus fuscus*	Entire species	*[Insert* **Federal Register** *citation and date].*	NA	NA

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
MOLLUSCS					
*	*	*	*	*	*
CORALS					
Coral, [no common name]	*Cantharellus noumeae*	Entire species	*[Insert* **Federal Register** *citation and date].*	NA	NA
Coral, [no common name]	*Siderastrea glynni*	Entire species	*[Insert* **Federal Register** *citation and date].*	NA	NA
Coral, [no common name]	*Tubastraea floreana*	Entire species	*[Insert* **Federal Register** *citation and date].*	NA	NA.

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[2] Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 150626556–5886–02]

RIN 0648–BD81

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region; Amendment 8; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: NMFS corrects the final rule that implemented management measures described in Amendment 8 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region (FMP)(Amendment 8), which published in the **Federal Register** on July 17, 2015. The Amendment 8 final rule contained some incorrect waypoints for the Oculina Bank Habitat Area of Particular Concern (HAPC)(Oculina Bank HAPC) as well as incorrect language regarding the gear stowage requirements for vessels with rock shrimp onboard transiting through the Oculina Bank HAPC. The purpose of this correcting amendment is to fix these errors.

DATES: This correction is effective October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Karla Gore, 727–824–5305; email: *karla.gore@noaa.gov.*

SUPPLEMENTARY INFORMATION: On July 17, 2015, NMFS published a final rule in the **Federal Register** (80 FR 42423) to implement provisions for Amendment 8, that expands portions of the northern and western boundaries of the Oculina Bank HAPC and allows transit through the Oculina Bank HAPC by fishing vessels with rock shrimp onboard; modifies vessel monitoring systems (VMS) requirements for rock shrimp fishermen transiting through the Oculina Bank HAPC; expands a portion of the western boundary of the Stetson Reefs, Savannah and East Florida Lithotherms, and Miami Terrace Deepwater Coral HAPC (Stetson-Miami Terrace CHAPC), including modifications to shrimp access area 1; and expands a portion of the northern boundary of the Cape Lookout CHAPC. The purpose of the final rule is to increase protection for deepwater coral based on new information for deepwater coral resources in the South Atlantic. The final rule was effective August 17, 2015.

The regulatory text in the Amendment 8 final rule in § 622.224(b)(1) contains three waypoints that were incorrectly listed for describing the Oculina Bank HAPC. These waypoints were correctly identified in Amendment 8 but were incorrectly converted to the coordinate format used for the proposed and final rules for Amendment 8. The incorrect waypoints are the origin point and points 7 and 8 for the Oculina Bank HAPC.

Additionally, the proposed and final rules for Amendment 8 incorrectly described the gear stowage provisions for vessels transiting the Oculina Bank HAPC with rock shrimp onboard. The regulatory text in the Amendment 8 final rule in § 622.224(b)(1)(i)(C) states that appropriate stowage for shrimp trawl fishing gear includes the trawl doors and nets being out of the water and onboard the vessel deck or below deck. However, as described in the Amendment 8, the correct gear stowage for the trawl doors and nets is to have the doors and nets out of the water. Requiring the trawl doors and nets to be on deck was contrary to the intent of the South Atlantic Fishery Management Council (Council) and not consistent with Amendment 8.

This notification corrects the table in § 622.224(b)(1) with the correct coordinates and corrects the gear stowage language in § 622.224(b)(1)(i)(C) by incorporating the necessary language from Amendment 8 back into the regulations.

Correction

As published, the final rule for Amendment 8, published on July 17, 2015 (80 FR 42423), incorrectly listed three waypoints for the Oculina Bank HAPC and incorrectly described gear stowage language for vessels transiting the area. Coordinates are added to § 622.224(b)(1) and language is revised in § 622.224(b)(1)(i)(C) to correct these errors.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this correcting amendment is necessary for the

conservation and management of South Atlantic coral resources and is consistent with Amendment 8, the FMP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This correcting amendment has been determined to be not significant under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive prior notice and opportunity for additional public comment for this action because it would be impracticable and contrary to the public interest. This correcting amendment corrects the positions for the Oculina Bank HAPC and the associated gear stowage provisions that were incorrectly described in the final rule. Providing prior notice and opportunity for public comment is contrary to the public interest because not correcting the waypoints will cause confusion among the affected fishers and will not properly protect the Oculina Bank HAPC. With regard to the gear stowage requirements, not correcting these regulations will require fishers to comply with gear stowage methods that are not those recommended by the Council. The Council developed the gear stowage requirements in coordination with the affected fishers and these stowage requirements represent a safer approach for these fishers given the offshore conditions they may encounter. It would be impracticable to subject this action to notice and comment because the provisions of Amendment 8 are currently in effect and any delay in implementation of this rule would further any confusion that exists on the location of the waypoints and the gear stowage requirements.

For the same reasons, the Assistant Administrator also finds good cause, pursuant to 5 U.S.C. 553(d), to waive the 30-day delay in effective date for this correcting amendment. If this rule is not implemented immediately, it would cause confusion among the affected fishers of the location of the waypoints for Oculina Bank HAPC, would result in inadequate protection of the Oculina Bank HAPC, and require fishers to comply with gear stowage methods that were not recommended by the Council.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable. Accordingly, no Regulatory Flexibility Analysis is required and none has been prepared.

List of Subjects in 50 CFR Part 622

Coral, Coral Reefs, Fisheries, Fishing, HAPC, Shrimp, South Atlantic.

Dated: September 30, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

Accordingly, 50 CFR part 622 is corrected by making the following correcting amendments:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.224, entries 7 and 8 in the table in paragraph (b)(1) and paragraph (b)(1)(i)(C) are revised to read as follows:

§ 622.224 Area closures to protect South Atlantic corals.

* * * * *

(b) * * *

(1) * * *

Point	North lat.	West long.
*	*	*	*	*
7	28°56′01.86″	80°08′53.64″
8	28°52′44.40″	80°08′53.04″
*	*	*	*	*

* * * * *

(i) * * *

(C) Fish for or possess rock shrimp in or from the Oculina Bank HAPC, except a shrimp vessel with a valid commercial vessel permit for rock shrimp that possesses rock shrimp may transit through the Oculina Bank HAPC if fishing gear is appropriately stowed. For the purpose of this paragraph, transit means a direct and non-stop continuous course through the area, maintaining a minimum speed of five knots as determined by an operating VMS and a VMS minimum ping rate of 1 ping per 5 minutes; fishing gear appropriately stowed means that doors and nets are out of the water.

* * * * *

[FR Doc. 2015–25488 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150727647–5877–01]

RIN 0648–BF30

Atlantic Highly Migratory Species; Technical Amendment to Regulations

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

ACTION: Final rule; technical amendments.

SUMMARY: NMFS is hereby making technical amendments to the regulations for Atlantic highly migratory species—specifically, to several restricted fishing areas—without altering the substance of the regulations. Also, this action re-inserts the longstanding statutorily required limit on length of gillnets that was erroneously removed from the regulations in late 2012, and corrects the end date of the Spring Gulf of Mexico gear restricted areas from May 30 to May 31. These changes will make the cross-references in regulations accurate, the gillnet length limit consistent with statutory requirements, and the dates on restrictions consistent with the supporting analyses and management goals. The rule is administrative in nature and does not make any change with substantive effect to the regulations governing Atlantic highly migratory species (HMS) fisheries.

DATES: This final rule is effective on October 7, 2015.

ADDRESSES: Copies of other documents relevant to this rule are available from the HMS Management Division Web site at *http://www.nmfs.noaa.gov/sfa/hms/* or upon request from the Atlantic HMS Management Division at 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Andrew Rubin or Karyl Brewster-Geisz by phone at 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.,* (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act, 16 U.S.C. 971 *et seq.,* (ATCA). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary of Commerce to the NOAA Assistant Administrator for Fisheries (AA). On

May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) regulations implementing the Fishery Management Plan (FMP) for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) regulations implementing the 2006 Consolidated HMS FMP, which details the management measures for Atlantic HMS fisheries. The implementing regulations for Atlantic HMS are at 50 CFR part 635.

Background

The regulations at 50 CFR part 635 contain cross-references to several restricted fishing areas described in 50 CFR part 622. The cross-references in 50 CFR part 635 ensure consistency with the regulations at 50 CFR part 622 to protect certain reef species and/or habitat managed by the Caribbean and Gulf of Mexico Fishery Management Councils. With the reorganization of the 50 CFR part 635 regulations due to the final rule for Amendment 7 to the 2006 Consolidated HMS FMP (79 FR 71509, December 2, 2014), the cross-references to the Tortugas marine reserve habitat area of particular concern (HAPC), the Mutton snapper spawning aggregation area (SAA), the Red hind SAA, and the Grammanik Bank closed areas were mistakenly overwritten. This technical amendment corrects the cross-references in the HMS regulations.

A longstanding statutory limit on the length of gillnet gear (see 16 U.S.C. 1857(1)(M)) was erroneously removed from the regulations in 2012. This technical amendment re-inserts the language to the regulations to ensure consistency with the statutory requirements.

The regulatory end date of the Spring Gulf of Mexico gear restricted areas in § 635.21(c)(2)(vi) was mistakenly written as ''May 30'' when it should be on the last day of the month, ''May 31.'' This technical amendment changes the date to be consistent with the original analyses, outreach, and supporting documents of this regulation and to meet management goals appropriately. As the correct date was analyzed as part of the preferred alternative in the Final Environmental Impact Statement for Amendment 7 to the 2006 Consolidated HMS FMP, this modification to the regulations should not be unexpected and will not have any impacts beyond those already considered.

Corrections

Currently, the regulations in § 635.21(a)(3)(i) cross-reference § 622.34(a)(3) only. This final action corrects the cross-reference by adding a cross-reference to § 622.74(c), which is missing, in order to properly include and specify the boundaries of the ''Tortugas marine reserve HAPC.''

Currently, the regulatory end date of the Spring Gulf of Mexico gear restricted areas in § 635.21(c)(2)(vi) is written as ''May 30.'' This final rule corrects the date and changes it to ''May 31.''

Currently, the regulations at § 635.21(d)(1)(ii) contain a cross-reference to areas designated at § 622.33(a)(1) through (3) to indicate the Mutton snapper spawning aggregation area (SAA), the Red hind SAA, and the Grammanik Bank closed area. This final action corrects the cross-reference in § 635.21(d)(1)(ii) by changing it from § 622.33(a)(1) through (3) to § 622.435(a)(2)(i) through (iii).

Currently, the regulations at § 635.21(g) do not contain the statutorily-required regulatory limits on the length of gillnet for persons fishing for sharks. This final rule inserts the language that was removed regarding the length restriction of gillnets into the regulations at § 635.21(g)(4) into the regulations.

Classification

The AA has determined that this final rule is necessary for the conservation and management of U.S. fisheries and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act, the 2006 Consolidated Atlantic HMS FMP and its amendments, and ATCA.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. This final rule adds only corrective, non-substantive changes to correct cross-references, re-inserts language, and corrects dates to HMS regulations and is solely administrative in nature. These changes should not be unexpected. None of these changes will have a substantive impact beyond those already considered in previous supporting documents. There is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date. The basis for this waiver is that it not a substantive rule but, rather, corrects cross-references, re-inserts regulatory language, and corrects a mistaken date in HMS regulations. Furthermore, failure to implement this rule immediately would cause continued confusion among the regulated community.

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

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

NMFS has determined that fishing activities conducted pursuant to this rule will not affect endangered and/or threatened species or critical habitat listed under the Endangered Species Act, or marine mammals protected by the Marine Mammal Protection Act because the action will not result in any change or increase in fishing activity, and is solely administrative in nature.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

Dated: September 30, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

■ 2. In § 635.21, revise paragraphs (a)(3)(i), (c)(2)(vi), (d)(1)(ii), and add paragraph (g)(4) to read as follows:

§ 635.21 Gear operation, restricted areas and deployment restrictions.

(a) * * *

(3) * * *

(i) No person may fish for, catch, possess, or retain any Atlantic HMS or anchor a fishing vessel that has been issued a permit or is required to be permitted under this part, in the areas and seasons designated at § 622.34(a)(3) of this chapter, and in the Tortugas marine reserves HAPC designated at § 622.74(c) of this chapter.

* * * * *

(c) * * *

(2) * * *

(vi) In the Spring Gulf of Mexico gear restricted area from April 1 through May 31 each year;

* * * * *

(d) * * *

(1) * * *

(ii) The areas designated at § 622.435(a)(2)(i) through (iii) of this chapter, year-round; and

* * * * *

(g) * * *

(4) No person may fish for sharks with a gillnet with a total length of 2.5 km or more. No vessel may have on board a gillnet with a total length of 2.5 km or more.

* * * * *

[FR Doc. 2015–25477 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 150626556–5886–02]

RIN 0648–BF20

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; State Waters Exemption

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

ACTION: Final rule.

SUMMARY: NMFS approves and implements an exemption for Northern Gulf of Maine federally permitted vessels with state-waters permits issued from the State of Maine to continue fishing in the Maine state-waters portion of the Northern Gulf of Maine management area once NMFS has announced that the Federal total allowable catch has been fully harvested in a given year. Maine requested this exemption as part of the Scallop State Water Exemption Program, which specifies that a state may be eligible for a state waters exemption to specific Federal regulations if it has a scallop fishery and a scallop conservation program that does not jeopardize the biomass and fishing mortality/effort limit objectives of the Atlantic Sea Scallop Fishery Management Plan. Based on the information that Maine has submitted, NMFS has determined that Maine qualifies for this exemption and that this exemption will not have an impact on the effectiveness of Federal management measures for the scallop fishery overall or within the Northern Gulf of Maine management area.

DATES: Effective November 6, 2015.

ADDRESSES: Documents supporting this action, including the State of Maine's request for the exemption and Framework Adjustment 26 to the Atlantic Sea Scallop Fishery Management Plan (FMP) are available upon request from John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. The Framework 26 Environmental Assessment and Initial Regulatory Flexibility Analysis are also accessible via the Internet at *http://www.nefmc.org/scallops/index.html or http://www.greateratlantic.fisheries.noaa.gov/regs/2015/March/15scalfw26turtlepr.html.*

Copies of the small entity compliance guide are available from John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930–2298, or available on the Internet at *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/scallop/.*

FOR FURTHER INFORMATION CONTACT: Emily Gilbert, Fishery Policy Analyst, 978–281–9244.

SUPPLEMENTARY INFORMATION:

Background

The Scallop State Waters Exemption Program specifies that a state with a scallop fishery may be eligible for state waters exemptions if it has a scallop conservation program that does not jeopardize the biomass and fishing mortality and effort limit objectives of the Scallop FMP. Under the Program, if NMFS determines that a state is eligible, federally permitted scallop vessels fishing in state waters may be exempted from specific Federal scallop regulations. One of these exemptions enables some scallop vessels to continue to fish in state waters within the Northern Gulf of Maine (NGOM) management area once the Federal NGOM total allowable catch (TAC) is reached. Any state interested in applying for this exemption must identify the scallop-permitted vessels that would be subject to the exemption (*i.e.,* limited access, limited access general category (LAGC) individual fishing quota, LAGC incidental, or LAGC NGOM). No vessel is permitted to fish for scallops in the Federal portion of the NGOM once the TAC is harvested. We provided a broader description of the Scallop State Waters Exemption Program in the preamble of the proposed rule (80 FR 46531; August 5, 2015) for this action and are not repeating that information here.

NMFS received a request from Maine to expand its current exemptions to allow federally NGOM-permitted vessels with Maine state-waters permits to fish in the Maine state-waters portion of the NGOM management area once we project the Federal NGOM TAC to be fully harvested. This provision allows those vessels to continue to fish in state waters along with state permitted vessels that do not have Federal permits. Although the 70,000-lb (31,751-kg) NGOM Federal TAC has never been exceeded since the NGOM management area was created in 2008, there is now a higher potential that the TAC will be reached because scallop effort has increased in the NGOM in recent years as the stock has improved, particularly in state waters. Without this exemption, federally permitted vessels are unable to participate in Maine's state water fishery if the Federal NGOM TAC is reached; state-only permitted scallop vessels are able to continue to fish in state waters after the Federal closure.

Based on the information Maine submitted regarding its scallop conservation program, as outlined in the preamble to the proposed rule, and considering comments received during the public comment period, NMFS determines that the state qualifies for the NGOM state waters exemption under the Scallop FMP. Maine's scallop fishery restrictions are as restrictive as Federal scallop fishing regulations and this exemption will not jeopardize the biomass and fishing mortality and effort limit objectives of the FMP. Allowing for this NGOM exemption will have no impact on the effectiveness of Federal management measures for the scallop fishery overall or within the NGOM management area because the NGOM Federal TAC is set based only on the portion of the resource in Federal waters.

This exemption applies only to vessels with Federal NGOM permits. All other federally permitted scallop vessel categories are prohibited from retaining, possessing, and landing scallops from within the NGOM management area, in both Federal and state waters, once the NGOM hard TAC is fully harvested.

Comments and Responses

NMFS received two comment letters in response to the proposed rule, one from from the Maine Department of Marine Resources and the other from a member of the general public. We provide responses below to the issues these commenters raised.

Comment 1: The Maine Department of Marine Resources stated its support of NMFS issuing this exemption and provided information on the current scallop regulations in its waters.

Response: NMFS is satisfied that Maine meets the criteria for this NGOM exemption and thanks Maine for

submitting the necessary information to make this determination.

Comment 2: One individual was against issuing Maine this exemption, generally stating that overfishing is substantial. The commenter provided no other rationale to deny the permit.

Response: There is no evidence in the record to support the claim that the scallop stock is not in a stable condition. The most recent stock assessment (July 2013) concluded that scallop resource is not overfished and overfishing is not occurring. As we discuss in the preambles to both the proposed and final rules, allowing for this NGOM exemption will not jeopardize the effectiveness of Federal management measures for the scallop fishery overall or within the NGOM management area because the NGOM Federal TAC is set based only on the portion of the resource in Federal waters.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Office of Management and Budget (OMB) has determined that this rule is not significant according to Executive Order (E.O.) 12866.

This final rule does not contain policies with federalism or ''takings'' implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: September 30, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.54, paragraph (a)(4) is revised to read as follows:

§ 648.54 State waters exemption.

(a) * * *

(4) The Regional Administrator has determined that the State of Maine has a scallop fishery conservation program for its scallop fishery that does not jeopardize the biomass and fishing mortality/effort limit objectives of the Scallop FMP. A vessel fishing in State of Maine waters may fish under the State of Maine state waters exemption, subject to the exemptions specified in paragraphs (b) and (c) of this section, provided the vessel is in compliance with paragraphs (e) through (g) of this section. In addition, a vessel issued a Federal Northern Gulf of Maine permit fishing in State of Maine waters may fish under the State of Maine state waters exemption specified in paragraph (d) of this section, provided the vessel is in compliance with paragraphs (e) through (g) of this section.

* * * * *

[FR Doc. 2015–25485 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 194
Wednesday, October 7, 2015

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Doc. No. AMS–FV–14–0049; FV14–925–3]

Grapes Grown in a Designated Area of Southeastern California; Proposed Amendments to Marketing Order and Referendum Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This rulemaking proposes three amendments to Marketing Order No. 925 (order), which regulates the handling of table grapes grown in a designated area of southeastern California. Two amendments are based on proposals made by the California Desert Grape Administrative Committee (Committee), which is responsible for the local administration of the order. These two amendments would increase term lengths for Committee members and alternates from one to four fiscal periods and would allow new members and alternates to agree to accept their nominations prior to selection. The amendments are intended to increase the Committee's effectiveness and bolster industry participation in Committee activities.

In addition to the Committee's two amendments, the Agricultural Marketing Service (AMS) would amend the order to add authority for periodic continuance referenda which would allow producers to indicate whether or not there is continuing support for the order.

DATES: The referendum will be conducted from January 21, 2016 through February 4, 2016. The representative period for the purpose of the referendum is January 1, 2015 through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Michelle P. Sharrow, Rulemaking Branch Chief, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@ams.usda.gov* or *Michelle.Sharrow@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 925, as amended (7 CFR part 925), regulating the handling of table grapes grown in a designated area of southeastern California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' Section 608c(17) of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900) authorize amendments of the order through this informal rulemaking action.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 13175.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. This rulemaking shall not be deemed to preclude, preempt, or supersede any State program covering table grapes grown in southeastern California.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110–246) amended section 18c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307; August 21, 2008). The amendment of section 18c(17) of the Act and additional supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders based on the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

AMS has considered these factors and has determined that the amendment proposals are not unduly complex and the nature of the proposed amendments is appropriate for utilizing the informal rulemaking process to amend the order. A discussion of the potential regulatory and economic impacts on affected entities is discussed later in the ''Initial Regulatory Flexibility Analysis'' section of this proposed rule.

Two amendments were unanimously recommended by the Committee following deliberations at a public meeting held on November 5, 2013. In addition to these amendments, AMS would amend the order to add authority to provide for periodic continuance referenda.

A proposed rule soliciting comments on the proposed amendments was issued on June 1, 2015, and published in the **Federal Register** on June 5, 2015 (80 FR 32043). No comments were received. AMS will conduct a producer referendum to determine support for the proposed amendments. If appropriate, a final rule will then be issued to effectuate the amendments favored by producers in the referendum.

The Committee's proposed amendments would amend the marketing order by: (1) Increasing the

length of the term of office for Committee members and alternates from one to four fiscal periods, and (2) allowing new members and alternates to agree to accept their nominations prior to selection.

In addition to these proposed amendments, AMS proposes to add authority to provide for periodic continuance referenda. AMS has determined that continuance referenda are an effective means to allow the industry to indicate whether or not there exists continuing support for the marketing order. AMS would also consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to the industry.

Proposal Number 1—Term of Office

This proposal would amend § 925.21 by increasing the length of the term of office for Committee members and alternates from one to four fiscal periods. The change would provide more time for new members and alternates to learn the details of the Committee's operations and business during their tenure. In addition, longer terms would eliminate the annual turnover of the Committee and the perennial need for new members and alternates. If this amendment is adopted, members and alternate members would be selected for a four-year term of office beginning with the first term after the amendments become effective.

For the reasons stated above, it is proposed that § 925.21 be modified to increase the length of the term of office for Committee members and alternates from one to four fiscal periods.

Proposal Number 2—Qualification and Acceptance

This proposal would modify § 925.25 to allow new members and alternates to agree to accept their nominations prior to selection for the Committee by the Secretary.

Committee members and alternates are nominated by their peers to serve and are then selected by the Secretary. After the selections are made, Committee members and alternates are required to formally accept the appointment by signing and submitting an acceptance letter indicating they are willing to serve. The Committee believes this final step in the selection process is redundant and not efficient. The order would be revised to specify that before a person is selected as a member or alternate member of the Committee, that person must complete a questionnaire outlining their qualifications. This would eliminate the requirement to complete and submit a separate acceptance letter after being nominated. Because the nominee qualifications questionnaire already includes a statement indicating the person is willing to serve on the Committee, if selected by the Secretary, AMS modified the proposed regulatory text originally submitted by the Committee.

For the reasons stated above, it is proposed that § 925.25 be revised to remove the requirement to file a written acceptance with the Secretary after being notified of selection.

Proposal Number 3—Continuance Referenda

AMS would amend § 925.63, Termination, to require that continuance referenda be conducted every six years to gauge industry support for the order. Currently, there is no provision in the marketing order that requires periodic continuance referenda. Continuance referenda provide an industry with a means to measure grower support for the marketing order program. Since marketing orders benefit growers, it follows that they should be afforded the opportunity to express whether they support the programs on a periodic basis. Under this proposal, the Department would consider termination of the order if less than two-thirds of the producers voting in the referendum or producers of less than two-thirds of the volume of table grapes represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, USDA would not only consider the results of the referendum. The Department would also consider all other relevant information concerning the operation of the order and its relative benefits and disadvantages in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

For the reasons stated above, it is proposed that § 925.63—Termination, be amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to provide that a continuance referendum shall be conducted six years after the amendment becomes effective and every six years thereafter. The new paragraph (c) in this proposed rule and referendum order has been corrected to require a continuance referendum six years after the new paragraph becomes effective, not six years after part 925 becomes effective. The new paragraph (c) of § 925.63 would further specify that the Department may terminate the order if continuance is not favored by two-thirds of the growers participating in the referendum, or voters representing two-thirds of the production volume represented in the referendum.

Final Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

Based on Committee data, there are approximately 15 handlers of southeastern California table grapes who are subject to regulation under the marketing order and approximately 41 grape producers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000 (13 CFR 121.201).

Ten of the 15 handlers subject to regulation have annual grape sales of less than $7,000,000 according to USDA Market News Service and Committee data. Based on information from the Committee and USDA's Market News Service, it is estimated that at least 10 of the 41 producers have annual receipts of less than $750,000. Thus, it may be concluded that a majority of grape handlers regulated under the order and about 10 of the producers could be classified as small entities under SBA definitions.

The amendments proposed by the Committee would provide authority to increase the term length for members and alternates from one to four fiscal periods under the Federal marketing order for California table grapes. They also would allow new members and alternates of the Committee to agree to accept their nominations before the selection process begins. An amendment proposed by AMS would provide for continuance referenda every six years.

The Committee's proposed amendments were unanimously recommended at a public meeting on November 5, 2013.

If these proposals are approved in referendum, there would be no direct

financial effects on producers or handlers. Eliminating the need to complete the election process every year would save considerable amounts of time and reduce expenses for the industry and the Committee. In addition, eliminating the acceptance letter improves the efficiency of the nomination and appointment process.

The Committee believes these changes represent the needs of the Committee and industry. No economic impact is expected if the amendments are approved because they would not establish any regulatory requirements on handlers, nor do they contain any assessment or funding implications. There would be no change in financial costs, reporting, or recordkeeping requirements if either of these proposals is approved.

AMS' proposal to add a provision for continuance referenda is expected to afford producers the opportunity to indicate continuing support for the order and its programs. Support for the program is expected to benefit all producers and handlers by ensuring that the program continues to meet the industry's needs.

Alternatives to these proposals, including making no changes at this time, were considered. However, the Committee believes it would be beneficial to streamline the nomination and selection process to reduce the costs required for completing the process annually and to provide new members and alternates with more time to learn the details of the Committee's operations and business during their tenure.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the termination of the Letter of Acceptance was previously submitted to and approved by the Office of Management and Budget (OMB). As a result, the current number of hours associated with OMB No. 0581–0189, Generic Fruit Crops, would remain the same: 7,786.71 hours.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

The Committee's meeting was widely publicized throughout the California table grape production area. All interested persons were invited to attend the meeting and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the November 5, 2013, meeting was public, and all entities, both large and small, were encouraged to express their views on these proposals.

A proposed rule concerning this action was published in the **Federal Register** on June 5, 2015 (80 FR 32043). Copies of the rule were mailed or sent via facsimile to all Committee members and table grape handlers. Finally, the proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending August 4, 2015, was provided to allow interested persons to respond to the proposal. No comments were received. Accordingly, no changes have been made to the proposed amendments.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide*. Any questions about the compliance guide should be sent to Jeffrey Smutny at his previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Findings and Conclusions

The findings and conclusions and general findings and determinations included in the proposed rule set forth in the June 5, 2015, issue of the **Federal Register** are hereby approved and adopted.

Marketing Order

Annexed hereto and made a part hereof is the document entitled ''Order Amending the Order Regulating the Handling of Table Grapes Grown in a Designated Area of Southeastern California.'' This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions. It is hereby ordered, that this entire proposed rule be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR part 900.400–407) to determine whether the annexed order amending the order regulating the handling of table grapes grown in a designated area of southeastern California is approved by growers, as defined under the terms of the order, who during the representative period were engaged in the production of table grapes in the production area. The representative period for the conduct of such referendum is hereby determined to be January 1, 2015 through December 31, 2015.

The agents of the Secretary to conduct such referendum are designated to be Rose Aguayo and Kathie Notoro, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, or Email: *Rose.Aguayo@ams.usda.gov* or *Kathie.Notoro@ams.usda.gov*, respectively.

Order Amending the Order Regulating the Handling of Table Grapes Grown in a Designated Area of Southeastern California [1]

Findings and Determinations

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the marketing order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. The marketing order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. The marketing order, as amended, and as hereby proposed to be further amended, regulates the handling of table grapes grown in a designated area of Southeastern California in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing order;

3. The marketing order, as amended, and as hereby proposed to be further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

4. The marketing order, as amended, and as hereby proposed to be further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of table grapes produced in the production area; and

5. All handling of table grapes produced in the production area as defined in the marketing order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of table grapes grown in a designated area of southeastern California shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing order amending the order contained in the proposed rule issued by the Administrator on June 1, 2015, and published in the **Federal Register** (80 FR 32043) on June 5, 2015, will be and are the terms and provisions of this order amending the order and are set forth in full herein.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

■ 1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise the first sentence of 925.21 to read as follows:

§ 925.21 Term of office.

The term of office of the members and alternates shall be four fiscal periods.

* * *

■ 3. Revise 925.25 to read as follows:

§ 925.25 Qualification and acceptance.

Any person selected as a member or alternate member of the Committee shall, prior to such selection, qualify by filing a qualifications questionnaire advising the Secretary that he or she agrees to serve in the position for which nominated.

■ 4. Amend 925.63 by redesignating paragraph (c) as (d) and adding a new paragraph (c) to read as follows:

§ 925.63 Termination.

* * * * *

(c) Within six years of the effective date of this paragraph the Secretary shall conduct a referendum to ascertain whether continuance of this part is favored by producers. Subsequent referenda to ascertain continuance shall be conducted every six years thereafter. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by a two thirds majority of voting producers, or a two thirds majority of volume represented thereby, who, during a representative period determined by the Secretary, have been engaged in the production for market of table grapes in the production area. Such termination shall be announced on or before the end of the production year.

* * * * *

Dated: October 1, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–25447 Filed 10–6–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2015–3338; Airspace Docket No. 15–ASO–7]

Proposed Modification and Establishment of Restricted Areas; Townsend, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to modify the restricted airspace at the Townsend Bombing Range, GA, by expanding the lateral limits of R–3007A to allow construction of additional targets and impact areas. The modification is needed so that precision guided munitions (PGM) can be used on the range. The proposed change would be completely contained within the existing outer boundaries of the R–3007 complex. The using agency name also is updated.

DATES: Comments must be received on or before November 23, 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–2015–3338 and Airspace Docket No. 15–ASO–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*. Comments on environmental and land use aspects to should be directed to: Mr. William Drawdy, Natural Resources and Environmental Affairs Officer, Building 601, Floor 2, Room 216, Beaufort, SC 29904; telephone: 843–228–7370; email: *william.drawdy@usmc.mil*.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy 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 Subtitile VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify restricted airspace at the Townsend Bombing Range, GA, to permit essential aircrew training in the employment of PGM at the Range.

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–2015–3338 and Airspace Docket No. 15–ASO–7) and be submitted in triplicate to

the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Persons 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–2015–3338 and Airspace Docket No. 15–ASO–7.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments 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 closing date for comments. 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 at 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 Operations Support Group, Eastern Service Center, Federal Aviation Administration, 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.

Background

The Townsend Bombing Range, located in Long and McIntosh Counties, GA, has been used for air-to-ground ordnance delivery dating back to the 1940's. Currently, the Range consists of four restricted areas: R–3007A, B, C and D. The Range is owned by Marine Corps Air Station (MCAS) Beaufort, SC, and is operated by the Georgia Air National Guard's Combat Readiness Training Center in Savannah, GA.

Although the Range impact area (*i.e.,* R–3007A) has been large enough to accommodate fighter aircraft dropping unguided munitions, it is too small to contain the larger weapon danger zone required for PGMs. The weapon danger zone is the area within which a weapon could impact the ground if a malfunction occurred. Although very accurate, PGMs actually require larger impact areas because they are released to their target from greater distances and altitudes than other types of ordnance. If a PGM experienced guidance or a mechanical system malfunction, its potential impact area is much larger than that required for ordnance that is released from lower altitudes and closer to the target. Consequently, the Range cannot currently be used to train aircrews to employ PGMs. To permit PGM training, the impact area must be expanded to ensure that any errant bomb would safely land within the Range impact area.

The U.S. Marine Corps is acquiring 28,630 acres of real estate to make the Range viable for this essential aircrew training. Purchase of that land would allow a larger section of the existing restricted airspace to be lowered from the current 100 feet above ground level (AGL) floor, down to ground level to permit construction of the additional targets and expanded impact area needed for PGMs.

Range Configuration

Restricted area R–3007A is the primary weapons impact area. It is a circular area with a 1.5-nautical mile (NM) radius that extends from the ground up to but not including 13,000 feet mean sea level (MSL). R–3007B is a narrow area to the southeast of R–3007A. It extends from 1,200 feet AGL up to but not including 13,000 feet MSL. R–3007C is the largest part of the complex. It surrounds R–3007A and is bounded on the west by the Altamaha River, and by lines roughly 9 NM north of R–3007A and 7 NM northeast of R–3007A, and by R–3007B to the southeast of R–3007A. R–3007C extends from 100 feet AGL up to but not including 13,000 feet MSL. R–3007D overlies subareas A, B and C and extends from 13,000 feet MSL to Flight Level (FL) 250.

The land acquisition parcel underlies roughly the eastern half of R–3007C. The airspace over this parcel would be incorporated into R–3007A thereby allowing the floor of the airspace in that area to be lowered from 100 feet AGL down to ground level. This proposed expansion of R–3007A would leave a small, isolated piece of restricted airspace (along the boundary of R–3007B and formerly a part of R–3007C) with a floor of 100 feet AGL. This small area would be redesignated as R–3007E and would extend from 100 feet AGL up to but not including 13,000 feet MSL.

The Proposal

The FAA is proposing an amendment to 14 CFR part 73 to expand restricted area R–3007A to include the part of R–3007C that overlies a land parcel being acquired by the U.S. Marine Corps. The floor of R–3007C is 100 feet AGL. By adding the airspace over this land parcel into R–3007A, the restricted area floor in that area could be lowered from 100 feet AGL down to ground level. This change is proposed to provide additional ground level restricted airspace needed for the construction of targets and impact areas so that PGMs can safely be employed at the Range. The small slice of restricted airspace with a 100-foot AGL floor that remains to the east of the expanded R–3007A would be redesignated as R–3007E extending from 100 feet AGL up to but not including 13,000 feet MSL.

Minor corrections would be made to several boundary coordinates for R–3007B and R–3007D to match the current National Hydrology Dataset for the Altamaha River boundary where that river forms the boundary of the restricted areas. The name of the using agency for all subareas would be updated to reflect the current organizational title.

A color chart of the proposed areas will be posted on the *www.regulations.gov* Web site.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under 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 subjected 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 73

Airspace, Prohibited Areas, Restricted Areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.30 (Amended)

■ 2. § 73.30 is amended as follows:

* * * * *

R–3007A Townsend, GA [Amended]

By removing the current boundaries and using agency and inserting the following:

Boundaries. Beginning at lat. 31°41′52″ N., long. 81°35′53″ W.; to lat. 31°42′31″ N., long. 81°33′59″ W.; to lat. 31°39′24″ N., long. 81°30′31″ W.; to lat. 31°37′49″ N., long. 81°30′56″ W.; to lat. 31°36′35″ N., long. 81°31′15″ W.; to lat. 31°34′17″ N., long. 81°31′56″ W.; to lat. 31°33′07″ N., long. 81°32′41″ W.; thence counterclockwise along a 1–NM radius arc from a point centered at lat. 31°32′26″ N., long. 81°31′49″ W.; to lat. 31°32′37″ N., long. 81°32′58″ W.; to lat. 31°30′59″ N., long. 81°33′57″ W.; to lat. 31°30′45″ N., long. 81°34′19″ W.; to lat. 31°30′29″ N., long. 81°34′41″ W,; to lat. 31°30′38″ N., long. 81°35′06″ W.; to lat. 31°31′13″ N., long. 81°35′02″ W.; to lat. 31°31′35″ N., long. 91°36′32″ W.; to lat. 31°33′04″ N., long. 81°37′27″ W.; to lat. 31°33′30″ N., long. 81°36′32″ W.; to lat. 31°34′25″ N., long. 81°36′13″ W.; to lat. 31°35′32″ N., long. 81°35′59″ W,; to lat. 31°35′55″ N., long. 81°35′19″ W.; to lat. 31°36′38″ N., long. 81°35′18″ W.; to lat. 31°36′43″ N., long. 81°35′41″ W.; to lat. 31°37′20″ N., long. 81°35′37″ W.; to lat. 31°37′23″ N., long. 81°35′47″ W.; to lat. 31°40′29″ N., long. 81°36′13″ W.; to lat. 31°40′48″ N., long. 81°35′33″ W.; to the point of beginning.

Using agency. ANG, Savannah Combat Readiness Training Center (CRTC), Office of Townsend Bombing Range, GA.

R–3007B Townsend, GA [Amended]

By removing the current boundaries and using agency and inserting the following:

Boundaries. Beginning at lat. 31°38′01″ N., long. 81°28′59″ W.; to lat. 31°37′31″ N., long. 81°28′14″ W.; to lat. 31°32′31″ N., long. 81°27′29″ W.; to lat. 31°26′16″ N., long. 81°31′29″ W.; to lat. 31°25′26″ N., long. 81°36′05″ W.; to lat. 31°27′26″ N., long. 81°33′39″ W.; to lat. 31°31′26″ N., long. 81°31′58″ W.; thence clockwise along a 1–NM radius arc from a point centered at lat. 31°32′26″ N., long. 81°31′49″ W.; to lat. 31°33′18″ N., long. 81°31′13″ W.; to the point of beginning.

Using agency. ANG, Savannah Combat Readiness Training Center (CRTC), Office of Townsend Bombing Range, GA.

R–3007C Townsend, GA [Amended]

By removing the current boundaries and using agency and inserting the following:

Boundaries. Beginning at lat. 31°37′54″ N., long. 81°47′21″ W.; to lat. 31°41′52″ N., long. 81°35′53″ W.; to lat. 31°40′48″ N., long. 81°35′33″ W,; to lat. 31°40′29″ N., long. 81°36′13″ W.; to lat. 31°37′23″ N., long. 81°35′47″ W.; to lat. 31°37′20″ N., long. 81°35′37″ W.; to lat. 31°36′43″ N., long. 81°35′41″ W.; to lat. 31°36′38″ N., long. 81°35′18″ W.; to lat. 31°35′55″ N., long. 81°35′19″ W.; to lat. 31°35′32″ N., long. 81°35′59″ W.; to lat. 31°34′25″ N., long. 81°36′13″ W.; to lat. 31°33′30″ N., long. 81°36′32″ W.; to lat. 31°33′04″ N., long. 81°37′27″ W.; to lat. 31°31′35″ N., long. 81°36′32″ W.; to lat. 31°31′13″ N., long. 81°35′02″ W.; to lat. 31°30′38″ N., long. 81°35′06″ W.; to lat. 31°30′29″ N., long. 81°34′41″ W.; to lat. 31°30′45″ N., long. 81°34′19″ W.; to lat. 31°30′59″ N., long. 81°33′57″ W.; to lat. 31°32′37″ N., long. 81°32′58″ W.; thence counterclockwise along a 1–NM radius arc from a point centered at lat. 31°32′26″ N., long. 81°31′49″ W.; to lat. 31°31′26″ N., long. 81°31′58″ W.; to lat. 31°27′26″ N., long. 81°33′39″ W.; to lat. 31°25′26″ N., long. 81°36′05″ W.; thence west along the Altamaha River to the point of beginning.

Using agency. ANG, Savannah Combat Readiness Training Center (CRTC), Office of Townsend Bombing Range, GA.

R–3007D Townsend, GA [Amended]

By removing the current boundaries and using agency and inserting the following:

Boundaries. Beginning at lat. 31°37′54″ N., long. 81°47′21″ W.; to lat. 31°41′52″ N., long. 81°35′53″ W.; to lat. 31°42′31″ N., long. 81°33′59″ W.; to lat. 31°39′24″ N., long. 81°30′31″ W.; to lat. 31°38′01″ N., long. 81°28′59″ W.; to lat. 31°37′31″ N., long. 81°28′14″ W.; to lat. 31°32′31″ N., long. 81°27′29″ W.; to lat. 31°26′16″ N., long. 81°31′29″ W.; to lat. 31°25′26″ N., long. 81°36′05″ W.; thence northwest along the Altamaha River to the point of beginning.

Using agency. ANG, Savannah Combat Readiness Training Center (CRTC), Office of Townsend Bombing Range, GA.

R–3007E Townsend, GA [New]

Boundaries. Beginning at lat. 31°39′24″ N., long. 81°30′31′W.; to lat. 31°38′01″ N., long. 81°28′59″ W.; to lat. 31°33′18″ N., long. 81°31′13″ W.; thence counterclockwise along a 1–NM radius arc from a point centered at lat. 31°32′26″ N., long. 81°31′49″ W.; to lat. 31°33′07″ N., long. 81°32′41″ W.; to lat. 31°34′17″ N., long. 81°31′56″ W.; to lat. 31°36′35″ N., long. 81°31′15″ W.; to lat. 31°37′49″ N.; long. 81°30′56″ W.; to the point of beginning.

Designated altitudes. 100 feet AGL to but not including 13,000 feet MSL.

Time of designation. 0700–2200 local time, Monday–Friday; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. ANG, Savannah Combat Readiness Training Center (CRTC), Office of Townsend Bombing Range, GA.

Issued in Washington, DC, on October 1, 2015.

Kenneth Ready,

Acting Manager, Airspace Policy Group.

[FR Doc. 2015–25542 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506–AB11

Financial Crimes Enforcement Network; Withdrawal of the Proposed Rulemaking Against Lebanese Canadian Bank SAL

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws FinCEN's February 17, 2011, proposed rulemaking to impose the fifth special measure against Lebanese Canadian Bank SAL (''LCB'') as a financial institution of primary money laundering concern, pursuant to the United States Code (U.S.C.).

DATES: As of October 7, 2015 the proposed rule published February 17, 2011, at 76 FR 9268, is withdrawn.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 767–2825.

SUPPLEMENTARY INFORMATION:

I. Background

The Bank Secrecy Act (''BSA''), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314 and 5316–5332, promotes the prevention, detection, and prosecution of money laundering, tax evasion, the financing of terrorism, and other financial crimes. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (''the Secretary'') to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 5318A of the BSA grants the Secretary authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, foreign financial institution, class of international transactions, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and domestic financial agencies to take certain ''special measures'' against the primary money laundering concern.

II. The Finding, Notice of Proposed Rulemaking, and Subsequent Developments

A. The Notice of Finding and Notice of Proposed Rulemaking

Based upon review and analysis of relevant information, consultations with relevant Federal agencies and departments, and after consideration of the factors enumerated in section 311, the Director of FinCEN found that reasonable grounds existed for concluding that LCB was a financial institution of primary money laundering concern. FinCEN published a proposed rule proposing to impose the fifth special measure on February 17, 2011, pursuant to the authority under 31 U.S.C. 5318A.[1]

B. Subsequent Developments

Since FinCEN's notice of proposed rulemaking, material facts regarding the circumstances of the proposed rulemaking have changed. On September 20, 2011, the Lebanese central bank and monetary authority, with control over bank supervision and regulation, the Banque du Liban (BDL), revoked the banking license of LCB and delisted LCB from the list of banks published by BDL. LCB's former shareholders sold its assets and liabilities to the Societé Generale de Banque au Liban SAL (SGBL). Because of the action taken by the Lebanese banking authorities and the liquidation of the LCB's assets, LCB no longer exists as a foreign financial institution. FinCEN will therefore not proceed with the rule proposed on February 17, 2011.

III. Withdrawal of the Proposed Rule

For the reasons set forth above, FinCEN hereby withdraws the February 17, 2011 proposed rule proposing to impose the fifth special measure authorized by 31 U.S.C. 5318A(b)(5) regarding LCB. FinCEN's withdrawal of the proposed rule does not acknowledge any remedial measure taken by LCB, but results from the fact that LCB no longer exists as a foreign financial institution due to the decision by its former shareholders to liquidate the bank and the revocation of its banking license.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2015–24912 Filed 10–6–15; 8:45 am]

BILLING CODE 4810–02–P

[1] *See* 76 FR 9268 (February 17, 2011, RIN 1506–AB11).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0605; A–1–FRL–9935–30–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Sulfur Content of Fuels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island on June 26, 2014, with supplemental submittals on March 25, 2015 and August 28, 2015. This SIP revision includes a regulation that has been revised to require a lower sulfur content for petroleum-based distillate and residual fuel oils. In addition, outdated provisions in the regulation have been removed. The intended effect of this action is to propose approval of this regulation into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before November 6, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2014–0605 by one of the following methods:

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

2. *Email: mcconnell.robert@epa.gov.*

3. *Fax:* (617) 918–0046.

4. *Mail:* EPA–R01–OAR–2014–0605, Bob McConnell, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Bob McConnell, Acting Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Anne McWilliams, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1697, fax number (617) 918–0697, email *mcwilliams.anne@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittals as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that

are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: September 21, 2015.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2015–25333 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[EPA–HQ–OPPT–2015–0487; FRL–9934–77]

Carbon Dioxide Emissions and Ocean Acidification; TSCA Section 21 Petition; Reasons for Agency Response

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petition; reasons for Agency response.

SUMMARY: This document provides the reasons for EPA's denial of a petition it received under section 21 of the Toxic Substances Control Act (TSCA) from the Center for Biological Diversity and Donn J. Viviani, Ph.D. The petitioners requested EPA to initiate rulemaking under TSCA to address risks related to carbon dioxide emissions, particularly those associated with ocean acidification, or, in the alternative, that EPA initiate rulemaking under TSCA to require testing to determine toxicity, persistence, and other characteristics of carbon dioxide emissions that affect human health and the environment. After careful consideration, EPA denied the TSCA section 21 petition for the reasons discussed in this document.

DATES: EPA's response to this TSCA section 21 petition was signed September 25, 2015.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Cindy Wheeler, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 566–0484; email address: *wheeler.cindy@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to sources of carbon dioxide emissions, such as power plants, cement plants, pulp and paper mills, and various types of mobile sources. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I access information about this petition?

The docket for this TSCA section 21 petition, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0487, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. TSCA Section 21

A. What is a TSCA Section 21 petition?

Under TSCA section 21 (15 U.S.C. 2620), any person can petition EPA to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8 or an order under TSCA section 5(e) or 6(b)(2). A TSCA section 21 petition must set forth the facts that are claimed to establish the necessity for the action requested. EPA is required to grant or deny the petition within 90 days of its filing. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. A petitioner may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking proceeding within 60 days of either a denial or the expiration of the 90-day period.

B. What criteria apply to a decision on a TSCA Section 21 petition?

Section 21(b)(1) of TSCA requires that the petition ''set forth the facts which it is claimed establish that it is necessary'' to issue the rule or order requested (15 U.S.C. 2620(b)(1)). Thus, TSCA section 21 implicitly incorporates the statutory standards that apply to the requested actions. In addition, TSCA section 21 establishes standards a court must use to decide whether to order EPA to initiate rulemaking in the event of a lawsuit filed by the petitioner after denial of a TSCA section 21 petition (15 U.S.C. 2620(b)(4)(B)). Accordingly, EPA has relied on the standards in TSCA section 21 and in the provisions under which actions have been requested to evaluate this TSCA section 21 petition.

III. TSCA Sections 6 and 4

Of particular relevance to this TSCA section 21 petition are the legal standards regarding TSCA section 6 rules and TSCA section 4 rules.

A. TSCA Section 6 Rules

To promulgate a rule under TSCA section 6, the EPA Administrator must find that ''there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture . . . presents or will present an unreasonable risk'' (15 U.S.C. 2605(a)). This finding cannot be made considering risk alone. Under TSCA section 6, a finding of ''unreasonable risk'' requires the consideration of costs and benefits. Furthermore, the control measure adopted is to be the ''least burdensome requirement'' that adequately protects against the unreasonable risk (15 U.S.C. 2605(a)).

In addition, TSCA section 21(b)(4)(B) provides the standard for judicial review should EPA deny a request for rulemaking under TSCA section 6(a): ''If the petitioner demonstrates to the satisfaction of the court by a preponderance of the evidence that . . . there is a reasonable basis to conclude that the issuance of such a rule . . . is necessary to protect health or the environment against an unreasonable risk of injury,'' the court shall order the EPA Administrator to initiate the requested action (15 U.S.C. 2620(b)(4)(B)).

Also relevant to the issuance of regulations under TSCA section 6, TSCA section 9(b) directs EPA to take regulatory action on a chemical substance or mixture under other statutes administered by the Agency if the EPA Administrator determines that actions under those statutes could eliminate or reduce to a sufficient extent a risk posed by the chemical substance or mixture. If this is the case, the regulation under TSCA section 6 can be promulgated only if the EPA determines that it is in the ''public interest'' to protect against that risk under TSCA

rather than, or in addition to, the alternative authority (15 U.S.C. 2608(b)).

B. TSCA Section 4 Rules

To promulgate a rule under TSCA section 4, EPA must find that data and experience are insufficient to reasonably determine or predict the effects of a chemical substance or mixture on health or the environment and that testing of the chemical substance is necessary to develop the missing data (15 U.S.C. 2603(a)(1)). In addition, EPA must find either that: (1) The chemical substance or mixture may present an unreasonable risk of injury; or (2) The chemical substance is produced in substantial quantities and may either result in significant or substantial human exposure or result in substantial environmental release (15 U.S.C. 2603(a)(1)).

In the case of a mixture, EPA must also find that ''the effects which the mixture's manufacture, distribution in commerce, processing, use, or disposal or any combination of such activities may have on health or the environment may not be reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture'' (15 U.S.C. 2603(a)(2)).

IV. Summary of the TSCA Section 21 Petition

A. What action was requested?

On June 30, 2015, the Center for Biological Diversity and Donn J. Viviani, Ph.D., petitioned EPA under TSCA section 21 to determine that carbon dioxide (CO_2) presents an unreasonable risk of injury to health or the environment and initiate rulemaking to control CO_2 (Ref. 1). The petitioners point to TSCA section 6(a) for options that EPA may exercise in order to protect against unreasonable risk and ask that EPA take into consideration the harm caused by past CO_2 emissions.

If EPA determines that the available data and information are insufficient to permit EPA to reasonably determine or predict the effects of CO_2 emissions on human health and the environment, the petitioners request that EPA initiate rulemaking for testing under TSCA section 4 to fill the information gaps. The petitioners suggest that EPA consider requiring the following tests or studies under TSCA section 4:

- Tests of CO_2 emission reduction, capture, and sequestration strategies.
- Vulnerability assessments for marine and coastal species and ecosystems.
- Forecasts, using modeling, of species' responses to ocean acidification.
- Assessments of the economic values of ecosystems at risk and the costs of reducing CO_2 emissions to protect those ecosystems.

Petitioner Viviani submitted a supplement supporting all actions requested in the petition and including additional information and requests (Ref. 2). The supplement requests further that, with any TSCA section 6 or TSCA section 4 action, EPA also consider health effects from climate change and ocean acidification, direct and indirect economic impacts, insurance impacts, and environmental justice implications. Petitioner Viviani also suggested that EPA include, in any TSCA section 6 rule, options to sequester carbon emissions, including sequestration that relies on alternative energy and/or produces net carbonates, as well as the use of economic incentives to encourage sequestration efforts by the private sector. Alternately, the Viviani supplement specifically asks that EPA use TSCA section 4 to gather information on sequestration technologies and offers a suggested cost apportionment method.

The supplement includes a variety of additional requests and observations. For example, the supplement urges EPA to consider making an imminent hazard finding under TSCA section 7 in order to complement other Agency actions and to inform the public on the risks, causes, and methods for mitigating ocean acidification resulting from anthropogenic CO_2 emissions. The supplement urges EPA to address the impacts of ocean acidification on pesticide tolerances by taking into account the increased fish farming that will be needed as a result of ocean acidification. Finally, the supplement asks EPA to use other programs and authorities to address ocean acidification, such as the Clean Air Act (CAA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

B. What support do the petitioners offer?

The petitioners contend that CO_2 emissions cause ocean acidification, and that ocean acidification is a severe threat to the marine environment and the health of people who depend on oceans and coasts. According to the petitioners, about 28% of the CO_2 emissions from power generation, cement production, industry, and other sources are absorbed by the ocean, which causes the seawater to become more acidic and corrosive to sea life. The petitioners state that, since the industrial revolution, man-made CO_2 emissions have increased the acidity of the oceans on average by 30%, and that, by the end of the century, the oceans will become 150–170% more acidic if anthropogenic CO_2 emissions continue unabated. The petitioners provide numerous examples of the potential adverse effects of ocean acidification, some of which they say are already apparent, such as the loss of oyster larvae in the Pacific Northwest, the poor condition of pteropod (a type of zooplankton) shells along the West Coast, and the decline in calcification rates at coral reef locations in the Pacific and the Caribbean. Other adverse impacts to be expected from ocean acidification, according to the petitioners, are impairment of sensory abilities and behavior in fish, decreased metabolic rate and activity levels in squid, increased toxicity of algal blooms, and loss of species diversity across ocean ecosystems.

In addition to describing the environmental impacts of ocean acidification, the petitioners provided some socioeconomic information to establish that the impacts will be more widespread and may include our nation's food security. The petitioners cited the United Nations Convention on Biological Diversity for a 2014 prediction that the oceans will lose more than $1 trillion in value annually from ocean acidification by 2100 (Ref. 3). The petitioners also cited a 2010 report from the United Nations Environment Programme that ocean acidification's impact on marine organisms is a threat to food security for the billions of people that have a marine-based diet (Ref. 4). The petitioners contend that the US economy is dependent on the health of the ocean, citing 2009 information from the National Oceanic and Atmospheric Administration (NOAA) that estimated that the ocean economy contributes over $223 billion annually to the gross domestic product and provides more than 2.6 million jobs (Ref. 5).

V. Disposition of TSCA Section 21 Petition

A. What is EPA's response?

After review and consideration of the support provided, EPA denied the petition. EPA has acknowledged the impacts of CO_2 and other greenhouse gas emissions on ocean acidification and the potential impacts of ocean acidification on marine ecosystems in its 2009 greenhouse gas endangerment finding (Ref. 6). However, the petitioners provided neither adequate specifics on the relief sought under TSCA, nor sufficient information on the costs and benefits associated with a

requested regulatory option to allow EPA to make the unreasonable risk finding specified in TSCA section 6(a). In addition, actions to address CO_2 emissions under authorities other than TSCA could reduce the risk posed by CO_2 more efficiently and effectively at this time. Finally, the petitioners do not present EPA with information sufficient to establish that testing under TSCA section 4 is necessary to develop data that would allow EPA to determine whether anthropogenic CO_2 emissions present an unreasonable risk of injury under TSCA. A copy of the Agency's response, which consists of a letter to the petitioners, is available in the docket for this TSCA section 21 petition.

B. What is EPA's reason for this response?

1. Background on federal action. Ocean acidification refers to the decrease in the pH of the Earth's oceans caused by the uptake of CO_2 from the atmosphere. Ocean acidification presents a suite of environmental changes that would likely negatively affect ocean ecosystems, fisheries, and other marine resources.

EPA and other parts of the federal government are working diligently on many fronts to address climate change and related concerns, including ocean acidification. The Federal Ocean Acidification Research and Monitoring Act of 2009 created the Interagency Working Group on Ocean Acidification (IWG–OA), which is chaired by NOAA and consists of a dozen federal agencies including EPA. Over the past several years, the member agencies have conducted and funded research into the effects of acidification on ocean ecosystems and the economy. The IWG–OA released its Strategic Plan for Federal Research and Monitoring of Ocean Acidification in 2014 (Ref. 7). The group's Third Report on Federally Funded Ocean Acidification Research and Monitoring Activities, a report to Congress issued in April 2015 (Ref. 8), highlights the wide variety of research aimed at understanding the impacts of acidification, including the following activities undertaken or funded by EPA:

- A study of coastal acidification impacts on shellfish in Narragansett Bay.
- Studies of plankton community and macro-algal responses to acidification.
- Support for the development of biophysical models and new methodologies to determine the economic and intrinsic value of coral reefs and shellfish.
- Research to assess the economic impacts of ocean acidification on US mollusk fisheries to support quantification of the damages resulting from greenhouse gas emissions.
- Support for monitoring acidification in National Estuary Program study areas.
- Support for the development of computational models that will predict changes in biogeochemical parameters of coastal waters.

The current Administration has focused on ocean policy comprehensively, including ocean acidification. In 2009, President Obama established an Interagency Ocean Policy Task Force charged with developing recommendations to enhance national stewardship of the ocean, coasts, and Great Lakes. The Task Force received and reviewed nearly 5,000 written comments from Congress, stakeholders, and the public before issuing final recommendations. On July 19, 2010, President Obama signed Executive Order 13547, adopting the final recommendations of the Task Force and establishing a national policy for the stewardship of the ocean, coasts, and Great Lakes. This National Ocean Policy recognizes the importance of marine and lake ecosystems in providing jobs, food, energy resources, ecological services, transportation, and recreation and tourism opportunities. In April of 2013, the final plan for implementing the National Ocean Policy was issued, after additional opportunities for stakeholders and the general public to comment (Ref. 9). The implementation plan describes specific actions Federal agencies will take to address key ocean challenges, while at the same time giving states and communities greater input in Federal decisions, streamlining Federal operations, and promoting economic growth. In relation to ocean acidification, the implementation plan (and its appendix) focus on information development and dissemination, as well as coastal resiliency and adaptation.

President Obama released a Climate Action Plan in 2013 which laid out a vision for reducing greenhouse gases based on three key pillars, namely domestic greenhouse gas reductions, preparations for future impacts, and leading international efforts to address climate change (Ref. 10). Reductions of CO_2 emissions through domestic and international actions will contribute to the amelioration of ocean acidification. Domestic actions under the Climate Action Plan that will lead to CO_2 reductions include regulatory activities, promoting renewable energy, supporting innovation in the energy and vehicle sectors, and improving efficiency at multiple levels. CO_2 is a globally well-mixed gas, one of the greenhouse gases that are sufficiently long-lived in the atmosphere such that, once emitted, concentrations of each gas become well mixed throughout the entire global atmosphere (Ref. 6). Therefore, global reductions are also necessary, and the Administration is pursuing multiple avenues to work with and in other nations to reduce emissions and deforestation and promote clean energy and energy efficiency.

Much of the domestic regulatory activity has been under the authority of the CAA. In 2009, under CAA section 202(a), the Administrator determined that six well-mixed greenhouse gases (CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) in the atmosphere threaten the public health and welfare of current and future generations and that the combined emissions from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare (Ref. 6). [Note: Although this finding was supported by a record that included extensive scientific assessment literature on climate change and its impacts, including ocean acidification, particularly of the US Global Change Research Program (USGCRP), the National Research Council (NRC) of the US National Academies of Science and the Intergovernmental Panel on Climate Change (IPCC), the EPA notes that its actions under the CAA are governed by different statutory provisions and different standards than the standard for making a finding of unreasonable risk under TSCA sections 6(a) or 4. As such, the Agency's determinations on this petition under TSCA are separate from and would not affect EPA's determinations under other statutory authorities.]

Subsequently, EPA promulgated emissions standards for light duty vehicles for model years 2012–2016 (Ref. 11) and model years 2017–2025 (Ref. 12) controlling emissions of CO_2, methane, nitrous oxide, and hydrofluorocarbons from the light duty fleet. EPA has also promulgated standards for these same air pollutants for new heavy duty vehicles and engines for model years 2014–2018 (Ref. 13), and recently proposed a second phase of standards for these vehicles and engines for model years 2018–2027 (Ref. 14). Together, the enacted and proposed standards are expected to save more than six billion barrels of oil through 2025 and reduce more than 3,100 million metric tons of CO_2 emissions.

Also with respect to mobile sources, EPA is required to set annual standards

for the Renewable Fuel Standard (RFS) program for each year that ensure that transportation fuel sold in the U.S. contains a minimum volume of renewable fuel. By 2022, the RFS program will reduce greenhouse gas emissions by 138 million metric tons, about the annual emissions of 27 million passenger vehicles, replacing about seven percent of expected annual diesel consumption and decreasing oil imports by $41.5 billion.

While mobile sources are important contributors to greenhouse gas pollution, power plants are the largest stationary source of carbon pollution in the United States and about one third of all greenhouse gas pollution comes from the generation of electricity by power plants. On August 3, 2015, EPA issued the Clean Power Plan, which includes standards for new and existing power plants (Ref. 15). Under the authority of CAA section 111(b), the Plan sets carbon pollution standards for new, modified, and reconstructed power plants. Emission limits, based on the best adequately demonstrated system of emission reduction for the type of unit, are set for new, modified, and reconstructed stationary combustion turbines as well as new, modified, and reconstructed coal-fired steam generating units. Under the authority of CAA section 111(d), the Clean Power Plan also establishes interim and final CO_2 emission performance rates for fossil fuel-fired electric steam generating units and for natural gas-fired combined cycle generating units. To maximize the range of choices available to states in implementing the standards and to utilities in meeting them, the Clean Power Plan also includes interim and final statewide goals. States will then develop and implement plans that ensure that their power plants, either individually, together, or in combination with other measures, achieve the interim CO_2 emissions performance rates over the period of 2022 to 2029 and the final CO_2 emission performance rates or goals by 2030. EPA estimates that by 2030, when the Clean Power Plan is fully effective, the CO_2 emission level from fossil-fuel fired electric power plants will be lower than the 2005 level by about 32 percent, which is 870 million tons of CO_2.

In addition, since January of 2011, under the CAA, EPA has required that the construction of large stationary sources of air pollution (including power plants) incorporate the best technology available for controlling emissions of greenhouse gases, including CO_2. Under CAA section 165(a), a major emitting facility may not commence construction without obtaining a Prevention of Significant Deterioration (PSD) permit that limits the emissions of ''each pollutant subject to regulation'' under the Act to the maximum degree achievable through the application of the Best Available Control Technology (BACT) (42 U.S.C. 7475(a)(4); 7479(3)). This requirement became applicable to greenhouse gas emissions when EPA's light-duty vehicle standards for this pollutant first took effect 2011 (Ref. 16). In 2010, EPA took several steps to ensure that EPA and state permitting authorities were able to apply the PSD BACT requirement to greenhouse gas emissions from the largest stationary sources and to incorporate those requirements into operating permits for stationary sources under Title V of the Clean Air Act. EPA first issued a rule that phased-in the requirements of these CAA permitting programs and initially limited covered facilities to the nation's largest greenhouse gas emitters: power plants, refineries, and cement production facilities (Ref. 17). EPA also issued several rules to ensure that either EPA or a state permitting authority was in a position to implement these requirements in every state (Refs. 18–20).

EPA has developed many programs and projects that partner with industry and others to reduce greenhouse gas emissions. Examples include ENERGY STAR, the Green Power Partnership, and the Combined Heat and Power Partnership. Through voluntary energy and climate programs, EPA's partners reduced over 345 million metric tons of greenhouse gases in 2010 alone (equivalent to the emissions from 81 million vehicles).

In addition to taking actions to reduce CO_2 emissions, EPA has been working on ocean acidification issues under the Clean Water Act (CWA). In 2009, EPA published a Notice of Data Availability (NODA) containing data and information on the potential effects of ocean acidification on aquatic life and requested data and information from the public that could be useful to EPA in deciding whether to reevaluate and revise the recommended marine pH water quality criterion under section 304(a)(1) of the CWA (Ref. 21). EPA carefully reviewed all of the information received during the public comment period as well as additional information from NOAA. EPA determined that, at the time, the available data did not indicate a need to revise the national recommended criteria for marine pH to address the natural variability in pH across coastal regions.

In addition, EPA issued a March 2010 request for comment on consideration of the effects of ocean acidification in the implementation of the program for listing of impaired waters under CWA section 303(d) (Ref. 22). Under that section, states, territories, and authorized tribes develop lists of impaired waters and develop Total Maximum Daily Loads (TMDLs) for the pollutant(s) causing the impairment. In the notice, EPA asked for comment on what considerations to take into account when deciding how to address the listing of waters as threatened or impaired for ocean acidification under the 303(d) program. In November 2010, EPA distributed a memorandum entitled ''Integrated Reporting and Listing Decisions Related to Ocean Acidification'' (Ref. 23). Among other things, the memorandum explained that states should continue to list waters that do not attain applicable water quality standards, including marine pH water quality criteria, on the lists of impaired waters submitted to EPA, and should continue to solicit existing and readily available information on ocean acidification using the current section 303(d) listing program framework. EPA also committed to providing additional guidance to states, territories, and tribes when future ocean acidification research efforts provide the basis for improved monitoring and assessment methods.

In 2012, EPA took actions to approve the 2010 list of impaired waters for the State of Washington and to establish the 2010 list of impaired waters for the State of Oregon. Neither of those lists included waters impaired due to pollutants associated with or conditions attributable to ocean acidification, and EPA's actions were challenged in court. In 2015, the court upheld EPA's determination that existing and readily available data and information, including confounding and incomplete data that might otherwise support listing the States' coastal and estuarine waters as impaired, did not require listing of such waters as impaired due to ocean acidification (Ref. 24).

2. Rationale for petition denial. To regulate CO_2 to address ocean acidification under TSCA section 6 in addition to other authorities, EPA would have to make the unreasonable risk finding specified in TSCA section 6(a). The TSCA section 21 petition asserts that ''CO2 pollution is changing ocean chemistry and harming the marine environment'' and that there will be ''severe and detrimental impacts on marine ecosystems, the economy, and public health if this pollution is unabated'' (Ref. 1). However, the petitioners' argument as to the existence of unreasonable risk under TSCA

section 6 is hindered by a nearly complete lack of detail as to the TSCA risk management sought. Under TSCA section 21, the public can petition EPA for the issuance, amendment or repeal of ''a rule'' under section 6. The petitioners have not identified a particular rule that they believe EPA should issue. Rather, they have identified a global environmental concern and asked that EPA, during the 90 days available to it under section 21, identify a rule that would address the concern and then assess the costs and benefits of such a rule to determine whether the identified risk is unreasonable. Section 21 requires considerably more specificity than petitioners have provided.

While the petitioners stated an overall goal of mitigating ocean acidification under TSCA, and suggested a variety of actions that could be used to achieve this goal, *e.g.,* mandatory emission reductions or ''repurchasing relief using sequestration,'' the petitioners did not describe, in any reasonable manner, what specific action available under TSCA section 6 the petitioners seek in order to achieve that outcome (Ref. 1). For example, although the petitioners state that ''stabilizing atmospheric concentration to prevent further acidification of the oceans would require about an 80% decrease in all emissions,'' the petitioners did not specify a regulatory approach for achieving such a reduction in the United States (EPA clearly could not require emission reductions abroad under TSCA), or estimate the costs and benefits of such a regulation (Ref. 1). Among the costs EPA would want to evaluate would be the impacts of further emission reductions on energy and transportation reliability and affordability. Similarly, although the petitioners argue that EPA has the authority to require the mitigation of past emissions through sequestration, and identify a variety of methods for sequestering carbon, the petitioners provided no specifics on how EPA might impose mandatory carbon sequestration actions on current and past emitters of CO_2 that are subject to TSCA.

The finding of unreasonable risk under TSCA section 6 encompasses both the anticipated benefits of regulatory action as well as the anticipated costs. As noted above, EPA has acknowledged that greenhouse gas emissions impact ocean acidification and the petitioners have provided evidence that CO_2 contributes to ocean acidification and therefore poses a risk to the environment within the meaning of TSCA. The petitioners have also provided information on the benefits that might be expected from reductions in CO_2 emissions and/or mitigation or sequestration of past CO_2 emissions globally. However, the petitioners present minimal information on CO_2 emission controls or the costs of reducing CO_2 emissions or sequestering past emissions. The petitioners conclude that ''many industries could employ existing technology to achieve meaningful emissions reductions affordably,'' and cite a couple of EPA documents that review available technologies for reducing greenhouse gas emissions (Ref. 1). While these documents are indeed useful as a survey of the state of the industry on emission controls and reductions, they do not provide the kind of evidence or data EPA would need in order to estimate the costs of any rule that EPA might impose under TSCA section 6 to regulate CO_2 emissions. In addition, the petitioners provide no basis for EPA to estimate the benefits of any particular rule that EPA might impose. While the combined effects of global CO_2 emissions create significant environmental and human health concerns, and the elimination or reduction of those emissions would have substantial benefits, any particular TSCA rule could address only a portion of those emissions. The analysis EPA would have to undertake in assessing the unreasonableness of the identified risks would involve assessing the costs and benefits of particular rulemaking actions under TSCA, and the petitioners simply have not provided sufficient information about either the rule they think EPA should promulgate or the likely costs and benefits of such a rule to enable EPA to perform such an analysis.

In addition to a TSCA section 6 rule regulating CO_2 emissions, the petitioners suggest that EPA could use its authority under TSCA section 6(a)(7)(C) to require emitters to take steps to mitigate or sequester past CO_2 emissions. According to the petitioners, this provision, which gives EPA the authority to require manufacturers and processors to replace or repurchase chemical substances or mixtures, also gives EPA the authority to ''remediate existing harm by requiring that responsible parties mitigate past CO_2 emissions'' (Ref. 1). The petitioners go on to discuss a wide variety of mitigation and sequestration methods and processes that EPA should evaluate and potentially impose under this authority, including land use and agricultural practice changes, programs directed at consumer choice (like EPA's existing ENERGY STAR program), and sequestration of CO_2 in products, infrastructure and waste management. The petition supplement provides additional detail on mitigation and sequestration methods, including bio-char, the use of more structural timber in buildings, and sequestration in products such as ''green'' cement and foam insulation (Ref. 2).

The petitioners' suggestion to consider TSCA section 6(a)(7)(C) is misplaced. While EPA agrees that this provision gives EPA some authority to address past harms, it is intended to address chemical substances and mixtures that move in the stream of commerce, not air pollution that is a byproduct of industrial and other activity on a global scale. According to the statute, when the appropriate findings are made, EPA can require manufacturers or processors to repurchase or replace chemical substances or mixtures, but the regulated manufacturers and processors must be permitted to decide whether to repurchase or replace. In EPA's view, the authority to require replacement or repurchase of a chemical substance or mixture does not include the authority to require extraction from the environment of widely dispersed chemicals. EPA reads this provision as applying when a distinct person or persons who received the chemical substance or mixture and from whom the manufacturer or processor can elect to repurchase or replace can be identified. Applying this provision to past anthropogenic CO_2 emissions does not make sense where emitted CO_2 has mixed throughout the global atmosphere and there is no way to connect the CO_2 with any one entity for repurchase.

In addition, TSCA section 9(b) requires EPA's Administrator to coordinate actions taken under TSCA with actions taken under other laws administered by EPA. When EPA determines that actions under other authorities can eliminate or reduce a risk to health or the environment to a sufficient extent, the Administrator must use the other authorities unless she determines it is in the public interest to protect against the risk by action taken under TSCA. While the petitioners recognize that anthropogenic CO_2 emissions are being regulated under the CAA, they assert that those efforts are inadequate to protect marine species from climate change and ocean acidification. However, even if petitioners had requested a TSCA rule with reasonable specificity, EPA would likely determine that actions related to ocean acidification taken under other laws administered by EPA, both those already underway and those planned for

the future, could reduce the risks to a sufficient extent under TSCA section 9(b). Because CO_2 is a global pollutant, domestic actions alone cannot eliminate the risks, but the Administration has engaged in a set of coordinated domestic actions and international negotiations to reduce CO_2 emissions in order to reduce the risks of climate change and ocean acidification. EPA sees no sound reason to exercise authorities available under TSCA to further address any such risk or to deviate from EPA's regulatory efforts and programs already underway.

The CAA is the comprehensive federal law designed to regulate air emissions from stationary and mobile sources. As discussed above, EPA has issued rules under the CAA that address CO_2 emissions from a variety of sources, including power plants and mobile sources. The Clean Power Plan, for example, represents real action and leadership on climate change by ensuring meaningful reductions in carbon pollution from power plants while maintaining energy reliability and affordability. EPA does not understand why the petitioners seem to believe that TSCA, which is intended to address toxic substances generally, would be an appropriate vehicle for addressing emissions of CO_2 when the Agency is already doing so under the federal statute specifically designed to regulate air emissions. In fact, the petitioners acknowledge that ''full implementation of our flagship environmental laws, particularly the Clean Air Act, would provide an effective and comprehensive greenhouse gas reduction strategy'' (Ref. 1). The petitioners go on to contend that, due to the alleged non-implementation of these laws, ''existing domestic regulatory mechanisms must be considered inadequate to protect marine species from climate change and ocean acidification'' (Ref. 1). The Agency notes that the CAA and the Administrative Procedures Act (APA) provide mechanisms to ask the Agency to take administrative action, see APA 553(e), 5 U.S.C. 553(e) (providing the right to petition an agency for issuance, amendment or repeal of a rule), and avenues to seek judicial redress where the Agency has unreasonably delayed in responding to such requests. See APA 706(1), 5 U.S.C. 706(1) (establishing claim for unreasonable delay), and CAA 304(a), 42 U.S.C. 7604(a) (establishing jurisdiction and notice requirements for unreasonable delay claims). One of the petitioners, the Center for Biological Diversity, has regularly participated in development of EPA actions to address the concerns related to those in the petition.

In addition to the CAA, the CWA provides some limited authorities that may be used to reduce the risk associated with ocean acidification. As noted above, EPA has explained that states should continue to list waters that do not attain applicable water quality standards, including marine pH water quality criteria, on the lists of impaired waters submitted to EPA, and should continue to solicit existing and readily available data and information regarding pollutants contributing to and conditions associated with ocean acidification using the current CWA section 303(d) listing program framework. Where such data and information supports a finding that a water body is impaired, the state must establish a total maximum daily load for relevant pollutants and implement a plan to control the pollutants from contributing sources. Thus far, neither EPA nor any states have listed any water bodies as impaired due to pollutants contributing to nor conditions associated with ocean acidification.

The petitioners also requested that EPA promulgate a test rule under TSCA section 4 if EPA was unable to determine, based on available data, whether anthropogenic CO_2 emissions present an unreasonable risk to human health and the environment within the meaning of TSCA. EPA notes that it did not construe the petitioners' request for rulemaking under TSCA section 4 as a strictly contingent request, and EPA has independently reviewed the TSCA section 21 petition itself to determine whether it sets forth facts sufficient to justify the initiation of rulemaking to require testing under TSCA section 4.

In order to promulgate a test rule under TSCA section 4, EPA must find that data and experience are insufficient to reasonably determine or predict the effects of a chemical substance or mixture on health or the environment and that testing of the substance or mixture with respect to such effects is necessary to develop the missing data. EPA must also find that either the chemical substance or mixture may present an unreasonable risk or that it is produced in substantial quantities and may either result in significant or substantial human exposure or result in substantial environmental release. EPA does not dispute that anthropogenic CO_2 emissions are produced in substantial quantities and result in substantial environmental releases. However, the petitioners have not made the case that testing of the chemical substance is necessary to develop missing data. The fact that atmospheric CO_2 affects ocean pH is not in dispute, and there are numerous studies documenting the effect of ocean pH on marine organisms (Refs. 21, 22). TSCA section 4 testing authority primarily speaks to testing of a chemical substance's or mixture's effects on health and the environment. Much of the testing recommended by the petitioners does not fit this description and probably could not be required by EPA under TSCA section 4. For instance, development of information on the costs and effectiveness of CO_2 emission control technology is not a test of the effect of a substance on health or the environment.

Regardless of whether the information described by the petitioners is information that can be developed using the authority of TSCA section 4, EPA and other federal agencies are working diligently to further our collective understanding of the impacts of ocean acidification. Some research underway matches the petitioners' recommendations for information to seek under TSCA section 4. For example, the petitioners suggest conducting vulnerability assessments for marine and coastal species and ecosystems. In the National Ocean Policy Implementation Plan, NOAA, the Department of the Interior (DOI), EPA, the Department of Defense and the Department of Transportation were tasked with developing best practices for climate change and ocean acidification vulnerability assessments for Federally-funded and/or Federally-managed coastal and ocean facilities and infrastructure in high-hazard areas (Ref. 9). In August of 2014, EPA issued ''Being Prepared for Climate Change: A Workbook for Developing Risk-Based Adaptation Plans'' (Ref. 25). This document provides guidance for conducting risk-based climate change vulnerability assessments and developing adaptation action plans. In addition, EPA and NOAA have collaborated on studies of coastal acidification impacts on shellfish in Narragansett Bay, and EPA is working with the University of Rhode Island on studies of plankton communities and macroalgal responses to acidification. The petitioners suggest studying the economic values of ecosystems that are at risk from ocean acidification. In recent years, NOAA and EPA have allocated funding for socioeconomic studies related to ocean acidification. EPA supported the development of biophysical models and new methodologies to determine the economic and intrinsic value of coral reefs and shellfish. EPA has also conducted research to assess the economic impacts of ocean acidification

on US mollusk fisheries for the purpose of including these impacts in monetary estimates of damages from greenhouse gas emissions. Further, the National Ocean Policy Implementation Plan calls for developing data on job trends to assess the economic impact of ocean acidification (Ref. 9). NOAA's Digital Coast Web site provides access to two datasets containing coastal and ocean job trends (Ref. 8).

Several other EPA actions were requested in the supplement. The petitioners suggest action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) would be triggered if EPA issues a TSCA section 7 ''notice informing the public of the serious risks to coral reefs associated with ocean acidification, its causes, and what must be done to mitigate it'' (Ref. 1). As an initial matter, under TSCA section 21, a petitioner is limited to requesting relief under TSCA sections 4, 5, 6, or 8. In addition, the action authorized under TSCA section 7 is for EPA to bring a civil action in district court to seize an imminently hazardous chemical or seek other relief. Section 7 does not provide authority to make a finding of imminent hazard independent of a civil action.

The supplement also outlines potential EPA actions under other statutes, such as Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the CAA (Ref. 2). EPA is asked to reevaluate pesticide tolerances based on the increased grain consumption that will occur as fish farming increases due to ocean acidification. To the extent that fish farming increases grain consumption, EPA will consider that in any need for changes to pesticide tolerances during the Agency's regular reassessment of those tolerances.

The supplement also discusses the possibility of giving formal notification under section 115(a) of the CAA to the Governors of States found to emit pollution that endangers public health and welfare in other countries. The supplement, however, does not seek to demonstrate that the prerequisites for action under CAA section 115 have been met at this time or that any specific notifications are warranted. Moreover, to the extent that the discussion of potentially available CAA remedies constitutes a request for action, EPA denies the requests because they are not actions that can be petitioned for under TSCA section 21. The relief that may be requested under TSCA section 21 is limited to actions under TSCA sections 4, 5, 6, or 8.

VI. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. Center for Biological Diversity and Donn J. Viviani, Ph.D. Petition for Rulemaking Pursuant to Section 21 of the Toxic Substances Control Act, 15 U.S.C. 2620, Concerning the Regulation of Carbon Dioxide. June 30, 2015.
2. Donn J. Viviani, Ph.D. Supplement to the Petition for Rulemaking Pursuant to Section 21 of the Toxic Substances Control Act, 15 U.S.C. 2620, Concerning the Regulation of Carbon Dioxide. June 30, 2015.
3. Secretariat of the Convention on Biological Diversity. An Updated Synthesis of the Impacts of Ocean Acidification on Marine Biodiversity (Eds: S. Hennige, J.M. Roberts & P. Williamson). Technical Series No. 75. 2014.
4. United Nations Environment Programme (UNEP). UNEP Emerging Issues: Environmental Consequences of Ocean Acidification: A Threat to Food Security. 2010.
5. National Oceanic and Atmospheric Administration (NOAA). Coastal Services Center, National Summary: The United States Ocean and Great Lakes Economy. 2011.
6. EPA. Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act. **Federal Register**. 74 FR 66496, December 15, 2009 (FRL–9091–8).
7. Interagency Working Group on Ocean Acidification. Strategic Plan for Federal Research and Monitoring of Ocean Acidification. March 2014.
8. Committee on Environment, Natural Resources, and Sustainability of the National Science and Technology Council. Third Report on Federally Funded Ocean Acidification Research and Monitoring. April 2015.
9. National Ocean Council. National Ocean Policy Implementation Plan. April 2013.
10. Executive Office of the President. The President's Climate Action Plan. June 2013.
11. EPA, Department of Transportation-National Highway Traffic Safety Administration (DOT–NHTSA). Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule. **Federal Register**. 75 FR 25324, May 7, 2010 (FRL–9134–6).
12. EPA, DOT–NHTSA. 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards; Final Rule. **Federal Register**. 77 FR 62624, October 15, 2012 (FRL–9706–5).
13. EPA, DOT–NHTSA. Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles; Final Rule. **Federal Register**. 76 FR 57106, September 15, 2011 (FRL–9455–1).
14. EPA, DOT–NHTSA. Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2; Proposed Rule. **Federal Register**. 80 FR 40138, July 13, 2015 (FRL–9927–21–OAR).
15. EPA. Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule. Signed August 3, 2015 and pending publication in the **Federal Register**. Until publication, a pre-publication version of the signed document is available at: *http://www2.epa.gov/sites/production/files/2015-08/documents/cpp-final-rule.pdf*.
16. EPA. Reconsideration of Interpretation of Regulation That Determine Pollutants Covered by Clean Air Act Permitting Programs; Final Rule. **Federal Register**. 75 FR 17004, April 2, 2010 (FRL–9133–6).
17. EPA. Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule. **Federal Register**. 75 FR 31514, June 3, 2010 (FRL–9152–8).
18. EPA. Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure to Submit State Implementation Plan Revisions Required for Greenhouse Gases; Final Rule. **Federal Register**. 75 FR 81874, December 29, 2010 (FRL–9244–7).
19. EPA. Action to Ensure Authority to Issue Permits under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan; Final Rule. **Federal Register**. 75 FR 82246, December 30, 2010 (FRL–9245–3).
20. EPA. Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas's Prevention of Significant Deterioration Program; Final Rule. **Federal Register**. 76 FR 25178, May 3, 2011 (FRL–9299–9).
21. EPA. Ocean Acidification and Marine pH Water Quality Criteria; Notice of Data Availability (NODA). **Federal Register**. 74 FR 17484, April 15, 2009 (FRL–8892–5).
22. EPA. Clean Water Act Section 303(d): Notice of Call for Public Comment on 303(d) Program and Ocean Acidification; Request for Public Comment. **Federal Register**. 75 FR 13537, March 22, 2010 (FRL–9128–8).
23. EPA. Integrated Reporting and Listing Decisions Related to Ocean Acidification. November 15, 2010.
24. Center for Biological Diversity v. EPA, 2015 U.S. Dist. LEXIS 25945 (W.D. Wash. March 2, 2015).

25. EPA. Being Prepared for Climate Change: A Workbook for Developing Risk-Based Adaptation Plans. August 2014.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: September 25, 2015.

James J. Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2015–25164 Filed 10–6–15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[EPA–HQ–OPPT–2015–0626; FRL–9934–71]

Mercury; TSCA Section 21 Petition; Reasons for Agency Response

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petition; reasons for Agency response.

SUMMARY: This document provides the reasons for EPA's denial of a petition it received under Section 21 of the Toxic Substances Control Act (TSCA). The TSCA section 21 petition was received from the Natural Resources Defense Council (NRDC) and the Northeast Waste Management Officials' Association (NEWMOA) on June 24, 2015. The petitioners requested EPA to ''promulgate a TSCA section 8(a) rule that requires persons who manufacture, process, or import into the United States mercury, mercury compounds, or mercury-added products to keep records of and submit information to EPA concerning such manufacture, processing, or importation of mercury.'' After careful consideration, EPA denied the TSCA section 21 petition for the reasons discussed in this document.

DATES: EPA's response to this TSCA section 21 petition was signed September 21, 2015.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Thomas Groeneveld, National Program Chemicals Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 202–566–1188; email address: *groeneveld.thomas@epa.gov*.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those persons who manufacture, process, or distribute in commerce mercury, mercury compounds, or mercury-added products. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I access information about this petition?

The docket for this TSCA section 21 petition, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0626, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. TSCA Section 21

A. What is a TSCA section 21 petition?

Under TSCA section 21 (15 U.S.C. 2620), any person can petition EPA to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8 or an order under TSCA section 5(e) or 6(b)(2). A TSCA section 21 petition must set forth the facts that are claimed to establish the necessity for the action requested. EPA is required to grant or deny the petition within 90 days of its filing. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. A petitioner may commence a civil action in a U.S. District Court to compel initiation of the requested rulemaking proceeding within 60 days of either a denial or the expiration of the 90-day period.

B. What criteria apply to a decision on a TSCA section 21 petition?

Section 21(b)(1) of TSCA requires that the petition ''set forth the facts which it is claimed establish that it is necessary'' to issue the rule or order requested. 15 U.S.C. 2620(b)(1). Thus, TSCA section 21 implicitly incorporates the statutory standards that apply to the requested actions. In addition, TSCA section 21 establishes standards a court must use to decide whether to order EPA to initiate rulemaking in the event of a lawsuit filed by the petitioner after denial of a TSCA section 21 petition. 15 U.S.C. 2620(b)(4)(B). Accordingly, EPA has relied on the standards in TSCA section 21 and in the provisions under which actions have been requested to evaluate this TSCA section 21 petition.

III. Summary of the TSCA Section 21 Petition

A. What action was requested?

On June 24, 2015, NRDC and NEWMOA petitioned EPA to ''promulgate a TSCA section 8(a) rule that requires persons who manufacture, process, or import into the United States mercury, mercury compounds, or mercury-added products to keep records of and submit information to EPA concerning such manufacture, processing, or importation of mercury'' (Ref. 1). In describing the framework for the envisioned rule, the petitioners offer definitions for various terms and modifications to exemptions to TSCA section 8(a) information-gathering rules (see 40 CFR 704.5); describe persons who would be required to report in the envisioned information collecting and reporting apparatus; explain why existing quantity- and sales-based reporting thresholds should or should not apply to the persons who must report; establish the minimal amounts of information EPA should request via sets of example questions applicable to mercury, mercury compounds, mixtures containing mercury, and mercury-added products; and set forth their preferred frequency and format for reporting, as well as certification and recordkeeping requirements (Ref. 1).

B. What support do the petitioners offer?

The petitioners state that a ''lack of comprehensive data on mercury production and use in the United States has been acknowledged by virtually all of the federal and state agencies involved in tracking or regulating the chemical in commerce'' (Ref. 1). The petitioners state that there is ''no mechanism in place to obtain such data,'' which is underscored by describing data gaps in the Interstate Mercury Education Reduction Clearinghouse (IMERC) and discussing the limitations of Agency resources, including the September 2014 ''EPA Strategy to Address Mercury-Containing

Products'' (EPA Strategy or Strategy) (Ref. 2), the Toxics Release Inventory (TRI) program (Ref. 3), and the Chemical Data Reporting (CDR) Rule (Ref. 4). Collecting comprehensive data is necessary, the petitioners say, to ''prevent unreasonable risks of injury to human health and the environment created by the ongoing manufacture, processing, and importation of mercury and mercury compounds'' (Ref. 1). As such, the petitioners argue that a TSCA section 8(a) rule is ''warranted'' because available data are inadequate to determine whether mercury used in products and processes, in fact, creates unreasonable risk and, if so, the appropriate means to reduce such risk (Ref. 1). The petitioners also point to the obligations of the Minamata Convention on Mercury (Minamata Convention), which the United States signed and joined on November 6, 2013, that they believe will go unfulfilled without the collection of comprehensive data. In addition, the petitioners argue that ''incomplete and non-comprehensive data hampers EPA's ability to effectively assess risks from exposure to mercury'' and, therefore, the TSCA section 8(a) rule envisioned ''would result in substantial benefits'' (Ref. 1). Based on these assertions, as well as a discussion of the toxicity, exposure pathways, and risks associated with mercury used in products and processes, the petitioners state that ''there is a reasonable—indeed, an ample—basis to conclude that a section 8(a) reporting rule for mercury is necessary to protect health and the environment against an unreasonable risk of injury to health and the environment from ongoing domestic uses of mercury in products and processes'' (Ref. 1).

IV. Disposition of TSCA Section 21 Petition

A. What is EPA's response?

After careful consideration, EPA denied the petition. EPA found that the continued implementation of its published EPA Strategy (Ref. 2) is sufficient to carry out TSCA, as well as preferable for achieving the goal it shares with the petitioners: To acquire the information needed to allow EPA to better understand continuing uses of mercury, to further reduce such uses, and to prevent potential exposure and risk to human health and the environment linked to releases of mercury into the environment. A copy of the Agency's response, which consists of a letter to the petitioners, is available in the docket for this TSCA section 21 petition.

B. What is EPA's reason for this response?

EPA agrees with many aspects of the petition. The Agency agrees that mercury poses potential risks to human health and the environment and that there is value in gathering additional information to better understand continuing uses of mercury, to further reduce such uses, and to prevent potential risks to human health and the environment from mercury exposure. However, EPA believes that continued implementation of its EPA Strategy is a faster, more efficient pathway towards achieving our shared goals and is confident that the actions contemplated under the Strategy are both sufficient to carry out TSCA and preferable to the requested rulemaking.

1. Background on TSCA section 8. TSCA section 8(a) (15 U.S.C. 2607(a)) authorizes EPA to promulgate rules under which manufacturers (including importers) and processors of chemical substances must maintain records and submit such information as the EPA Administrator may reasonably require. TSCA section 8(a) also authorizes EPA to promulgate rules under which manufacturers and processors of mixtures must maintain records and submit information to the extent the EPA Administrator determines the maintenance of records or submission of reports, or both, is necessary for the effective enforcement of TSCA. TSCA section 8(a) generally excludes small manufacturers and processors of chemical substances or mixtures from the reporting requirements (see 15 U.S.C. 2507(a)). However, EPA is authorized by TSCA section 8(a)(3)(A)(ii) to require TSCA section 8(a) reporting from small manufacturers and processors with respect to any chemical substance or mixture that is the subject of a rule proposed or promulgated under TSCA section 4, 5(b)(4), or 6, or that is the subject of an order in effect under TSCA section 5(e), or that is the subject of relief granted pursuant to a civil action under TSCA section 5 or 7. TSCA section 8(a) also provides that, to the extent feasible, the EPA Administrator must not require reporting under TSCA section 8(a)(1) that is unnecessary or duplicative. If the Agency denies a petition submitted under TSCA section 21, judicial review for TSCA section 8(a) requires the petitioner to show by a ''preponderance of the evidence that . . . there is a reasonable basis to conclude that the issuance of such a rule or order is necessary to protect health or the environment against an unreasonable risk of injury'' (15 U.S.C. 2620(b)(4)(B)(ii)).

2. State of domestic mercury marketplace. The United States has seen a strong downward trend of more than 97 percent in the domestic use of mercury in products over the past three decades. In 1980, the United States used more than 1,800 metric tons of mercury annually; in 2010, the continued annual use of mercury in manufactured or imported products was approximately 52 metric tons. Likewise, the use of mercury in industrial processes, such as chlor-alkali manufacturing, has also fallen dramatically from 358 metric tons in 1980 to an estimated 38 metric tons in 2001. This shifting landscape can be attributed to a number of factors, including market trends leading to the voluntary reduction of use of mercury in products and processes; federal, regional, state, and local programs that encourage the use of effective and economically feasible non-mercury substitutes; state laws or regulations that prohibit or reduce the use of mercury in products; and Congressional actions that banned the sale of a range of mercury batteries and prohibited the export of mercury (*e.g.,* the Mercury-Containing and Rechargeable Battery Management Act of 1996 (Pub. L. 104–142) and the Mercury Export Ban Act of 2008 (MEBA) (Pub. L. 110–114)). The United States also negotiated and joined the Minamata Convention, which contains requirements aimed at reducing the use of mercury. The convergence of such historic trends and actions, as well as continued downward trends in mercury use in products in more recent years, helped identify categories of mercury-added products of greatest concern and guided the development of the EPA Strategy.

3. The EPA Strategy: Development and implementation. In developing the EPA Strategy, the Agency did not believe it made sense to promulgate a comprehensive information-gathering rule for mercury, on top of the existing regulatory and statutory information collection requirements applicable to chemical substances generally. Rather, EPA decided to adopt a more targeted approach and to create a framework that was flexible and adaptive to observed trends in the use of mercury. As a result, the EPA Strategy seeks to build on the ''demonstrated success for more than three decades of reducing mercury use in traditional product and process categories . . . to further reduce mercury use in products and certain processes in order to prevent future releases to the environment'' (Ref. 2).

The EPA Strategy consists of five phases: (1) Update EPA's information on

mercury products and certain processes; (2) analyze updated mercury use information; (3) plan and prioritize mercury reduction activities; (4) take non-regulatory actions to reduce use; and (5) take regulatory actions to reduce use, if needed (Ref. 2). The Strategy is structured to provide a logical progression from the gathering of information to taking actions to reduce the use of mercury and, as necessary, mercury compounds. However, the Strategy is also intended to allow for proceeding immediately to such use reduction options should information warrant such actions, as well as reassessment of an intended course of action (*e.g.,* methodology for gathering information) at any point during its implementation.

The EPA Strategy specifically targets updating data regarding mercury quantities in ''new products entering the market, with particular attention to switches and relays'' and ''as appropriate, processes that use mercury as a catalyst'' (Ref. 2). For example, the use of mercury in switches and relays (including thermostats) sold in the United States decreased from approximately 68 metric tons in 2001 to approximately 18 metric tons in 2010—a nearly 74 percent decrease in under a decade. However, at 33 percent of mercury used in products sold in the United States, switches and relays also represent the largest category of mercury-added products. In fact, in joining the Minamata Convention, the United States demonstrated that mercury used in eight of nine subject categories was reduced to *de minimis* levels. The lone category for which such a demonstration was not made was switches and relays. As a result, the Agency identified switches and relays as a priority category of mercury use in the EPA Strategy.

The Agency has sufficient information on the use of mercury in certain categories of other mercury-added products (*e.g.,* batteries, lamps, measuring devices). Yet, despite the aforementioned downward trend of use of mercury in products and manufacturing processes in general, EPA is interested in learning more about mercury-added products that continue to enter the market (*i.e.,* new products) and the prevalence of the use of mercury and mercury compounds in catalysts.

The Agency is currently in the first phase of implementing its Strategy, which lists priority mercury-added product and process categories (switches, relays, new products, and catalysts), describes the progression of stakeholders from whom information is to be collected (mercury manufacturers and importers, mercury processors, and other stakeholders), and commits to conducting outreach throughout the implementation of the Strategy (Ref. 2). Following this phase, EPA will assess information gathered and compare data to existing Agency baselines derived from IMERC, the TRI program, the CDR Rule, and other research (Phase 2). Results of the second phase will be used to define or modify product categories and identify remaining data gaps or other limitations that could affect the planning and prioritization of reduction activities (Phase 3). At this juncture, the Agency could consider the use of voluntary efforts to reduce the use of mercury (Phase 4), as well as a Section 8(a) rule or other appropriate regulatory measure (Phase 5). At this point in time, however, EPA believes the implementation of the EPA Strategy, which uses a variety of both voluntary and regulatory measures as needed, is sufficient to carry out TSCA.

4. The EPA Strategy is working and will continue to work. The petitioners accurately identify the Agency's goals to continue to collect and analyze information to better understand the current and future use of mercury. However, the petitioners focus exclusively on the voluntary information-collection component within the first of five phases to conclude that ''the voluntary approach has not worked thus far, and there is no reasonable basis to believe it ever will'' and ''the need for and the utility of a rulemaking that would require mandatory reporting from all mercury, mercury-compound, and mercury-mixture manufacturers has been demonstrated'' (Ref. 1). By focusing on the Agency's preference to initially proceed on a voluntary basis, the petitioners overlook that the Strategy contemplates ''additional available regulatory steps being necessary'' (Ref. 2). In fact, the Agency finds that the best approach is to employ voluntary or regulatory mechanisms to collect information based on particular circumstances. For example, after publishing the EPA Strategy in September 2014, the Agency conducted a series of letter requests and teleconferences with companies identified as nine key players in the mercury marketplace in October and November 2014.

While the petitioners express skepticism with this approach due to its initiation with only nine companies, this was a strategic approach that the Agency expected to yield relevant information. The initial list of nine was derived from more than one hundred potential companies based on thorough research and professional judgment to identify companies likely to provide a reasonably complete picture of the domestic market for recycling and selling mercury. This approach allowed for the systematic elimination of companies less likely to have significant information from consideration and minimized the potential burden to both stakeholders and the Agency. In fact, the information received led EPA to further narrow its investigation to five companies it believes to be the primary recyclers and distributors of mercury in the United States. Based on those efforts—and the failure of certain companies from the narrowed list of five to voluntarily provide agreed to information—EPA issued subpoenas in March 2015 to those five companies (Ref. 5).

5. Effective use of regulatory tools via the EPA Strategy. The subpoenas consisted of twelve information requests designed to ascertain specific information on quantities of mercury manufactured (including imported), processed, stored on-site, or distributed in commerce (including transferred off-site, sold and exported), as well as lists of customers to whom mercury was sold (Ref. 5). The activities related to mercury were selected to cross-reference with similar reporting requirements for the TRI program and CDR Rule. Of particular interest to the Agency were quantities reported for mercury manufactured and processed (*e.g.,* recycled from various waste streams), sold, imported, and exported, which represents key aspects of the domestic mercury marketplace. EPA requested this information to better understand how mercury flows through the five primary facilities that recycle and sell mercury with the goal of identifying the amount of mercury likely being used to produce mercury-added products or in manufacturing processes in the United States. The subpoenas requested that annual totals of mercury in pounds for such activities be reported for 2010 and 2013. These years were selected to not only coincide with IMERC reporting years, but also because they could provide a before-and-after illustration of how two mercury-related measures affected the domestic mercury market place: MEBA and the conclusion of the negotiation of the Minamata Convention. The reporting years also were selected to allow a trend comparison for reported quantities without creating undue burden on the companies subject to the subpoenas. The subpoenas also requested customer lists for each company as of January 1,

2015. This date was selected as a fixed and recent date relative to the issuance of the subpoenas in March 2015. Each of the five companies subject to the subpoenas supplied the information requested in full.

Due to extensions granted to certain companies, some responses were submitted after the initial 30-day deadline. This resulted in the initial completion of the full data set at the end of June 2015, only days after the petitioners submitted their petition that concluded that certain approaches outlined in the EPA Strategy were inadequate. The Agency is currently evaluating the information submitted in response to the five March 2015 subpoenas. As necessary, EPA has followed up with companies and clarified responses submitted. Based on its initial review of submitted information, the Agency now has a better understanding of the flow of mercury in the U.S. marketplace and has an inventory of recent lists of companies that purchase elemental mercury from the five companies, including volumes and trends of mercury in key channels of commerce (*e.g.,* manufactured, stored, sold, imported, and exported). The Agency understands that this information collection approach cannot account for imports of mercury-added products or mercury compounds that are not processed by the five companies subject to the March 2015 subpoenas. However, EPA intends to collect such data either through voluntary compliance with letters or through subpoenas, as it determines to be necessary for an adequate understanding of mercury use in the United States through further implementation of EPA Strategy and use of existing Agency resources.

The petitioners express disappointment with the ''months'' that elapsed since the initiation of the voluntary inquiries to companies in October 2014 and the submission of their petition in June 2015 (Ref. 1). In fact, the Agency conducted the voluntary portion of data collection between October 2014 and December 2014. When that process was not fruitful, the subpoenas were sent in March 2015. Responses to the March 2015 subpoenas were received by the end of June 2015. For comparison, new federal rulemakings often take several years to complete from development through the proposal, public comment, and finalization phases. A final information collection rule would then need to provide for some period of time following promulgation for the submission of the required information. EPA notes that it already collected data on mercury voluntarily and via subpoena and, based on that experience, could expeditiously issue any further needed subpoenas, whereas the timing of a rulemaking process is less predictable. The Agency gathered information via its Strategy in several months, new data to be collected by the petitioners' requested rule—or another Section 8(a) rule—may not be obtained for several years. For those reasons, EPA believes that the current approach used to collect information from companies that manufacture, recycle, and distribute in commerce elemental mercury has been successful, is more efficient than the development of a new rule, and is sufficient—with some adaptation of the substance of information requests for companies that use mercury in products and processes—to carry out TSCA.

6. The EPA Strategy avoids unnecessary or duplicative reporting. Based on the above discussion, EPA disagrees that there is ''no other federal or state mechanism in place that collects the data on mercury production and use in the United States necessary to inform risk-reduction activities'' (Ref. 1). As articulated by the petitioners, IMERC, the TRI program, and the CDR Rule each collect data in whole or in part related to mercury and mercury compounds. All of these reporting mechanisms are accessible online. While a single information collection and reporting apparatus identical to the petitioners' requested rule does not currently exist, existing tools, as implemented through the EPA Strategy, are sufficient to gather such data as necessary for the effective implementation of TSCA. EPA is committed to gathering such data, including—as appropriate—through the future use of TSCA section 8. For the same reasons, EPA also disagrees that the EPA Strategy ''implicitly acknowledges that the CDR Rule and its other existing reporting mechanisms are not sufficient to gather the data necessary to make sound decisions about mercury risk-reduction activities'' (Ref. 1).

The petitioners also describe various ways in which the TRI program and CDR Rule collect data on mercury and mercury compounds yet how idiosyncrasies within each program prevent the reporting of the specific information they request to be collected. Where the petitioners see insufficiency, the Agency sees opportunity to use existing tools and resources to pinpoint specific data gaps, which may or may not require new regulatory or voluntary actions to gather information. EPA is using quantitative and qualitative information, particularly activity and use information reported to the TRI program, to help narrow the scope of potential stakeholders to be contacted as needed to collect information that EPA determines to be necessary. For example, EPA is reviewing information reported to the TRI program to identify and prioritize how to gather such information.

The TRI program requires facilities that manufacture, process, or otherwise use more than 10 pounds of mercury or mercury compounds during the calendar year to report amounts released to the environment or managed through recycling, energy recovery and treatment (Ref. 6). While the TRI program does not require quantitative reporting for all manufacturing, processing, or use categories, a facility is required to report activities and uses of the toxic chemical including, but not limited to ''import,'' ''for sale/distribution,'' ''as a reactant,'' ''as an article component,'' and ''as a chemical processing aid'' (Ref. 7). In this instance, EPA does not see the lack of quantitative reporting as a dead end, but rather as a tool to narrow the number of companies to ask for more specific information related to the use of mercury in their products and processes. For example, a review of data submitted to the TRI program for ''mercury'' in 2013 yields 447 facilities that manufactured, processed, or otherwise used mercury. That number can be narrowed to 60 facilities that processed mercury ''as an article component'' (*e.g.,* used in a product). When the same search is conducted for ''mercury compounds,'' more than 1,100 facilities can be narrowed to 48 facilities reporting processing into articles. The use of such data allows EPA to reduce the scope of potential manufacturers of mercury-added products by more than 90 percent that under the petitioners' proposed rule would be required to supply detailed, quantitative data. EPA will perform similar data sorting among facilities that report ''import'' and ''for sale/distribution'' of mercury or mercury compounds, which will help further describe how such materials flow through the domestic marketplace. The Agency also plans to examine uses ''as a reactant'' and ''as a chemical processing aid'' to help identify the use of mercury or mercury compounds in manufacturing processes. As these examples demonstrate, the Agency believes that it can use existing data to better identify individual facilities for more targeted efforts to collect information.

It is important to note that the 2016 reporting cycle for the CDR Rule (applicable to production volume information for calendar years 2012,

2013, 2014, and 2015; submission period from June 1, 2016, to September 30, 2016) will collect information from persons who manufacture mercury in quantities greater than or equal to 2,500 pounds (Ref. 4); the reporting threshold for mercury in the previous cycle was 25,000 pounds and 100,000 pounds for process and use information. As such, the Agency anticipates receiving quantitative data on mercury in the domestic marketplace from a larger pool of companies that manufacture (including import) and process mercury. In conjunction with the analysis of TRI program data, EPA plans to use the identities of companies reporting per the lowered threshold to further clarify the pool of potential entities from whom to collect more detailed information. Thus, EPA finds its existing resources, such as the TRI program and CDR Rule, can be instrumental not only in carrying out TSCA, but also to tailor future efforts to collect information on discrete categories of mercury products and processes.

7. EPA intends to target specific information requests to specific entities. EPA anticipates that subsequent efforts to gather information from companies that produce or import mercury-added products and use mercury or mercury compounds in manufacturing processes may require contacting more entities than the nine EPA contacted in late 2014. EPA anticipates using a similar process of research and professional judgment to identify and prioritize companies to contact and will follow appropriate procedures to reach as many companies as needed to obtain relevant information, as necessary. For example, EPA is considering using TSCA section 11 to ask other companies the same kinds of questions posed in the March 2015 subpoenas, but with an emphasis on quantities of mercury and mercury compounds used in the production of products or in manufacturing processes.

Looking at the specific information requested in the petition, the petitioners request two sets of notification requirements between two categories: (1) Mercury, mercury compounds, and mixtures containing mercury; and (2) mercury-added products. The petitioners' request of eight notification requirements for information to be reported for mercury, mercury compounds, and mixtures containing mercury can be broken down into three general categories. The first category consists of location and contact information for company headquarters, facilities that manufacture or process such substances, and technical staff. For mercury and mercury compounds, information comparable to the requests in the first category of notification requirements is reported to the TRI program and the CDR Rule. The second category includes quantitative data on such substances manufactured and processed for distribution in commerce, sold or transferred off-site, and stored on-site. Due to the similarity with questions posed in the March 2015 subpoenas, EPA is satisfied that it ascertained sufficient quantitative information for how mercury is used in such activities. For mercury compounds, EPA believes that information reported to the TRI program for activities and uses can be used to identify and prioritize companies and facilities that could be contacted using the same approach that the Agency used when reaching out to and ultimately issuing subpoenas to individual recyclers and distributors of mercury. The third category requests narrative descriptions of manufacturing and processing processes and end uses of such materials. EPA is not persuaded that such information for mercury or mercury compounds is necessary to carry out TSCA. In particular, it is more appropriate to pose questions regarding end uses to companies or facilities that use mercury or mercury compounds in products or manufacturing processes and not companies that recover mercury from various waste streams. Finally, the Agency is not persuaded that information on mixtures containing mercury is necessary to carry out TSCA. To the best of the Agency's knowledge, the only point in the cycle of mercury manufacture, use, recovery, and reuse when mixtures play a significant role is when mercury is recovered from mercury waste such as contaminated soil or impure laboratory mercury. The resulting elemental mercury is used, but EPA is not aware of any significant manufacture, processing, or use of mercury mixtures. As EPA reviews the information it has and will collect on mercury and mercury compounds, it will assess the need for information on mixtures and pursue such data as needed.

For mercury-added products, the petitioners also request eight notification requirements. As discussed in regard to mercury, mercury compounds, and mixtures containing mercury, the notification requirements for location and contact information for company headquarters and technical staff pertain to comparable information reported to the TRI program or the CDR Rule. The Agency agrees that collection of the kinds of information listed in three of the eight notification requests suggested by the petitioners can be valuable: Quantities of mercury used in products (per unit and total for all units produced in a calendar year), descriptions of product categories produced, and a breakdown of products manufactured (including imported), sold domestically, and exported. Such requirements would provide quantitative information that would benefit the implementation of TSCA by helping to define the overall volume of mercury used, particularly in the priority category of switches and relays. EPA also agrees that it is helpful to ascertain information related to whether switches or relays are ''manufactured or processed solely for the purpose of replacement where no feasible mercury-free alternative for replacement is available'' (Ref. 1). This information would help the Agency better estimate costs and benefits associated with not only ongoing uses of the switches and relays themselves, but also the larger equipment and systems that use them as components. However, the Agency is not persuaded that notification requirements for descriptions of mercury-added components, including the number of and location in larger products, is necessary. At this time, EPA anticipates that quantitative data on amounts of mercury contained in or added to such products and processes is likely to be sufficient to make regulatory determinations.

As previously discussed, switches and relays are the largest remaining domestic use of mercury in products by volume in the United States. Better defining the total quantity of mercury in that category, especially given the cessation of reporting of such information via IMERC, is a priority data point within a priority product category. Regardless, even in instances where EPA agrees with the notification requirements proposed by the petitioners, the Agency is not persuaded that the overarching proposed Section 8(a) rule is the appropriate means to collect such information. At this time, the Agency continues to implement its Strategy to determine its next steps, including, but not limited to using TSCA section 11, to collect information from additional companies on mercury used in products and processes. The assessment of information collected to date under the EPA Strategy will inform next steps in the current and future phases of the implementation. In so doing, the Agency is employing the variety of existing tools, including IMERC, the TRI program, and the CDR Rule, as well as the aforementioned voluntary outreach and targeted

subpoenas, as necessary. This process is expedient, efficient, and does not duplicate the reporting requirements of IMERC, the TRI program, and the CDR Rule. As the assessment of collected information dictates, the Agency continues to use the tools currently available, while not eliminating the possibility of implementing other voluntary and regulatory options if deemed necessary. Thus, EPA disagrees with the petitioners' conclusions as to the ultimate efficacy of the EPA Strategy, its sufficiency to carry out TSCA, and the need for EPA to immediately pursue a TSCA section 8(a) rulemaking.

8. The EPA Strategy minimizes undue burdens. The Agency also disagrees with the petitioners' claim that their requested TSCA section 8(a) rule ''would result in substantial benefits'' (Ref. 1). As previously stated, the Agency agrees that there is value in gathering more information for certain, individual categories of mercury-added products and processes identified by the petitioners. However, EPA is not persuaded that a TSCA section 8(a) rule at this time—as opposed to continued implementation of the EPA Strategy—would produce substantial or different benefits associated with collecting and reporting information on the use of mercury in products and processes. The EPA Strategy intends to provide for flexibility in the approach to ''better understand continuing uses of mercury in . . . products and processes'' and ''further reduce mercury use in products and certain processes in order to prevent future releases to the environment'' (Ref. 2). The Strategy allows for a dynamic and iterative process that can be adapted to specific categories of concern and makes clear that ''initiation of future phases may not necessarily be dependent on preceding phases'' (Ref. 2). Where the petitioners see a TSCA section 8(a) rule as the remedy to existing EPA resources that do not deliver the data they seek in the format they prefer, the Agency is wary of the potential for duplication of reporting requirements. The rule outlined by the petitioners not only creates potential overlap in the kind of data being submitted under the TRI program and CDR Rule, but also adds another mercury-based reporting requirement, with an incongruous reporting timeline, on top of these two established information-gathering programs. This scenario would require reporting under TSCA section 8(a)(1) that is unnecessary and, in some instances, duplicative. Thus, where the petitioners may interpret the measure of benefit for the rule they request to derive from the breadth and depth of information collected, the Agency is focusing on more discrete areas of need (*i.e.,* individual product and process categories) that can provide for less burdensome requirements for potential stakeholders and a more efficient approach for the Agency to carry out TSCA in regard to mercury and mercury compounds. As a result, the petitioners' requested TSCA section 8(a) rule would be unduly burdensome both to the Agency and regulated entities.

9. Petitioners failed to demonstrate the requested rule is necessary to protect against unreasonable risk. EPA disagrees that ''there is a reasonable . . . basis to conclude that a section 8(a) reporting rule for mercury is necessary to protect health and the environment against an unreasonable risk of injury to health and the environment from ongoing domestic uses of mercury in products and processes'' (Ref. 1). Central to the petitioners' claim is that:

> The lack of adequate data on mercury use in products and processes prevents a complete accounting of the full extent of the human health risks from exposure to mercury . . . [and] EPA cannot fully address the health and environmental risks from mercury exposure without adequate data about ongoing mercury uses . . . In addition, such data collection is necessary to allow EPA to monitor any development of new mercury uses, so that the agency can assess the risks to human health that may be presented by such new uses. (Ref. 1).

The petitioners go on to state ''incomplete and non-comprehensive data hampers EPA's ability to effectively assess risks from exposure to mercury'' (Ref. 1). The petitioners then cite various EPA statements regarding risk management decision-making that speak to the availability and adequacy of information, as well as the EPA Strategy and its intent to gather more and updated information related to mercury used in products and processes (Ref. 1). The petitioners then conclude that without ''comprehensive national data about ongoing mercury uses in products and processes . . . EPA *cannot* make informed, sound decisions about how to further reduce risks from mercury exposure'' (emphasis added) (Ref. 1). The Agency disagrees with this conclusion. EPA is unaware of statutory authority, applicable case law, or Agency policy that would preclude risk assessment or actions to reduce risk based on the fact that available information is limited. While EPA risk assessment guidance lists the quality and comprehensiveness of data as factors that can diminish uncertainty, an ''acceptable data set is one that is consistent with the scope, depth, and purpose of the assessment, and is both relevant and adequate'' (Ref. 8). In this context, adequacy can be determined ''by evaluating the amount of data available and the accuracy of the data'' (Ref. 8). The same guidance also states that ''[d]ata of insufficient quality will have little value for problem solving, while data of quality vastly in excess of what is needed to answer the questions asked provide few, if any, additional advantages'' (Ref. 8). To achieve its stated goals to ''acquire a more robust baseline of mercury quantities used in products and processes . . . [and] enhance data on manufacture, export, and import for certain categories of mercury use'' (Ref. 2), the Agency's current approach will provide data on mercury that are not only adequate and relevant, but also more narrowly tailored to products and processes of greatest concern (*e.g.,* switches, relays, new products, and catalysts). While EPA recognizes that these products and processes are not exhaustive, these are the categories that EPA has rationally chosen to focus on first. EPA is aware that mercury may be added to other products listed by the petitioners (*e.g.,* rotational balancers, wheel weights, and additives in a variety of children's products). If EPA determines that additional information targeted to these products is necessary, EPA will take steps necessary to collect it.

At this stage of implementing the strategy, the Agency also is uncertain what, if any, information is needed on mercury compounds beyond use as catalysts in manufacturing processes. Where products are concerned, for example, the product category of greatest concern (switches and relays) contains elemental mercury, not mercury compounds. Although certain batteries contain mercury oxide, that product group is of lesser concern than switches and relays. EPA will collect information on use of mercury compounds in products if, in the course of carrying out its Strategy, the Agency determines such information to be necessary. At this stage, requiring reporting for mercury compounds in all products while an Agency assessment of needs for such information is pending would require unnecessary reporting under TSCA section 8(a)(1).

Thus, while the Agency is mindful of the petitioners' analysis of mercury-related concerns (*e.g.,* toxicity, exposure, risks presented by releases into the environment, and risk reduction), EPA cannot reach the petitioners' conclusion that ''a section 8(a) reporting rule for mercury is necessary to protect health and the

environment against an unreasonable risk of injury to health and the environment from ongoing domestic uses of mercury in products and processes'' (Ref. 1). While the petitioners articulate how the collection of comprehensive and national data could provide the Agency with more information to weigh in determining unreasonable risk, EPA finds that its current approach could be equally successful while imposing considerably less burden on both EPA and the regulated community in its implementation of TSCA, as well as allowing the Agency to move more quickly on the highest priority product categories. To date, this approach has yielded satisfactory information and the Agency expects that continued implementation of the EPA Strategy will be an appropriate and effective means to acquire the information needed to allow EPA to better understand continuing uses of mercury, to further reduce such uses, and to prevent potential exposure and risk for human health and the environment linked to releases of mercury into the environment.

Furthermore, while the petition discusses the toxicity and potential risk associated with exposure to mercury and methylmercury, it does not provide a basis for finding that there is a reasonable basis to conclude that the requested rule is necessary to protect against an unreasonable risk. The finding of unreasonable risk under TSCA encompasses consideration of both the anticipated benefits of action under consideration as well as the anticipated costs. In this instance, the petition would need to provide a basis for EPA to conclude that any additional risk reduction that would be achieved by the requested rule, beyond that which will be achieved by EPA's current efforts, would justify the additional costs to EPA and the regulated community.

In discussing risks associated with releases of mercury, the petitioners describe how mercury releases during the product lifecycle ''significantly'' contribute to the total reservoir of ''mercury pollution'' (Ref. 1). After release, the petitioners describe how mercury cycles through environmental media, can be converted to methylmercury, and can potentially contaminate fish and humans (Ref. 1). The petitioners provide an estimate of the number of newborns exposed to methylmercury (376 to 14,293 cases annually) from all sources and the costs to care for children exposed to levels of methylmercury associated with cognitive impairment considered mental retardation ($500 million to $17.9 billion annually) (Ref. 1). The petitioners then cite several EPA significant new use rules (SNURs) applicable to mercury used in various motor vehicle switches (Ref. 9); flow meters, natural gas manometers, and pyrometers (Ref. 10); and barometers, manometers, hygrometers, and psychrometers (Ref. 11), to demonstrate previous Agency efforts to reduce risks from mercury based on potential releases of mercury during the product lifecycle (Ref. 1). The petitioners also cite estimated reporting costs for a TSCA section 8(a) rule of ''approximately $8,000 to $9,000 per report for the initial cycle . . . and between $5,000 and $6,000 for each reporting cycle'' (Ref. 1). However, the information provided in the petition on the impacts of mercury exposure, including the monetized risk estimate, relates to all sources of mercury pollution; it provides limited information to support the need for the requested rule to collect information as to ongoing uses. In addition, the petition does not provide a basis to conclude that the requested rule would provide for any additional risk reduction beyond that which will be achieved by EPA's current efforts, or that any such reduction would justify the additional cost to EPA and the regulated community. EPA notes in this regard that the petition misstates the baseline for judging the benefits of the requested rule by not accounting for the significant reduction in the CDR reporting threshold for mercury, as discussed above.

10. EPA will continue its successful voluntary and regulatory efforts. Furthermore, the Agency is already taking voluntary and regulatory measures related to mercury, some of which are listed in the petition (*e.g.,* SNURs for various mercury-added products, proposed rule for dental effluent guidelines, emission standards for hazardous air pollutants from coal- and oil-fired electric utility steam-generating units, and the March 2015 subpoenas) (Ref. 1). EPA leads a voluntary initiative to phase out use of mercury in industrial and laboratory thermometers, which led to the development of the document ''A Guide for Federal Agencies on Replacing Mercury-Containing Non-Fever Thermometers'' (Ref. 12). The Agency also collaborates in voluntary programs such as the Energy Star Program co-sponsored by EPA and the Department of Energy, under which participating manufacturers agree to limit the mercury content of lamps, and the National Vehicle Mercury Switch Recovery Program and follow-on initiatives, which manages, on a nationwide basis, programs to collect, transport, retort, recycle, or dispose of elemental mercury from automotive switches. Finally, EPA leads the mercury in products partnership within the United Nations Environment Program's Global Mercury Partnership, an international, voluntary effort that strives to phase out and eventually eliminate mercury in products and to eliminate releases during manufacturing and other industrial processes via environmentally sound production, transportation, storage, and disposal procedures (Ref. 13).

In sum, the Agency finds that the requested promulgation of a TSCA section 8(a) is neither timely nor warranted to carry out TSCA pending the continued implementation of the approaches set forth in the EPA Strategy.

V. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. NRDC/NEWMOA. Petition to Promulgate Reporting Rules for Mercury Manufacturing, Processing, and Importation Under Section 8(a) of the Toxic Substances Control Act. June 24, 2015.
2. EPA. EPA Strategy to Address Mercury-Containing Products. September 2014. Available at *http://www.epa.gov/mercury/pdfs/productsstrategy.pdf*.
3. EPA. Toxic Chemical Release Reporting; Community Right-to-Know. **Federal Register**. 53 FR 4500, February 16, 1988 (FRL–3298–2).
4. EPA. TSCA Inventory Update Reporting Modifications: Chemical Data Reporting. **Federal Register**. 76 FR 50816, August 16, 2011 (FRL–8872–9).
5. EPA. Subpoena and Information Request. March 20, 2015. Available at *http://www.epa.gov/mercury/pdfs/Hg_FormalRequest_SIGNED_03-20-2015.pdf*.
6. EPA. Emergency Planning and Community Right-to-Know Act—Section 313: Guidance for Reporting Toxic Chemicals: Mercury and Mercury Compounds Category. August 2001. Available at *http://www.epa.gov/tri/reporting_materials/guidance_docs/pdf/2001/2001hg.pdf*.
7. EPA. Form R. Available at *http://www2.epa.gov/sites/production/files/2015-01/documents/2014_form_r.pdf*.

8. EPA. Guidelines for Exposure Assessment. May 29, 1992. Available at *http://www.epa.gov/raf/publications/pdfs/GUIDELINES_EXPOSURE_ASSESSMENT.PDF*.
9. EPA. Mercury Switches in Motor Vehicles; Significant New Use Rule. **Federal Register**. 72 FR 56903, October 5, 2007 (FRL–8110–5).
10. EPA. Elemental Mercury Used in Flow Meters, Natural Gas Manometers, and Pyrometers; Significant New Use Rule. **Federal Register**. 75 FR 42330, July 21, 2010 (FRL–8832–2).
11. EPA. Elemental Mercury Used in Barometers, Manometers, Hygrometers, and Psychrometers; Significant New Use Rule. **Federal Register**. 77 FR 31728, May 30, 2012 (FRL–9345–9).
12. EPA. A Guide for Federal Agencies on Replacing Mercury-Containing Non-Fever Thermometers. June 2013. Available at *http://epa.gov/mercury/pdfs/Non-Fever-Mercury-Thermometers-Guide-for-Federal-Agencies-FINAL.pdf*.
13. UNEP. Mercury-Containing Products Partnership Area Business Plan. June 28, 2013. Available at *http://www.unep.org/chemicalsandwaste/Mercury/GlobalMercuryPartnership/Products/tabid/3565/language/en-US/Default.aspx*.

Authority: 15 U.S.C. 2601 *et seq*.

Dated: September 21, 2015.

James J. Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2015–24849 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 271

[Docket No. FRA–2009–0038]

RIN 2130–AC11

Risk Reduction Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Proposed rule; notice of comment period reopening.

SUMMARY: On February 27, 2015, FRA published a Notice of Proposed Rulemaking (NPRM) that would require certain railroads to develop a Risk Reduction Program (RRP). On September 29, 2015, the RRP Working Group of the Railroad Safety Advisory Committee (RSAC) held a meeting to review and discuss comments received in response to both the NPRM and an August 27, 2015, public hearing on the NPRM. FRA is reopening the comment period for this proceeding to allow interested parties to submit written comments in response to views or information provided at the RRP Working Group meeting.

DATES: The comment period for this proceeding, consisting of the proposed rule published February 27, 2015, at 80 FR 10950, the August 27, 2015, hearing, announced at 80 FR 45500, July 30, 2015, and a prior notice of comment period reopening, announced at 80 FR 55285, September 15, 2015, is reopened. Written comments must be received by October 21, 2015. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESSES: *Written comments:* Written comments related to Docket No. FRA–2009–0038 may be submitted by any of the following methods:

- *Web site:* The Federal eRulemaking Portal, *http://www.regulations.gov.* Follow the Web site's online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590.
- *Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Room W12–140 on the Ground level of the West Building, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name, docket name, and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC, Room W–12–140 on the Ground level of the West Building, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Miriam Kloeppel, Staff Director, Risk Reduction Program Division, Office of Safety Analysis, FRA, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590, (202) 493–6224, *Miriam.Kloeppel@dot.gov;* or Elizabeth Gross, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Mail Stop 10, Washington, DC 20590, (202) 493–1342, *Elizabeth.Gross@dot.gov.*

SUPPLEMENTARY INFORMATION: The Rail Safety Improvement Act of 2008 (RSIA) requires the development and implementation of railroad safety risk reduction programs. Risk reduction is a comprehensive, system-oriented approach to safety that (1) determines an operation's level of risk by identifying and analyzing applicable hazards and (2) involves the development of acctions to mitigate that risk. Each RRP is statutorily required to be supported by a risk analysis and an RRP Plan, which must include a Technology Implementation Plan and a Fatigue Management Plan. On February 27, 2015, FRA published an NPRM that would require certain railroads to develop an RRP. FRA also held a public hearing on August 27, 2015, to provide interested persons an opportunity to provide oral comments on the proposal. *See* 80 FR 10950, Feb. 27, 2015 and 80 FR 45500, Jul. 30, 2015.

On September 29, 2015, the RSAC's RRP Working Group held a meeting to review and discuss comments received in response to both the NPRM and the public hearing. FRA established RSAC as a collaborative forum to provide advice and recommendations to FRA on railroad safety matters. The RSAC includes representatives from all of the agency's major stakeholder groups, representing various railroad industry perspectives. See the RSAC Web site for details on prior RSAC activities and pending tasks at *http://rsac.fra.dot.gov/.* Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740), for additional information about the RSAC.

FRA is reopening the comment period for this proceeding to allow interested parties to submit written comments in response to views or information provided at the RRP Working Group meeting on September 29, 2015. Written comments must be received by October 21, 2015. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

Privacy Act Statement

Consistent 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.*

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2015–25461 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 393 and 396

[Docket No. FMCSA–2015–0176]

RIN 2126–AB81

Parts and Accessories Necessary for Safe Operation; Inspection, Repair, and Maintenance; General Amendments

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FMCSA proposes to amend the regulations for ''Parts and Accessories Necessary for Safe Operation,'' and ''Inspection, Repair and Maintenance,'' of the Federal Motor Carrier Safety Regulations (FMCSRs) in response to several petitions for rulemaking from the Commercial Vehicle Safety Alliance (CVSA) and the American Trucking Associations (ATA), and two safety recommendations from the National Transportation Safety Board (NTSB). Specifically, the Agency proposes to add a definition of ''major tread groove;'' revise the rear license plate lamp requirement to provide an exception for truck tractors registered in States that do not require tractors to have a rear license plate; provide specific requirements regarding when violations or defects noted on a roadside inspection report need to be corrected; amend Appendix G to the FMCSRs, ''Minimum Periodic Inspection Standards,'' to include provisions for the inspection of antilock braking systems (ABS), automatic brake adjusters, and brake adjustment indicators, speed-restricted tires, and motorcoach passenger seat mounting anchorages; and amend the periodic inspection rules to eliminate the option for motor carriers to use a violation—free roadside inspection report as proof of completing a comprehensive inspection at least once every 12 months. In addition, the Agency proposes to eliminate introductory text from Appendix G to the FMCSRs because the discussion of the differences between the North American Standard Inspection out-of-service criteria and FMCSA's periodic inspection criteria is unnecessary.

DATES: You must submit comments on or before December 7, 2015.

ADDRESSES: You may submit comments identified by docket number FMCSA–2015–0176 using any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' heading under the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, call or email Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, telephone: 202–366–5370; *michael.huntley@dot.gov*. If you have questions about viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Services, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Executive Summary

FMCSA is responsible for regulations to ensure that all commercial motor vehicles (CMVs) are systematically inspected, repaired, and maintained and that all parts and accessories necessary for the safe operation of CMVs are in safe and proper operating condition at all times. In response to several petitions for rulemaking from CVSA and ATA and two safety recommendations from the NTSB, FMCSA proposes to amend various provisions in parts 393 and 396 of the FMCSRs. The proposed amendments generally do not involve the establishment of new or more stringent requirements, but instead clarify existing requirements to increase consistency of enforcement activities.

Specifically, the Agency proposes to (1) add a definition of ''major tread groove'' in § 393.5; (2) delete the requirement in Table 1 of § 393.11 for truck tractors to have a rear license plate light when State law does not require the vehicle to have a rear license plate; (3) clarify § 396.9 regarding when violations or defects noted on a roadside inspection report need to be corrected; (4) amend Appendix G to the FMCSRs, ''Minimum Periodic Inspection Standards,'' to include provisions for the inspection of (a) ABS, automatic brake adjusters, and brake adjustment indicators, (b) speed-restricted tires, and (c) motorcoach passenger seat mounting anchorages; (5) amend § 396.17(f) to eliminate references to roadside inspections; and (6) amend § 396.19(b) regarding inspector qualifications as a result of the amendments to § 396.17(f) described above. In addition, the Agency proposes to eliminate as unnecessary a portion of Appendix G to the FMCSRs that describes the differences between the out-of-service criteria and FMCSA's annual inspection.

The Agency believes the potential economic impact of these changes is negligible because the proposed amendments generally do not involve new or more stringent requirements, but a clarification of existing requirements.

Public Participation and Request for Comments

FMCSA encourages you to participate in this rulemaking by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2015–0176), indicate the heading of the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov*, type the docket number, ''FMCSA–2015–0176'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click the ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an

individual or on behalf of a third party, and click ''Submit.''

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments and as well as any documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov*, insert the docket number, ''FMCSA–2015–0176'' in the ''Keyword'' box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Services in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, 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*.

Legal Basis for the Rulemaking

This rulemaking is based on the authority of the Motor Carrier Act of 1935 [1935 Act] and the Motor Carrier Safety Act of 1984 [1984 Act].

The 1935 Act, as amended, provides that ''[t]he Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a private motor carrier, when needed to promote safety of operation'' (49 U.S.C. 31502(b)).

This NPRM would amend the FMCSRs to respond to several petitions for rulemaking. The adoption and enforcement of such rules is specifically authorized by the 1935 Act. This proposed rulemaking rests squarely on that authority.

The 1984 Act provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to ''prescribe regulations on commercial motor vehicle safety.'' The regulations shall prescribe minimum safety standards for CMVs. At a minimum, the regulations shall ensure that: (1) CMVs are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of CMVs is adequate to enable them to operate vehicles safely; (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators; and (5) that drivers are not coerced by motor carriers, shippers, receivers, or transportation intermediaries to operate a vehicle in violation of a regulation promulgated under 49 U.S.C. 31136 (which is the basis for much of the FMCSRs) or 49 U.S.C. chapters 51 or 313 (49 U.S.C. 31136(a)).

This proposed rule concerns (1) parts and accessories necessary for the safe operation of CMVs, and (2) the inspection, repair, and maintenance of CMVs. It is based primarily on section 31136(a)(1) and (2), and secondarily on section 31136(a)(4). This rulemaking would ensure that CMVs are maintained, equipped, loaded, and operated safely by requiring certain vehicle components, systems, and equipment to meet minimum standards such that the mechanical condition of the vehicle is not likely to cause a crash or breakdown. Section 31136(a)(3) is not applicable because this rulemaking does not deal with driver qualification standards. Because the amendments proposed by this rule are primarily technical changes that clarify existing requirements and improve enforcement consistency, FMCSA believes they will be welcomed by motor carriers and drivers alike and that coercion to violate them will not be an issue.

Before prescribing any such regulations, FMCSA must consider the ''costs and benefits'' of any proposal (49 U.S.C. 31136(c)(2)(A) and 31502(d)). As discussed in greater detail in the ''Regulatory Analyses'' section, FMCSA has determined that this proposed rule is not a significant regulatory action. The Agency believes the potential economic impact is negligible because the proposed amendments generally do not involve the adoption of new or more stringent requirements, but rather the clarification of existing requirements. As such, the costs of the rule would not approach the $100 million annual threshold for economic significance.

Background

The fundamental purpose of 49 CFR part 393, ''Parts and Accessories Necessary for Safe Operation,'' is to ensure that no employer operates a CMV or causes or permits it to be operated, unless it is equipped in accordance with the requirements and specifications of that part. However, nothing contained in part 393 may be construed to prohibit the use of additional equipment and accessories, not inconsistent with or prohibited by part 393, provided such equipment and accessories do not decrease the safety of operation of the motor vehicles on which they are used. Compliance with the rules concerning parts and accessories is necessary to ensure vehicles are equipped with the specified safety devices and equipment.

On August 15, 2005, FMCSA published a final rule amending part 393 of the FMCSRs to remove obsolete and redundant regulations; respond to several petitions for rulemaking; provide improved definitions of vehicle types, systems, and components; resolve inconsistencies between part 393 and the National Highway Traffic Safety Administration's (NHTSA) Federal Motor Vehicle Safety Standards (49 CFR part 571); and codify certain FMCSA regulatory guidance concerning the requirements of part 393 (70 FR 48008).

Since publication of the 2005 final rule, FMCSA has received petitions for rulemaking to amend part 393 from CVSA, requesting that § 393.5 be amended to include a definition of ''major tread groove,'' and from ATA, requesting that Table 1 to § 393.11 be amended to delete the requirement for operable rear license plate lights on truck tractors registered in States that do not require a rear license plate to be displayed. In addition, FMCSA received a separate petition from CVSA requesting that the Agency amend Appendix G to the FMCSRs, ''Minimum Periodic Inspection Standards,'' to include provisions for the inspection of ABS. Like the revisions made in the August 2005 final rule, the amendments requested by CVSA and ATA would simply clarify existing requirements.

Proper inspection, repair, and maintenance of CMVs are essential to the safety of motor carrier operations. The purpose of 49 CFR part 396, ''Inspection, Repair, and Maintenance,'' is to ensure that every motor carrier (1) systematically inspects, repairs, and

maintains all motor vehicles subject to its control to ensure that all parts and accessories are in safe and proper operating condition at all times, and (2) maintains records of these inspections, repairs, and maintenance. Generally, systematic means a regular or scheduled program to keep vehicles in a safe operating condition. Part 396 does not specify inspection, repair, or maintenance intervals because such intervals are fleet specific, and in some instances, vehicle specific. The inspection, repair, and maintenance intervals are to be determined by the motor carrier. The requirements in part 396 concerning driver pre- and post-trip inspections and periodic (annual) inspections are in addition to the systematic inspection, repair, and maintenance requirements.

FMCSA has also received several petitions from CVSA seeking amendments to part 396. First, while § 396.9(d)(2) requires violations or defects noted on roadside inspection reports to be ''corrected,'' CVSA requested that the Agency clarify *when* such vehicle and driver violations or defects must be corrected. Second, CVSA requested that the Agency remove the words ''or roadside'' from the existing regulatory language of § 396.17 to separate the roadside inspection program conducted by law enforcement officials from the periodic (annual) inspection requirements of § 396.17. Third, CVSA asked that § 396.19 be amended to delete the references to the ''random roadside inspection program.'' Finally, CVSA requested that FMCSA amend Appendix G to the FMCSRs by deleting the ''Comparison of Appendix G, and the new North American Uniform Driver-Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-of-Service Criteria.)'' As with the proposed amendments to part 393, the proposed revisions to part 396 merely clarify existing requirements.

In addition to the CVSA and ATA petitions for rulemaking, the NTSB issued two safety recommendations to FMCSA relating to Appendix G of the FMCSRs as a result of its investigation of an October 13, 2003, crash in Tallulah, Louisiana, involving a motorcoach and a tractor semitrailer combination. First, investigators discovered that the motorcoach had been equipped with speed-restricted tires. While the tires were designed for speeds not to exceed 55 mph, and to provide high-load capacity and durability for inner city transit-bus-type vehicles (which typically do not exceed speeds of 55 mph), the motorcoach was being operated on the interstate at speeds exceeding 55 mph at the time of the crash. The NTSB noted that if a speed-restricted tire is used in service above its rated speed for extended periods, a catastrophic failure can result. The NTSB concluded that because the CMV inspection criteria used by FMCSA and others do not address the identification and appropriate use of speed-restricted tires, they overlook an important vehicle safety factor and can result in CMVs intended for highway use being operated with tires not suited for highway speeds. The NTSB issued Safety Recommendation H–05–03 to FMCSA, recommending that the Agency revise Appendix G ''to include inspection criteria and specific language to address a tire's speed rating to ensure that it is appropriate for a vehicle's intended use.''

Second, investigators found that during the crash sequence, many passenger seats did not remain in their original positions because they had been improperly secured to the floor of the vehicle. The NTSB concluded that improperly secured motorcoach passenger seats are not likely to be identified during CMV inspections because no criteria or procedures are available for the inspection of motorcoach seating anchorage systems. The NTSB issued Safety Recommendation H–05–05 to FMCSA, recommending that the Agency (1) develop a method for inspecting motorcoach passenger seat mounting anchorages, and (2) revise Appendix G of the FMCSRs to require inspection of these anchorages.

Discussion of Proposed Rulemaking

Section 393.5, Definition of ''Major tread groove.'' Section 393.75 of the FMCSRs specifies the requirements for tires on CMVs operated in interstate commerce. Paragraph (b) states that ''Any tire on the front wheels of a bus, truck, or truck tractor shall have a tread groove pattern depth of at least 4/32 of an inch when measured at any point *on a major tread groove.* The measurements shall not be made where tie bars, humps, or fillets are located'' [emphasis added]. In addition, § 393.75(c) states that, ''Except as provided in paragraph (b) of this section, tires shall have a tread groove pattern depth of at least 2/32 of an inch when measured *in a major tread groove.* The measurement shall not be made where tie bars, humps or fillets are located'' [emphasis added].

In its petition, CVSA stated:

> The absence of a definition for what constitutes a major tread groove leads to confusion for both enforcement and industry. There are several grooves in a tire and not all of them are necessarily major tread grooves. Dependent on where the tire is worn and what the person understands to be a major tread groove is the important and costly decision on whether or not the tire is required to be replaced. A clear definition will reduce unnecessary disposal of tires due to improper tread depth measurements, as well as reduce improper violations/citations related to § 393.75.

CVSA contacted ATA's Technology & Maintenance Council (TMC) S.2 Tire & Wheel Study Group Task Force and asked them to (1) review the regulatory language in § 393.75(b) and (c), and (2) develop a definition for ''major tread groove.'' The TMC Task Force recommended that a major tread groove be defined as ''The space between two adjacent tread ribs or lugs on a tire that contains a tread wear indicator or wear bar. (In most cases, the locations of tread wear indicators are designated on the upper sidewall/shoulder of the tire on original tread tires.)''

CVSA contends that it ''is imperative that measurements for tire wear are taken in consistent locations to help promote uniformity and consistency in both enforcement and maintenance.'' The proposed definition of ''major tread groove'' was submitted to, reviewed, and approved by CVSA's Vehicle Committee (consisting of enforcement, government, and industry representatives) prior to the development and submission of the petition for rulemaking to FMCSA. The petition requests that § 393.5 be amended to include the TMC Task Force's suggested definition of ''major tread groove.''

FMCSA agrees that uniformity and consistency in enforcement and maintenance are critical. By including a definition of ''major tread groove'' in § 393.5—a term that is currently included in the regulatory text of § 393.75(b) and (c), but not specifically defined—the Agency expects increased consistency in the application and citation of § 393.75 during roadside inspections.

FMCSA proposes to amend § 393.5 to include a definition for ''major tread groove'' that is consistent with the definition as proposed by the TMC Task Force. In addition, the following illustration will be added to § 393.75, where the arrows indicate the location of tread wear indicators or a wear bars signifying a major tread groove:

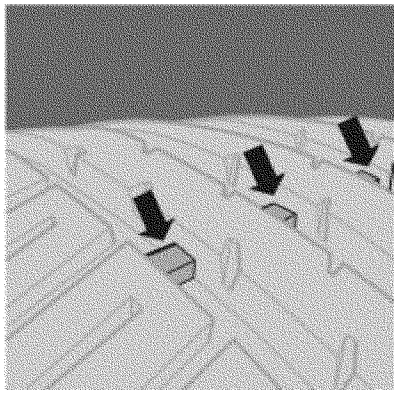

Table 1 to § 393.11, License Plate Lights. Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''*Lamps, reflective devices, and associated equipment,*'' requires all newly-manufactured passenger cars, multipurpose passenger vehicles (MPVs), trucks, and buses to be equipped with a single white license plate light, located at the rear, to illuminate the license plate from the top or sides. The light must be steady burning, and must be activated when the headlamps are activated in a steady burning state or when the parking lamps on passenger cars and MPVs, trucks, and buses are activated. Similarly, § 393.11(a)(1) of the FMCSRs requires all CMVs operated in interstate commerce and manufactured on or after December 25, 1968, to meet at least the minimum applicable requirements of FMVSS No. 108 in effect at the time of manufacture of the vehicle. Footnote 11 to Table 1 of § 393.11 requires that the license plate light ''be illuminated when tractor headlamps are illuminated.''

In its petition, ATA states:

> The purpose of the rear license plate lamp is ''to illuminate the license plate from the top or sides.'' ATA believes that if there is no license plate, there is no need and therefore should be no regulatory requirement for a functioning rear license plate lamp. As simple and commonsensical as this seems, roadside inspectors in some [States] have issued citations to motor carriers when the rear license plate holder is empty and the tractor license plate lamp is either missing or not working. In surveying the 50 U.S. states and the District of Columbia, ATA found that 35 states and the District require only one license plate on a tractor, and it is to be placed on the front. Only 14 states require two license plates, one each on the front and back of the tractor. Therefore, the change we are seeking in the application of the regulation would apply to a significant number of commercial trucks with state-issued plates . . . These changes to the existing regulatory requirements to exempt commercial vehicles with no rear license plates will not adversely impact safety and will help eliminate further unnecessary enforcement actions by roadside inspectors.

ATA's petition requests that FMCSA amend the license plate lamp requirement in Table 1 to § 393.11 to read ''At rear license plate to illuminate the plate from the top or sides, *except that no license plate lamp is required where state law does not require a license plate to be present.*''

As noted in both FMVSS No. 108 and the FMCSRs, the only function of the rear license plate lamp is to illuminate the rear license plate. FMCSA agrees with ATA that if a truck tractor is not required to display a rear license plate, then there is no corresponding safety need for a functioning rear license plate light. Uniformity and consistency in enforcement are critical.

FMCSA proposes to amend Footnote 11 to Table 1 of § 393.11 to indicate that no rear license plate lamp is required on truck tractors registered in States that do not require tractors to display a rear license plate.''

Appendix G to the FMCSRs—ABS. Section 210 of the Motor Carrier Safety Act of 1984 required the Secretary of Transportation to establish standards for the annual (*i.e.,* periodic) or more frequent inspection of all CMVs engaged in interstate or foreign commerce. In response, the Federal Highway Administration (FHWA) published a final rule on December 7, 1988, adopting § 396.17, which requires all CMVs to be inspected at least once every 12 months (53 FR 49402, as amended on December 8, 1989 (54 FR 50722)). In establishing specific criteria for the newly required annual inspection, FHWA looked to inspection criteria that had been developed based on the specifications in part 393, notably (1) the CVSA vehicle out-of-service criteria and (2) the vehicle portion of the FHWA National Uniform Driver-Vehicle Inspection Procedure (NUD–VIP). FHWA decided to use the vehicle portion of the NUD–VIP as the criteria for successful completion of the annual inspection, and in the December 1988 rule, established Appendix G to the FMCSRs as the minimum periodic inspection standards for § 396.17. FHWA noted that utilization of the NUD–VIP would (1) provide the necessary inspection-related pass/fail criteria for the periodic inspection at a more stringent level than the vehicle out-of-service criteria, and (2) provide the proper level of Federal oversight in establishing and revising the criteria.

NHTSA did not require medium and heavy vehicles to be equipped with an ABS to improve lateral stability and steering control during braking until 1995, when it published a final rule amending FMVSS No. 105, ''Hydraulic Brake Systems,'' and FMVSS No. 121, ''Air Brake Systems'' (60 FR 13216, March 10, 1995). In addition to requiring ABS on medium and heavy vehicles, the 1995 rule also required all powered vehicles to be equipped with an in-cab lamp to indicate ABS malfunctions. Truck tractors and other trucks equipped to tow air-braked trailers are required to have two separate in-cab lamps: One indicating malfunctions in the towing vehicle ABS and the other in the trailer ABS.

Part 393 of the FMCSRs was amended in 1998 to require carriers to maintain ABS installed on truck tractors, single unit trucks, buses, trailers, and converter dollies (63 FR 24454, May 4, 1998). Although the final rule clearly placed on interstate motor carriers the responsibility to maintain the ABS in operable condition at all times, it did not add provisions regarding the periodic inspection of the ABS/ABS malfunction indicator to the minimum periodic inspection standards in Appendix G. This means that a vehicle could pass the periodic inspection with an inoperable ABS/ABS malfunction indicator. However, the operation of the vehicle with the inoperable ABS/ABS malfunction indicator would be a violation of the FMCSRs and would preclude the vehicle from receiving a roadside inspection decal.

In its petition, CVSA requested that the Agency amend Appendix G to include specific language regarding the inspection of the ABS system/malfunction indicator during periodic/annual inspections. CVSA stated:

> While we realize that 49 CFR part 393—Parts and Accessories Necessary for Safe Operation has requirements relating to ABS in § 393.55, periodic inspections are typically conducted using Appendix G as a guide (and not Part 393) and as such, ABS operational status is frequently neglected since it is not part of Appendix G. Furthermore, many versions of the preprinted forms used by personnel who conduct periodic inspections do not mention or list ABS as an inspection item.
>
> The failure of some motor carriers to check ABS as a part of their preventative maintenance programs is found by roadside inspectors while conducting random roadside inspections. Inspectors are frequently finding commercial motor vehicles with missing or inoperative ABS malfunction indicators or indicators that are constantly illuminated indicating a fault in the ABS. A study was conducted by the Battelle Memorial Institute for FMCSA to assess the status of the ABS warning system on in-service air-braked commercial vehicles. Data from approximately 1,000 CMVs were collected in California, Ohio, Pennsylvania, and Washington, by enforcement personnel who had been specifically trained to inspect the ABS warning lamp. With an ABS lamp check problem defined as falling into one of

three categories; no lamp, lamp inoperative, or lamp on (thus indicating an active ABS system fault), a snapshot of this aspect of the CMV population was created. Results indicated that about one in six power units manufactured after March 1, 1997 showed some problem with their ABS warning lamp system. One in three trailers manufactured after March 1, 1998 showed a problem. Furthermore, the study indicated that ABS problems increased with vehicle age so the percentages would likely be higher if the study was repeated today since there are now older vehicles on the road with ABS.

FMCSA agrees that the failure of a motor carrier to properly maintain an important safety technology such as ABS should result in the vehicle failing the periodic inspection. And although CVSA did not mention automatic brake adjusters and brake adjustment indicators in its petition, FMCSA believes these brake components should also be included in Appendix G to ensure that vehicles cannot pass the periodic inspection without this important safety equipment. FMCSA amended 49 CFR part 393 on September 6, 1995 (60 FR 46245) to require that interstate motor carriers maintain these devices, but as with the ABS final rule, the Agency did not include automatic brake adjusters and brake adjustment indicators in Appendix G.

ABS and automatic brake adjusters and brake adjustment indicator requirements have been included in part 393 for approximately 20 years. Therefore, FMCSA believes that it is reasonable to assume that the vast majority of motor carriers currently include a review of these devices and systems in their annual inspection programs despite the fact that there are no explicit requirements in Appendix G to do so. As such, the Agency believes that amending Appendix G to include a review of ABS and automatic brake adjusters and brake adjustment indicators simply maintains consistency between part 393 and Appendix G, and will result in a de minimis added burden to motor carriers.

Section 396.9, Inspection of motor vehicles and intermodal equipment in operation. Section 396.9 of the FMCSRs authorizes special agents of FMCSA, as defined in Appendix B to the FMCSRs, to enter upon and perform inspections of a motor carrier's vehicles in operation, *i.e.,* to perform roadside inspections. Drivers receiving reports from such inspections are required to provide a copy of the report to the motor carrier or intermodal equipment provider (1) upon his/her arrival at the next terminal or facility, or (2) immediately via mail, fax, or other means if the driver is not scheduled to arrive at a terminal or at a facility of the intermodal equipment provider within 24 hours. Section 396.9(d)(2) requires that ''Motor carriers and intermodal equipment providers shall examine the report. Violations or defects noted thereon shall be corrected. Repairs of items of intermodal equipment placed out-of-service are also to be documented in the maintenance records for such equipment.'' However, § 396.9(d)(2) does not expressly state *when* such violations or defects need to be remedied.

CVSA asked FMCSA to amend § 396.9(d)(2) to specifically require that violations or defects noted in a roadside inspection report ''be corrected prior to redispatching the driver and/or vehicle.'' In support of its petition, CVSA stated:

> Upon review of the North American Standard Level I Inspection (Part ''A''—Driver) training materials, it was noted that the regulatory language ''prior to redispatch'' does not currently exist in the Federal Motor Carrier Safety Regulations (FMCSRs). The language has been used exclusively in the North American Standard Out-of-Service Criteria (OOSC) and in the Appendix since the early beginnings of the North American Standard Inspection Program. By adding the regulatory language, it will provide enforcement and industry with a clear understanding of the regulatory intent of when vehicle and driver violations or defects must be corrected.

Every driver is required to prepare a driver vehicle inspection report (DVIR) in writing at the completion of each day's work on each that he or she vehicle operated that lists ''any defect or deficiency discovered by *or reported to the driver* which would affect the safety of operation of the vehicle or result in its mechanical breakdown'' (§ 396.11(a)(2) [emphasis added]). Any defects or violations noted during a roadside inspection conducted during that work day, and documented in a report provided to the driver by an inspection official, must be included in the DVIR prepared by the driver at the end of the work day. In addition, § 396.11(a)(3) specifies that prior to requiring or permitting a driver to operate a vehicle, every motor carrier or its agent shall (1) repair any defect or deficiency listed on the DVIR which would be likely to affect the safety of operation of the vehicle (§ 396.11(a)(3)(i)), and (2) certify on the original DVIR that all defects or deficiencies have been repaired or that repair is unnecessary before the vehicle is operated again (§ 396.11(a)(3)(ii)).

Section 396.11(a)(3) makes it clear that all defects and deficiencies discovered by or reported to a driver—including those identified during a roadside inspection conducted under the authority of § 396.9—must be corrected (or a certification provided stating that repair is unnecessary) before a vehicle is operated each day. However, the Agency agrees that the language of § 396.9(d)(2) is not as explicit as it could be, and could lead to uncertainty and/or inconsistency in both the enforcement community and the motor carrier industry regarding when violations and defects noted on roadside inspection reports need to be corrected.

While CVSA suggested inclusion of language that would require violations or defects to be corrected ''prior to redispatching the driver and/or vehicle,'' the Agency believes that use of the term ''redispatching'' could be troublesome in some operations, for example in long-haul, multi-day cross country trips where a vehicle may be ''dispatched'' only at the trip's point of origin. On such trips, a driver is required under § 396.11 to ensure—at the beginning of each day—that any defects or deficiencies discovered by or reported to the driver on the previous day have been satisfactorily addressed according to § 396.11(a)(3)(i) and (ii). FMCSA is concerned that amending § 396.9(d)(2) using CVSA's recommended ''prior to redispatch'' language could improperly imply that repairs are not required each day on multi-day trips where the vehicle is not ''redispatched'' every day.

Instead, to clarify the intent of § 396.9(d)(2) as discussed above, FMCSA proposes to amend that section by including a specific cross reference to § 396.11(a)(3).

The Motor Carrier Safety Act of 1990 required that violations found during inspections funded under the Motor Carrier Safety Assistance Program (MCSAP) be corrected in a timely manner, and that States participating in the MCSAP adopt a verification program to ensure that CMVs and operators thereof found in violation of safety requirements have subsequently been brought into compliance. [Sec. 15(d), Pub. L. 101–500, Nov. 3, 1990, 104 Stat. 1219]. Section 396.9(d)(3) requires motor carriers and intermodal equipment providers, within 15 days, to (1) certify that all violations noted have been corrected by completing the ''Signature of Carrier/Intermodal Equipment Provider Official, Title, and Date Signed'' portions of the roadside inspection form, (2) return the completed roadside inspection form to the issuing agency, and (3) retain a copy of the completed form for 12 months from the date of the inspection.

In a final rule implementing revisions to the MCSAP published on September 8, 1992, the FHWA noted that the ATA had asked ''that carriers be given more time to return inspection reports and file a report at the terminal where the vehicle is maintained.'' Specifically, the ATA requested that the carrier be allowed 60 days to file a copy of each roadside inspection report. FHWA declined to adopt ATA's request, stating ''Currently, § 396.9 allows 15 days for the motor carrier to certify correction of defects found in inspections. The FHWA believes that this is sufficient time and, moreover, that these reports on safety violations found on trucks and buses operating on the highways require immediate attention and follow-up by the motor carrier'' (57 FR 40946, 40951, Sept. 8, 1992). FMCSA requests comments regarding whether the existing 15-day requirement in § 396.9(d)(3) remains appropriate, or whether a different time period should be considered.

Section 396.17, Periodic Inspection. Section 396.17(f) states that ''Vehicles passing roadside or periodic inspections performed under the auspices of any State government or equivalent jurisdiction or the FMCSA, meeting the minimum standards contained in appendix G of this subchapter, will be considered to have met the requirements of an annual inspection for a period of 12 months commencing from the last day of the month in which the inspection was performed. If a vehicle is subject to a mandatory State inspection program, as provided in § 396.23(b)(1), a roadside inspection may only be considered equivalent if it complies with the requirements of that program.''

In its petition, CVSA recommended that § 396.17(f) be amended by removing the words ''roadside or'' from the current regulatory language. CVSA stated:

> It is our strong belief that the roadside inspection program and the annual/periodic inspection program need to be decoupled from each other. The roadside inspection program and the North American Standard Out-of-Service Criteria (OOSC) are not equivalent to a ''government mandated maintenance standard'' for annual or periodic inspections. The North American Standard Inspection Program and North American Standard Out-of-Service Criteria have been in place for more than two decades and were never intended to serve this purpose . . .
>
> The roadside inspection is the ''last line of defense'' for highway safety. When a driver or vehicle is placed out of service during a roadside inspection it is indicative that the motor carrier likely has a failing or defective preventative maintenance and/or driver trip inspection program . . .
>
> Far too many drivers, roadside inspectors, mechanics, company safety professionals and owner operators reference the OOSC as the ''DOT'' standard. In our judgment it is a mistake and a misuse of the intent of the OOSC. The OOSC serves as a uniform set of guidelines for law enforcement officials when determining whether a driver and/or vehicle are an imminent hazard. The Policy Statement under Part II of the OOSC states ''These criteria are neither suited nor intended to serve as vehicle maintenance or performance standards.''

FMCSA emphasizes that under the existing regulatory language, only roadside inspections *''meeting the minimum standards contained in appendix G''* may be considered to be equivalent to a periodic/annual inspection. This distinction was clearly and extensively discussed in the December 1988 FHWA final rule discussed earlier that established the periodic/annual inspection requirements of § 396.17. In that rule, FHWA stated:

> As noted in the NPRM, the commenters pointed out the differences between random critical element roadside inspections and what they perceived as the intent of § 210 of the [1984] Act. They indicated that a random roadside inspection was basically concerned with ensuring that the vehicle did not pose an imminent danger on the roadway. The focus is on checking the more critical components such as brakes, headlights, brake lights, and steering and suspension systems. In contrast, a periodic inspection should be more concerned with the general overall safety condition of the vehicle, including those parts, which if defective, worn, or missing do not pose an immediate danger but nevertheless should be corrected as soon as possible. *Therefore, the rule requires that roadside inspections meet the minimum standards contained in Appendix G in order to meet the periodic inspection requirements . . .*
>
> The current inspection standards associated with the CVSA or NUD–VIP focus on random roadside inspections and examine certain key components of a vehicle to detect those defects most often identified as causing or contributing to the severity of commercial motor vehicle accidents. The CVSA or NUD–VIP standards, by their very nature, do not require disassembly of parts to effect a thorough inspection. *The FHWA believes that the criteria on which to judge whether or not the vehicle passes the [periodic] inspection should be more thorough than that used during roadside inspections . . .*
>
> Vehicles subjected to random roadside vehicle checks *which inspect vehicles using the criteria included in Appendix G* will be considered to have met the requirements of this rule if they pass the inspection. Note that the current CVSA out-of-service criteria, while very similar to that contained in Appendix G, are not identical. *The fact that a vehicle is subjected to and passes roadside inspection (e.g., receiving a CVSA decal) does not necessarily satisfy the requirements of the periodic inspection under this rule. In order to meet the requirements for a periodic inspection, the inspection must be performed using, as a minimum, the criteria contained in Appendix G of this subchapter* [emphasis added in all].

FMCSA emphasizes that the purpose of the periodic inspection rule was to have motor carriers take full responsibility for having a qualified mechanic do a thorough inspection of the vehicles the carrier controls. FMCSA does not believe it is appropriate to continue to allow carriers relief from this responsibility by using a roadside inspection conducted by enforcement officials. Motor carriers are responsible for having the means of ensuring the completion of a periodic inspection irrespective of whether a roadside inspection is performed and this rulemaking would require them to do so at least once every 12 months, irrespective of whether a roadside inspection is performed during that period.

For the reasons explained above, FMCSA proposes to amend § 396.17(f) to remove the words ''roadside or'' from the current regulatory text as suggested by CVSA in its petition. This proposed amendment would eliminate any uncertainties and make clear that a roadside inspection is not equivalent to the periodic/annual inspection required under § 396.17, even if it is conducted in accordance with the provisions of Appendix G.

In addition, CVSA requested that FMCSA remove the section at the end of Appendix G titled ''*Comparison of Appendix G, and the new North American Uniform Driver-Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-Of-Service Criteria*). In light of the proposed amendments to § 396.17(f) described above, and to further decrease the possibility of confusion regarding differing requirements of the roadside inspection program and the periodic/annual inspection program, FMCSA proposes to delete the section as suggested by CVSA.

Section 396.19, Inspector Qualifications. Section 396.19 of the FMCSRs prescribes the minimum qualifications for individuals performing periodic/annual inspections under § 396.17(d). Specifically, § 396.19(b) states that ''Motor carriers and intermodal equipment providers must retain evidence of that individual's qualifications under this section. They must retain this evidence for the period during which that individual is performing annual motor vehicle

inspections for the motor carrier or intermodal equipment provider, and for one year thereafter. However, motor carriers and intermodal equipment providers do not have to maintain documentation of inspector qualifications for those inspections performed either as part of a State periodic inspection program or at the roadside as part of a random roadside inspection program.''

Consistent with the proposed amendments to § 396.17 discussed above, CVSA's petition recommended that FMCSA delete the language regarding ''a random roadside inspection program'' in § 396.19(b).

FMCSA agrees and proposes to amend § 396.19(b) as suggested by CVSA.

NTSB Recommendations, Speed-restricted tires and motorcoach seat anchorage strength in Appendix G.

Speed-restricted tires. After investigating a 2003 motorcoach crash, NTSB recommended that the Agency revise Appendix G ''to include inspection criteria and specific language to address a tire's speed rating to ensure that it is appropriate for a vehicle's intended use.''

FMVSS No. 119, ''*New pneumatic tires for motor vehicles with a GVWR [Gross Vehicle Weight Rating] of more than 4,536 kilograms (10,000 pounds) and motorcycles*,'' requires certain information to be marked on the tire sidewall. S6.5(d) of the standard requires that each tire's maximum load rating for single and dual applications and the corresponding inflation pressure be labeled on the sidewall, which provides information to the vehicle operator to ensure proper selection and use of tires.

However, a tire's maximum speed rating is not required to be labeled on the sidewall, except for tires that are speed-restricted to 90 km/h (55 mph) or below.[1] For speed-restricted tires, S6.5(e) of the standard requires that the label on the sidewall be as follows: ''Max Speed __km/h (__mph).'' [2] For tires that are not speed-restricted, inspection officials have no way to determine from the sidewall labeling the design maximum speed capability of the tire for the specified maximum load rating and corresponding inflation pressure.

FMCSA agrees that speed-restricted tires should not be used on CMVs operating on highways in excess of 55 mph for extended periods of time. However, the adoption of a requirement regarding a tire's speed rating in Appendix G, as recommended by the NTSB in Safety Recommendation H–05–03, absent a regulatory requirement for tires to be so marked, would result in inconsistent enforcement. As an alternative, FMCSA proposes to add language to section 10 of Appendix G that will prohibit the use of speed-restricted tires on CMVs subject to the FMCSRs unless the use of such tires is specifically designated by the motor carrier.

Motorcoach seat anchorage strength. Investigators found that during the Tallulah crash sequence, many passenger seats did not remain securely attached to the floor. The NTSB recommended that the Agency (1) develop a method for inspecting motorcoach passenger seat mounting anchorages, and (2) revise Appendix G of the FMCSRs to require inspection of these anchorages.

Section 393.93(a)(3) requires buses manufactured on or after January 1, 1972, to conform to the requirements of FMVSS No. 207, ''*Seating systems.*'' FMVSS No. 207 establishes requirements for seats, their attachment assemblies, and their installation to minimize the possibility of their failure by forces acting on them as a result of vehicle impact. For most vehicles required by FMVSS No. 208, ''*Occupant crash protection*,'' to have seat belts, the seat belt anchorages must be certified to the strength requirements of FMVSS No. 210, ''*Seat belt assembly anchorages*,'' and the seats must be certified to FMVSS No. 207. Part of the FMVSS No. 207 requirements tests the forward strength of the seat attachment to the vehicle replicating the load that would be applied through the seat center of gravity by inertia in a 20 g vehicle deceleration.

However, FMVSS No. 207 specifically exempts (at S.4.2) all bus passenger seats, including motorcoaches, except for small school bus passenger seats. As such, there are no performance standards in place in the FMVSSs specifically for motorcoach seat anchorages. Following its investigation of the Tallulah crash, NTSB issued Safety Recommendation H–05–01 to NHTSA to ''develop performance standards for passenger seat anchorages in motorcoaches.''

On November 25, 2013, NHTSA published a final rule requiring lap/shoulder belts to be installed for each passenger seating position on (1) all over-the-road buses [3] manufactured on or after November 28, 2016, and (2) all buses other than over-the-road buses manufactured on or after November 28, 2016, with a GVWR greater than 26,000 pounds, with certain exclusions (78 FR 70416). This rule requires the seat belt anchorages, both torso and lap, on passenger seats to be integrated into the seat structure, and these seat belt anchorages to meet the performance requirements of FMVSS No. 210. Testing performed by NHTSA demonstrated that the FMVSS No. 210 requirement ensures that restraints integrated into seats are tested adequately and that the seat attachment is robust. Thus, NHTSA determined that additional FMVSS No. 207 requirements for motorcoach passenger seats are not needed. In consideration of the above, NTSB reclassified Safety Recommendation H–05–01 as ''Closed—Acceptable Alternative Action'' on July 22, 2014.

As noted in the NTSB's report following the Tallulah crash, ''Many different seating system designs are used in motorcoaches operating in the United States; each manufacturer uses its own hardware and anchorage designs . . .'' The NTSB also noted that it had examined the issue of motorcoach seat anchorage failure in six previous crash investigations. The NTSB stated ''Several different seat anchorage system designs were used in the motorcoaches involved in these accidents. Even when properly installed and maintained, some seat anchorage systems failed, while others did not, even in similar accident scenarios.''

Given the wide range of seat anchorage designs, coupled with the lack of testing requirements specifically for seat anchorage strength in the FMVSSs, it is not practicable for FMCSA to develop a detailed methodology for the inspection of motorcoach passenger seat mounting anchorages. However, FMCSA proposes to add a new section to Appendix G that will require an examination of motorcoach seats during the conduct of a periodic inspection in accordance with § 396.17 to ensure that they are securely attached to the vehicle structure.

Amendments to Existing Regulatory Guidance

If the proposed regulatory amendments are adopted, FMCSA will amend existing regulatory guidance

[1] NHTSA published an NPRM on September 29, 2010 proposing to upgrade FMVSS No. 119 (75 FR 60036) to require a maximum speed rating label for radial truck tires with load ranges F and above. No final rule has been published to date.

[2] With respect to the tires on the motorcoach in the Tallulah, LA crash, the NTSB Highway Accident Report notes ''The restricted speed information was embossed on each tire's outer sidewall and was clearly visible.''

[3] The final rule defines over-the-road bus as ''A bus characterized by an elevated passenger deck located over a baggage compartment, except a school bus.''

questions/answers as necessary to maintain consistency with the amended regulatory language.

Regulatory Analyses

Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA has determined that this proposed rule is not a significant regulatory action within the meaning of Executive Order (E.O.) 12866, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), or within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 2, 1979). The Agency believes the potential economic impact is nominal because the proposed amendments generally do not involve the adoption of new or more stringent requirements, but rather the clarification of existing requirements. As such, the costs of the rule would not approach the $100 million annual threshold for economic significance. Moreover, the Agency does not expect the rule to generate substantial congressional or public interest. This proposed rule therefore has not been formally reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of their regulatory actions on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' encompasses small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000.[4] Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses.

Under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Title II, Pub. L. 104–121, 110 Stat. 857, March 29, 1996), the proposed rule is not expected to have a significant economic impact on a substantial number of small entities because the proposed amendments generally do not involve the adoption of new or more stringent requirements, but, instead, the clarification of existing requirements. Therefore, there is no disproportionate burden to small entities.

Consequently, I certify that the proposed action will not have a significant economic impact on a substantial number of small entities. FMCSA invites comment from members of the public who believe there will be a significant impact either on small businesses or on governmental jurisdictions with a population of less than 50,000.

Assistance for Small Entities

In accordance with section 213(a) of the SBREFA, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Mike Huntley, listed in the **FOR FURTHER INFORMATION CONTACT** section of the proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy ensuring the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, taken together, or by the private sector of $155 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2014 levels) or more in any 1 year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Paperwork Reduction Act

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Executive Order 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of Executive Order 13132 if it has ''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.'' FMCSA has determined that this proposal would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation.

Executive Order 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this proposed rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, this regulatory action could not present an environmental or safety risk that would disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

FMCSA reviewed this notice of proposed rulemaking in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

Privacy

The Consolidated Appropriations Act, 2005 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the

[4] Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), see National Archives at *http://www.archives.gov/federal-register/laws/regulatory-flexibility/601.html.*

Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This proposed rule does not require the collection of personally identifiable information (PII).

The E-Government Act of 2002, Public Law 107–347, section 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a privacy impact assessment for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a privacy impact assessment.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Executive Order 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

Executive Order 13175 (Indian Tribal Governments)

This rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment (National Environmental Policy Act, Clean Air Act, Environmental Justice)

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004), Appendix 2, paragraphs 6(z)(aa) and 6(z)(bb). The Categorical Exclusion (CE) in paragraph 6(z)(aa) covers regulations requiring motor carriers, their officers, drivers, agents, representatives, and employees directly in control of CMVs to inspect, repair, and provide maintenance for every CMV used on a public road. The CE in paragraph 6(z)(bb) covers regulations concerning vehicle operation safety standards (*e.g.,* regulations requiring: Certain motor carriers to use approved equipment which is required to be installed such as an ignition cut-off switch, or carried on board, such as a fire extinguisher, and/or stricter blood alcohol concentration (BAC) standards for drivers, etc.), equipment approval, and/or equipment carriage requirements (*e.g.* fire extinguishers and flares). The CE determination is available for inspection or copying in the Regulations.gov Web site listed under **ADDRESSES**.

FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), each Federal agency must identify and address, as appropriate, ''disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations'' in the United States, its possessions, and territories. FMCSA has determined that this proposed rule would have no environmental justice effects, nor would its promulgation have any collective environmental impact.

List of Subjects

49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 396

Highways and roads. Motor carriers, Motor vehicle equipment, Motor vehicle safety.

For the reasons stated above, FMCSA proposes to amend 49 CFR chapter III, subchapter B, as follows:

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

■ 1. The authority citation for part 393 continues to read as follows:

Authority: 49 U.S.C. 31136, 31151, and 31502; sec. 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); and 49 CFR 1.87.

■ 2. Amend § 393.5 to add a definition for ''Major tread groove'' in alphabetical order to read as follows:

§ 393.5 Definitions.

* * * * *

Major tread groove is the space between two adjacent tread ribs or lugs on a tire that contains a tread wear indicator or wear bar. (In most cases, the locations of tread wear indicators are designated on the upper sidewall/shoulder of the tire on original tread tires.)

* * * * *

■ 3. In § 393.11, revise Footnote 11 of Table 1 to read as follows:

§ 393.11 Lamps and reflective devices.

* * * * *

Table 1 of § 393.11—Required Lamps and Reflectors on Commercial Motor Vehicles

* * * * *

Footnote—11 To be illuminated when tractor headlamps are illuminated. No rear license plate lamp is required on truck tractors registered in States that do not require tractors to display a rear license plate.

* * * * *

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

■ 4. The authority citation for part 396 continues to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, 31151, and 31502; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; and 49 CFR 1.87.

■ 5. Revise § 396.9(d)(2) to read as follows:

§ 396.9 Inspection of motor vehicles and intermodal equipment in operation.

* * * * *

(d) * * *

(2) Motor carriers and intermodal equipment providers shall examine the report. Violations or defects noted thereon shall be corrected in accordance with § 396.11(a)(3). Repairs of items of intermodal equipment placed out-of-service are also to be documented in the maintenance records for such equipment.

* * * * *

■ 6. Revise § 396.17(f) to read as follows:

§ 396.17 Periodic inspection.

* * * * *

(f) Vehicles passing periodic inspections performed under the auspices of any State government or equivalent jurisdiction or the FMCSA, meeting the minimum standards contained in appendix G of this subchapter, will be considered to have met the requirements of an annual inspection for a period of 12 months commencing from the last day of the month in which the inspection was performed.

* * * * *

■ 7. Revise § 396.19(b) to read as follows:

§ 396.19 Inspector qualifications.

* * * * *

(b) Motor carriers and intermodal equipment providers must retain evidence of that individual's qualifications under this section. They must retain this evidence for the period during which that individual is performing annual motor vehicle inspections for the motor carrier or intermodal equipment provider, and for one year thereafter. However, motor carriers and intermodal equipment providers do not have to maintain documentation of inspector qualifications for those inspections performed as part of a State periodic inspection program.

■ 8. Amend Appendix G to Subchapter B of Chapter III by:

■ a. Adding Section 1.l;

■ b. Revising Section 10.c;

■ c. Adding Section 14; and

■ d. Removing ''Comparison of Appendix G, and the New North American Uniform Driver Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-Of-Service Criteria)'', including the introductory text and paragraphs 1.—13.

The additions and revision read as follows:

Appendix G to Subchapter B of Chapter III—Minimum Periodic Inspection Standards

* * * * *

1. Brake System

* * * * *

l. Antilock Brake System [1]

(1) Missing ABS malfunction indicator components (bulb, wiring, etc.).

(2) ABS malfunction indicator that does not illuminate when power is first applied to the ABS controller (ECU).

(3) ABS malfunction indicator that stays illuminated while power is continuously applied to the ABS controller (ECU).

(4) Other missing or inoperative ABS components.

* * * * *

10. Tires

* * * * *

c. Installation of speed-restricted tires (unless specifically designated by motor carrier)

* * * * *

14. Motorcoach Seats

a. Any passenger seat that is not securely fastened to the vehicle structure.

Issued under the authority of delegation in 49 CFR 1.87 on: September 24, 2015.

T. F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–24921 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 131108946–5860–01]

RIN 0648–BD76

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Dolphin and Wahoo Fishery Off the Atlantic States and Snapper-Grouper Fishery of the South Atlantic Region; Amendments 7/33

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

[1] This section is applicable to tractors with air brakes built on or after March 1, 1997, and all other vehicles with air brakes built on or after March 1, 1998. This section is also applicable to vehicles over 10,000 lbs. GVWR with hydraulic brakes built on or after March 1, 1999.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 7 to the Fishery Management Plan (FMP) for the Dolphin and Wahoo Fishery off the Atlantic States (Dolphin and Wahoo FMP) and Amendment 33 to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP) (Amendments 7/33), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this rule would revise the landing fish intact provisions for vessels that lawfully harvest dolphin, wahoo, or snapper-grouper in or from Bahamian waters and return to the U.S. exclusive economic zone (EEZ). The U.S. EEZ as described in this proposed rule refers to the Atlantic EEZ for dolphin and wahoo and the South Atlantic EEZ for snapper-grouper species. The purpose of this proposed rule is to improve the consistency and enforceability of Federal regulations with regards to landing fish intact provisions for vessels transiting from Bahamian waters through the U.S. EEZ and to increase the social and economic benefits related to the recreational harvest of these species, in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before November 6, 2015.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2015–0047'' by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0047,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/

A'' in the required fields if you wish to remain anonymous).

Electronic copies of Amendments 7/33, which includes an environmental assessment, regulatory impact review, and Regulatory Flexibility Act analysis, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/generic/2015/dw7_sg33/index.html*.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727–824–5305, or email: *nikhil.mehta@noaa.gov*.

SUPPLEMENTARY INFORMATION: The dolphin and wahoo fishery is managed under the Dolphin and Wahoo FMP and the snapper-grouper fishery is managed under the Snapper-Grouper FMP. The FMPs were prepared by the Council and are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

Current Federal regulations require that dolphin or wahoo or snapper-grouper species onboard a vessel traveling through the U.S. EEZ must be maintained with the heads and fins intact and not be in fillet form. However, as implemented through Amendment 8 to the Snapper-Grouper FMP, an exception applies to snapper-grouper species that are lawfully harvested in Bahamian waters and are onboard a vessel returning to the U.S. through the U.S. EEZ (63 FR 38298, July 16, 1998). Amendment 8 to the Snapper-Grouper FMP allows that in the South Atlantic EEZ, snapper-grouper lawfully harvested in Bahamian waters are exempt from the requirement that they be maintained with head and fins intact, provided valid Bahamian fishing and cruising permits are on board the vessel and the vessel is in transit through the South Atlantic EEZ. A vessel is in transit through the South Atlantic EEZ when it is on a direct and continuous course through the South Atlantic EEZ and no one aboard the vessel fishes in the South Atlantic EEZ.

The Bahamas does not allow for the commercial harvest of dolphin, wahoo, or snapper-grouper by U.S. vessels in Bahamian waters. Therefore, the measures proposed in this rule only apply to the recreational harvest of these species by vessels returning from The Bahamas to the U.S. EEZ. This proposed rule would not change potential liability under the Lacey Act, which makes it unlawful to import, export, sell, receive, acquire, or purchase fish that are taken, possessed, transported or sold in violation of any foreign law.

Management Measures Contained in This Proposed Rule

This proposed rule would revise the landing fish intact provisions for vessels that lawfully harvest dolphin, wahoo, or snapper-grouper in Bahamian waters and return to the U.S. EEZ. The proposed rule would allow for dolphin and wahoo fillets to enter the U.S. EEZ after lawful harvest in The Bahamas; specify the condition of any dolphin, wahoo, and snapper-grouper fillets; describe how the recreational bag limit would be determined for any fillets; explicitly prohibit the sale or purchase of any dolphin, wahoo, or snapper-grouper recreationally harvested in The Bahamas; specify the required documentation to be onboard any vessels that have these fillets, and specify transit and stowage provisions for any vessels with fillets.

Landing Fish Intact

Currently, all dolphin or wahoo on vessels within the Atlantic EEZ are required to be maintained with head and fins intact. These fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. This proposed rule would allow for dolphin or wahoo lawfully harvested in Bahamian waters to be exempt from this provision when returning through the Atlantic EEZ. Dolphin or wahoo harvested in or from Bahamian waters would be able to be stored on ice more effectively in fillet form for transit through the U.S. EEZ, given the coolers generally used on recreational vessels. Allowing these vessels to be exempt from the landing fish intact regulations would increase the social and economic benefits for recreational fishers returning to the U.S. EEZ from Bahamian waters. This proposed rule would also allow for increased consistency between the dolphin and wahoo and snapper-grouper regulations for vessels transiting from Bahamian waters. This proposed measure would not be expected to substantially increase recreational fishing pressure or otherwise change recreational fishing behavior, because any fish harvested in Bahamian waters and brought back through the U.S. EEZ would not be exempt from U.S. bag limits, fishing seasons, size limits, or other management measures in place in the U.S. EEZ, including prohibited species (*e.g.,* goliath grouper and Nassau grouper). Therefore, there are likely to be neither positive nor negative additional biological effects to these species.

Snapper-grouper possessed in the South Atlantic EEZ are currently exempt from the landing fish intact requirement under certain conditions if the vessel lawfully harvested the snapper-grouper in The Bahamas. Amendments 7/33 and this proposed rule would retain this exemption and revise it to include additional requirements.

The Council and NMFS note that this exemption only applies to the landing fish intact provisions for fish in the U.S. EEZ, and does not exempt fishers from any other Federal fishing regulations such as fishing seasons, recreational bag limits, and size limits.

Condition of Fillets

Amendment 8 to the Snapper-Grouper FMP allowed a vessel with snapper-grouper fillets to be in transit in the South Atlantic EEZ after lawful harvest in Bahamian waters; however, no fillet requirements were specified (63 FR 38298, July 16, 1998). To better allow for identification of the species of any fillets in the U.S. EEZ, this proposed rule would require that the skin be left intact on the entire fillet of any dolphin, wahoo, or snapper-grouper carcass on a vessel in transit from Bahamian waters through the U.S. EEZ. This requirement is intended to assist law enforcement in identifying fillets to determine whether they are the species lawfully exempted by this proposed rule.

Recreational Bag Limits

Currently, all dolphin, wahoo, and snapper-grouper species harvested or possessed in or from the U.S. EEZ are required to adhere to the U.S. bag and possession limits. This proposed rule would not revise the bag and possession limits, but would specify how fillets are counted with respect to determining the number of fish onboard a vessel in transit from Bahamian waters through the U.S. EEZ and ensuring compliance with U.S. bag and possession limits. This proposed rule would specify that for any dolphin, wahoo, or snapper-grouper species lawfully harvested in Bahamian waters and onboard a vessel in the U.S. EEZ in fillet form, two fillets of the respective species of fish, regardless of the length of each fillet, is equivalent to one fish. This measure will assist law enforcement in enforcing the relevant U.S. bag and possession limits. This measure would not revise the bag and possession limits in the U.S. EEZ for any of the species in this proposed rule. All recreational fishers in Federal waters would continue to be required to comply with the U.S. bag and possession limits, regardless of where any fish were harvested.

Sale and Purchase Restrictions of Recreationally Harvested Dolphin, Wahoo or Snapper-Grouper

This proposed rule would explicitly prohibit the sale or purchase of any dolphin, wahoo, or snapper-grouper species recreationally harvested in Bahamian waters and returned to the U.S. through the U.S. EEZ. The Council determined that establishing a specific prohibition on the sale or purchase of any of these species from The Bahamas was necessary to ensure consistency with the current Federal regulations that prohibit recreational bag limit sales of these species. The Council wanted to ensure that Amendments 7/33 and the accompanying rulemaking did not create an opportunity for these fish to be sold or purchased.

Required Documentation

This proposed rule would revise the documentation requirements for snapper-grouper species and implement documentation requirements for dolphin and wahoo harvested in Bahamian waters and onboard a vessel in transit through the U.S. EEZ. For snapper-grouper lawfully harvested under the existing exemption, the current requirement is that valid Bahamian fishing and cruising permits are on the vessel. This proposed rule would continue to require that valid Bahamian fishing and cruising permits are onboard and additionally require that all vessel passengers have valid government passports with current stamps and dates. These documentation requirements would apply when dolphin, wahoo, or snapper-grouper is onboard a vessel in transit through the U.S. EEZ from Bahamian waters. Requiring valid Bahamian fishing and cruising permits on the vessel and requiring each vessel passenger to have a valid government passport with current stamps and dates from The Bahamas increases the likelihood that the vessel and passengers were lawfully fishing in The Bahamas, and thereby increases the likelihood that any dolphin, wahoo, or snapper-grouper fillets on the vessel were lawfully harvested in Bahamian waters and not in the U.S. EEZ.

Transit and Stowage Provisions

Vessels operating under the current snapper-grouper exemption have specific transit requirements when in the South Atlantic EEZ. These vessels are required to be in transit when they enter the South Atlantic EEZ with Bahamian snapper-grouper onboard. As described at § 622.186(b), a vessel is in transit through the South Atlantic EEZ when it is on ''a direct and continuous course through the South Atlantic EEZ and no one aboard the vessel fishes in the EEZ.'' This proposed rule would revise the snapper-grouper transit provisions, also apply the transit provisions to vessels operating under the proposed exemption for dolphin and wahoo, and require fishing gear to be appropriately stowed on a vessel transiting through the U.S. EEZ with fillets of these species. The proposed definition for ''fishing gear appropriately stowed'' would mean that ''terminal gear (*i.e.,* hook, leader, sinker, flasher, or bait) used with an automatic reel, bandit gear, buoy gear, handline, or rod and reel must be disconnected and stowed separately from such fishing gear. Sinkers must be disconnected from the down rigger and stowed separately.'' The Council determined that specifying criteria for transit and fishing gear stowage for vessels returning from The Bahamas under the exemption would assist in the enforceability of the proposed regulations and increase consistency with the state of Florida's gear stowage regulations.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with Amendments 7/33, the FMPs, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purpose of this proposed rule is to adjust the possession requirements in the U.S. EEZ for dolphin, wahoo, and snapper-grouper species legally harvested in Bahamian waters in order to increase for U.S. fishermen the social and economic benefits related to the harvest of these species. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

NMFS expects that this proposed rule, if implemented, would directly apply to any angler traveling by fishing vessel, and to any operator or owner of a fishing vessel capable of traveling, to The Bahamas to engage in saltwater recreational fishing in Bahamian waters and returning with dolphin or wahoo or snapper grouper species to U.S. waters. This proposed rule would revise the possession requirements for certain saltwater species lawfully harvested in Bahamian waters. Some, but not all, of these vessels may be classified as small entities. The recreational anglers who will be affected by the proposed regulations are not small entities under the Regulatory Flexibility Act (RFA). Similarly, the owner or operator of a for-hire vessel would not be a small entity under the RFA when that vessel is being used for non-commercial purposes. However, the proposed documentation, transit, and gear storage requirements would apply if the vessel is being operated as a for-hire vessel; the owner or operator may then qualify as a small entity.

For-hire vessels, which may be classified as either charter vessels or headboats, are used for the sale of fishing services which include the harvest of dolphin, wahoo, and snapper-grouper species, among other species to recreational anglers. These vessels provide a platform for the opportunity to fish and not a guarantee to catch or harvest any species, though expectations of successful fishing, however defined, likely factor into the decision to purchase these services. Changing the possession requirements of fish lawfully harvested in The Bahamas would only define what may be kept (in identity and condition) and not explicitly limit the offer of, or opportunity to acquire, for-hire fishing services. In response to a change in possession requirements, catch and release fishing for a target species could continue unchanged, as could fishing for other species. Because the proposed changes in the possession requirements for these species would not directly alter the service provided by the for-hire businesses, this proposed rule would not directly apply to or regulate their operations. The for-hire businesses would continue to be able to offer their core product, which is an attempt to ''put anglers on fish,'' provide the opportunity for anglers to catch those fish their skills enable them to catch, and keep those fish that they desire to keep and are legal to keep. Any change in demand for these fishing services, and associated economic affects, as a result of changing these possession requirements would be a consequence of behavioral change by anglers, secondary to any direct effect on anglers and, therefore, an indirect effect of the proposed rule. Because any effects on the owners or operators of for-hire vessels as a result of changing possession requirements would be

indirect, they fall outside the scope of the RFA.

The owners or operators of for-hire vessels would be directly affected by the proposed documentation, transit, and gear storage requirements. The number of vessels that may be used for the offer for-hire services and would be directly affected by the proposed requirements, however, cannot be meaningfully determined with available data. One could assume that the vessels most likely to travel to The Bahamas are vessels that are currently operated as for-hire fishing vessels in the U.S. EEZ. In 2014, at least 1,430 vessels held one or more Federal permits to be operated as for-hire vessels (separate Federal permits are required to harvest different species) in the U.S. EEZ. Additionally, federally permitted commercial vessels, of which over 1,900 had one or more Federal commercial permits in 2014, may also be capable of traveling to The Bahamas and being operated as for-hire vessels. Having a Federal permit would not be a factor in determining eligible vessels, however, and neither of these totals includes vessels that do not have a Federal permit and are operated only in U.S. state waters. In practice, although only a portion of these vessels would be expected to travel to The Bahamas and operate as a for-hire fishing vessel, no data are available on the number of vessels that currently engage in this practice to support estimating, within this universe of permitted and unpermitted vessels, the number of vessels which might be directly affected by this proposed rule.

NMFS has not identified any other small entities that would be expected to be directly affected by this proposed rule.

The Small Business Administration has established size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $7.5 million (NAICS code 487210, for-hire businesses) for all its affiliated operations worldwide. The average charter vessel is estimated to receive approximately $115,000 (2013 dollars) in annual revenue and the average headboat is estimated to receive approximately $204,000 (2013 dollars) in annual revenue. As a result, all for-hire businesses that might be directly affected by this proposed rule are believed to be small business entities.

Three components of this proposed rule, the proposed documentation, transit, and gear storage requirements, would be expected to directly affect some small entities, but none would be expected to result in a significant adverse economic effect on any of the affected entities. The proposed documentation requirements (permits and passport) are already required for travel to, fishing in, and returning from Bahamian waters and, thus, would not impose any additional costs. The proposed transit requirement would not be expected to have any adverse economic effect because the vessel must return to the U.S. anyway and a direct and continuous transit would be the most economically efficient means of returning (indirect and discontinuous sailing would encompass more time and higher fuel expenses). The proposed gear storage requirement would be expected to either encompass normal gear storage behavior when traveling long distances while not actively fishing, or require a minor increase in labor, that should be able to be completed during the vessel's return prior to entering the U.S. EEZ, and not an increase in monetary operating costs. As a result, this proposed requirement would not be expected to reduce vessel profits. Otherwise, the proposed changes may increase demand for for-hire fishing services and result in a beneficial economic effect on the affected small entities. As discussed above, however, these would be indirect effects and, therefore, outside the scope of the RFA.

Based on the discussion above, NMFS has determined that this proposed rule, if implemented, would not have a significant adverse economic effect on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Atlantic, Dolphin, Fisheries, Fishing, Snapper-Grouper, Wahoo.

Dated: September 29, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.186, paragraph (b) is revised to read as follows:

§ 622.186 Landing fish intact.

* * * * *

(b) In the South Atlantic EEZ, snapper-grouper lawfully harvested in Bahamian waters are exempt from the requirement that they be maintained with head and fins intact, provided that the skin remains intact on the entire fillet of any snapper-grouper carcasses, valid Bahamian fishing and cruising permits are on board the vessel, each person on the vessel has a valid government passport with current stamps and dates from The Bahamas, and the vessel is in transit through the South Atlantic EEZ with fishing gear appropriately stowed. For the purpose of this paragraph, a vessel is in transit through the South Atlantic EEZ when it is on a direct and continuous course through the South Atlantic EEZ and no one aboard the vessel fishes in the EEZ. For the purpose of this paragraph, fishing gear appropriately stowed means that terminal gear (*i.e.,* hook, leader, sinker, flasher, or bait) used with an automatic reel, bandit gear, buoy gear, handline, or rod and reel must be disconnected and stowed separately from such fishing gear. Sinkers must be disconnected from the down rigger and stowed separately. See § 622.187(a)(3) for the limit of snapper-grouper fillets lawfully harvested from Bahamian waters that may transit through the South Atlantic EEZ.

■ 3. In § 622.187, paragraph (a)(3) is added to read as follows:

§ 622.187 Bag and possession limits.

(a) * * *

(3) In the South Atlantic EEZ, a vessel that lawfully harvests snapper-grouper in Bahamian waters, as per § 622.186 (b), must comply with the bag and possession limits specified in this section. For determining how many snapper-grouper are on board a vessel in fillet form when harvested lawfully in Bahamian waters, two fillets of snapper-grouper, regardless of the length of each fillet, is equivalent to one snapper-grouper. The skin must remain intact on the entire fillet of any snapper-grouper carcass.

* * * * *

■ 4. In § 622.192, paragraph (k) is added to read as follows:

§ 622.192 Restrictions on sale/purchase.

* * * * *

(k) Snapper-grouper possessed pursuant to the bag and possession limits specified in § 622.187(a)(3) may not be sold or purchased.

■ 5. In § 622.276, paragraphs (a) and (b) are revised to read as follows:

§ 622.276 Landing fish intact.

(a) Dolphin or wahoo in or from the Atlantic EEZ must be maintained with head and fins intact, except as specified in paragraph (b) of this section. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on that vessel in the EEZ are maintained intact and, if taken from the EEZ, are maintained intact through offloading ashore, as specified in this section.

(b) In the Atlantic EEZ, dolphin or wahoo lawfully harvested in Bahamian waters are exempt from the requirement that they be maintained with head and fins intact, provided that the skin remains intact on the entire fillet of any dolphin or wahoo carcasses, valid Bahamian fishing and cruising permits are on board the vessel, each person on the vessel has a valid government passport with current stamps and dates from The Bahamas, and the vessel is in transit through the Atlantic EEZ with fishing gear appropriately stowed. For the purpose of this paragraph, a vessel is in transit through the Atlantic EEZ when it is on a direct and continuous course through the Atlantic EEZ and no one aboard the vessel fishes in the EEZ. For the purpose of this paragraph, fishing gear appropriately stowed means that terminal gear (*i.e.,* hook, leader, sinker, flasher, or bait) used with an automatic reel, bandit gear, buoy gear, handline, or rod and reel must be disconnected and stowed separately from such fishing gear. Sinkers must be disconnected from the down rigger and stowed separately.

■ 6. In § 622.277, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 622.277 Bag and possession limits.

* * * * *

(a) * * *

(1) *Dolphin.* (i) In the Atlantic EEZ—10, not to exceed 60 per vessel, whichever is less, except on board a headboat, 10 per paying passenger.

(ii) In the Atlantic EEZ and lawfully harvested in Bahamian waters (as per § 622.276(b))—10, not to exceed 60 per vessel, whichever is less, except on board a headboat, 10 per paying passenger. For the purposes of this paragraph, for determining how many dolphin are on board a vessel in fillet form when harvested lawfully in Bahamian waters, two fillets of dolphin, regardless of the length of each fillet, is equivalent to one dolphin. The skin must remain intact on the entire fillet of any dolphin carcass.

(2) *Wahoo.* (i) In the Atlantic EEZ—2.

(ii) In the Atlantic EEZ and lawfully harvested in Bahamian waters (as per § 622.276(b))—2. For the purposes of this paragraph, for determining how many wahoo are on board a vessel in fillet form when harvested lawfully in Bahamian waters, two fillets of wahoo, regardless of the length of each fillet, is equivalent to one wahoo. The skin must remain intact on the entire fillet of any wahoo carcass.

* * * * *

■ 7. In § 622.279, paragraph (d) is added to read as follows:

§ 622.279 Restrictions on sale/purchase.

* * * * *

(d) Dolphin or wahoo possessed pursuant to the bag and possession limits specified in § 622.277(a)(1)(ii) and (a)(2)(ii) may not be sold or purchased.

[FR Doc. 2015–25487 Filed 10–6–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 150603502–5502–01]

RIN 0648–BF14

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment 3

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework Amendment 3 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources (CMP) in the exclusive economic zone (EEZ) of the Gulf of Mexico and Atlantic Region (FMP) (Framework Amendment 3), as prepared and submitted by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would modify the trip limit, accountability measures (AMs), dealer reporting requirements, and gillnet permit requirements for commercial king mackerel landed by run-around gillnet fishing gear in the Gulf of Mexico (Gulf). The purpose of this proposed rule is to increase the efficiency, stability, and accountability, and to reduce the potential for regulatory discards of king mackerel in the commercial gillnet component of the CMP fishery.

DATES: Written comments must be received on or before November 6, 2015.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2015–0101'' by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0101*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of Framework Amendment 3, which includes an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_sa/cmp/2015/framework_am3/index.html*.

Comments regarding the burden-hour estimates, clarity of the instructions, or other aspects of the collection-of-information requirements contained in this proposed rule (see the Classification section of the preamble) may be submitted in writing to Adam Bailey, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; or the Office of Management and Budget (OMB), by email at *OIRASubmission@omb.eop.gov*, or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: s*usan.gerhart@noaa.gov*.

SUPPLEMENTARY INFORMATION: The CMP fishery in the Gulf and Atlantic is managed under the FMP. The FMP was prepared by the Gulf and South Atlantic Fishery Management Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

Current Federal regulations allow for run-around gillnets to be used to commercially harvest king mackerel only in the Florida west coast southern subzone of the Gulf. This subzone includes waters off Collier County, Florida, year-round, and off Monroe County, Florida, from November 1 to March 30. To use gillnets for king mackerel, vessels must have on board a general Federal commercial king mackerel permit and a Federal king mackerel gillnet permit. A vessel with a gillnet permit is prohibited from fishing for king mackerel with hook-and-line gear. This proposed rule would modify management of the king mackerel gillnet component of the CMP fishery by increasing the commercial trip limit, revising AMs, modifying dealer reporting requirements, and requiring a documented landing history for a king mackerel gillnet permit to be renewed.

Management Measures Contained in This Proposed Rule

Commercial Trip Limit

This proposed rule would increase the commercial trip limit for vessels harvesting king mackerel by gillnets from 25,000 lb (11,340 kg) to 45,000 lb (20,411 kg). The size of a school of king mackerel can be difficult to estimate precisely and king mackerel landed in gillnets experience very high discard mortality, which makes releasing fish in excess of the trip limit wasteful and impractical. Fishermen can cut the net and leave the section with excess fish in the water and another vessel may be able to retrieve the partial net, but this process damages gear, which takes time and money to repair. Fishermen have indicated that more than 90 percent of successful gillnet gear deployments yield less than 45,000 lb (20,411 kg) of fish. Therefore, increasing the current trip limit should reduce the number of trips that result in king mackerel landings in excess of the commercial trip limit and the associated discard mortality.

Accountability Measures

Currently, the commercial AM for the king mackerel gillnet component of the fishery is an in-season closure when the annual catch limit for the gillnet component (gillnet ACL) is reached or is projected to be reached. This proposed rule would add a provision by which any gillnet ACL overage in one year would be deducted from the gillnet ACL in the following fishing year. If the gillnet ACL is not exceeded in that following fishing year, then in the subsequent year the gillnet ACL would return to the original gillnet ACL level as specified in § 622.388(a)(1)(ii). However, if the adjusted gillnet ACL is exceeded in the following fishing year, then the gillnet ACL would be reduced again in the subsequent fishing year by the amount of the most recent gillnet ACL overage. Because the proposed trip limit increase could increase the chance of exceeding the gillnet ACL, a payback provision would help ensure that any overage is mitigated in the following year.

Dealer Reporting Requirements

This proposed rule would modify the reporting requirements for federally permitted dealers purchasing commercial king mackerel harvested by gillnets. Currently, such dealers are required to submit an electronic form daily to NMFS by 6 a.m. during the gillnet fishing season for purposes of monitoring the gillnet ACL. However, because some vessels land their catch after midnight and may have long offloading times, some gillnet landings are not reported until the following day. Further, the electronic monitoring system involves processing and quality control time before the data can be passed to NMFS fishery managers. This results in some landings information not reaching NMFS until nearly 2 days after the fish are harvested.

This proposed rule would change the daily electronic reporting requirement to daily reporting by some other means determined by NMFS, such as using port agent reports or some more direct method of reporting to NMFS fishery managers (*e.g.,* by telephone or internet). If the proposed rule is implemented, NMFS would work with dealers to establish a landings reporting system that would minimize the burden to the dealers as well as the time for landings to reach NMFS fishery managers. NMFS would then provide written notice to the king mackerel gillnet dealers of the requirements of the reporting system, and will also post this information on the NMFS Southeast Regional Office Web site. Prior to the beginning of each subsequent commercial king mackerel gillnet season, NMFS would provided written notice to king mackerel gillnet dealers if the reporting method and deadline change from the previous year, and will also post this information on the NMFS Southeast Regional Office Web site. Dealers would also report gillnet-caught king mackerel in their regular weekly electronic report of all species purchased to ensure king mackerel landings are included in the Commercial Landings Monitoring database maintained by the Southeast Fisheries Science Center.

Renewal Requirements for King Mackerel Gillnet Permits

This proposed rule would change the renewal requirements for a king mackerel gillnet permit. A king mackerel gillnet permit would be renewable only if the vessel associated with the permit landed at least 1 lb (0.45 kg) of king mackerel during any one year between 2006 and 2015. Currently, there are 21 vessels with valid or renewable gillnet permits; 4 of these vessels have had no landings since 2001 and the permits associated with those vessels would no longer be renewable. Some active gillnet fishermen are concerned that permit holders who have not been fishing may begin participating in the gillnet component of the fishery, which would result in increased effort in a sector that already has a limited season. For example, the 2014/2015 season, which closed on February 20, 2015, was 32 days long and included 5 days of active fishing. Requiring a landings history of king mackerel in any one of the last 10 years to renew a gillnet permit would help ensure the continued participation of those permit holders who actively fish or have done so in the more recent past.

NMFS would notify each king mackerel gillnet permittee to advise them whether the gillnet permit is eligible for renewal based upon NMFS' initial determination of eligibility. If NMFS advises a permittee that the permit is not renewable and they do not agree, a permittee may appeal that initial determination.

NMFS would establish an appeals process to provide a procedure for resolving disputes regarding eligibility to renew the king mackerel gillnet permit. The NMFS National Appeals Office would process any appeals, which would be governed by the regulations and policy of the National Appeals Office at 15 CFR part 906. Appeals would need to be submitted to the National Appeals Office no later than 90 days after the date the initial determination by NMFS is issued. Determinations of appeals would be based on NMFS' logbook records, submitted on or before 30 days after the

effective date of any final rule. If NMFS' logbooks are not available, state landings records that were submitted in compliance with applicable Federal and state regulations on or before 30 days after the effective date of any final rule, may be used.

Other Changes to the Codified Text

In addition to the measures described for Framework Amendment 3, this proposed rule would correct an error in the recreational regulations for king mackerel, Spanish mackerel, and cobia. The regulatory text in § 622.388(a)(2), (c)(1), and (e)(1)(i) includes the statement that ''the bag and possession limit would also apply in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for coastal migratory pelagic fish has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.'' This was included in the final rule for Amendment 18 to the FMP included statements (76 FR 82058, December 29, 2011), but the Council did not approve this provision for CMP species. This proposed rule would remove that text.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Framework Amendment 3, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA), as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

In general, the proposed rule is not expected to change current reporting, record-keeping, and other compliance requirements on vessel owners. However, the proposed rule would replace the dealer daily electronic reporting requirement with daily reporting by some other means as determined by NMFS. This could involve reporting to a port agent, as used in the past or some more direct method of reporting to managers (*e.g.,* by telephone or internet). NMFS would work with dealers to establish a system that will minimize the burden to the dealers as well as the time for landings to reach managers. Dealers would still have to report king mackerel gillnet landings through the electronic monitoring system weekly, when they report all species purchased. The weekly reporting would ensure any king mackerel landings are included in the Commercial Landings Monitoring database maintained by the Southeast Fisheries Science Center.

This proposed rule, if implemented, is expected to directly affect commercial fishermen with valid or renewable Federal Gulf king mackerel gillnet permits and dealers purchasing king mackerel from vessels with king mackerel gillnet permits. The Small Business Administration established size criteria for all major industry sectors in the U.S. including commercial finfish harvesters (NAICS code 114111), seafood dealers/wholesalers (NAICS code 424460), and seafood processors (NAICS code 311710). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $20.5 million for all its affiliated operations worldwide. A business involved in seafood purchasing and processing is classified as a small business based on either employment standards or revenue thresholds. A business primarily involved in seafood processing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment not in excess of 500 employees for all its affiliated operations worldwide. For seafood dealers/wholesalers, the other qualifiers apply and the employment threshold is 100 employees. The revenue threshold for seafood dealers/wholesalers/processors is $7.5 million.

The Federal commercial king mackerel permit is a limited access permit, which can be transferred or sold, subject to certain conditions. From 2008 through 2014, the number of commercial king mackerel permits decreased from 1,619 in 2008 to 1,478 in 2014, with an average of 1,534 during this period. As of April 30, 2015, there were 1,342 valid or renewable commercial king mackerel permits. The king mackerel gillnet permit, which acts as an endorsement to a commercial king mackerel permit, is also a limited access permit. Its transferability is more restrictive than that for the commercial king mackerel permit. Specifically, it may be transferred only to another vessel owned by the same entity or to an immediate family member. From 2008 through 2014, there were an average of 23 king mackerel gillnet permits. At present, there are 21 valid or renewable king mackerel gillnet permits. Beginning in 2014, a Federal dealer permit has been required to purchase king mackerel (among other species) harvested in the Gulf or South Atlantic. This dealer permit is an open access permit, and as of May 4, 2015, there were 325 such dealer permits.

Of the 21 vessels with king mackerel gillnet permits, 11 to 15 vessels landed king mackerel each year from 2006–2014, or an average of 13 vessels landed king mackerel. These vessels generated a combined average of $544,981 in total ex-vessel revenues. These vessels, together with those that did not catch king mackerel, generated average revenues of $427,258 from other species during 2006–2014. Averaging total revenues across all 21 vessels, the average total revenue per vessel was $46,297 annually.

From 2008 through 2015, the number of dealers that purchased king mackerel from gillnet fishermen ranged from 4 to 6, with an average of 5. On average (2008–2015), these dealers purchased approximately $570,105 (2014 dollars) worth of king mackerel from gillnet fishermen, or an average of $114,021 per dealer. These dealers also purchased other species from Gulf and South Atlantic commercial fishermen, but the total amount cannot be estimated due to the absence of adequate information. The estimated average annual revenue from seafood purchases for dealers with a Gulf and South Atlantic Federal dealer permit is approximately $546,000.

Based on the revenue figures above, all federally permitted vessels and dealers expected to be directly affected by this proposed rule are assumed for the purpose of this analysis to be small business entities.

Because all entities expected to be affected by this proposed rule are assumed to be small entities, NMFS has determined that this proposed rule would affect a substantial number of small entities. Moreover, the issue of disproportionate effects on small versus

large entities does not arise in the present case.

Increasing the commercial trip limit would be expected to result in greater king mackerel harvests per vessel per trip. This would directly translate into increased ex-vessel revenues from king mackerel per trip and possibly profits, assuming relatively stable operating costs per trip. However, trip limit increases would be expected to decrease the already limited number of fishing days currently needed to harvest the gillnet portion of the king mackerel quota. Relative to status quo, fewer fishing days would concentrate the same amount of king mackerel over a smaller time interval, possibly depressing the ex-vessel price for king mackerel and canceling out some of the revenue increases expected to result from higher trip limits. Whether the reduction in revenues due to price depression would offset revenue increases from a higher trip limit cannot be determined with available information.

In the last nine fishing years (2006/2007–2014/2015), the king mackerel gillnet quota was exceeded four times although this has not occurred in the last three years. Under the proposed trip limit increase, however, there is some possibility that the quota would be exceeded, and thus the overage provision (payback) would apply with the following year's quota being reduced by the full amount of the overage. The amount of overage would partly depend on how effectively the landings could be monitored. Regardless of the amount of overage and reduction in the following year's quota, the net economic effects of the overage provision could be negative, neutral, or positive, at least over a two-year period. Revenues and profits could be relatively higher if an overage occurred but the following year's revenues and profits could be lower with a reduced quota. It cannot be ascertained which of the three net economic effects would occur.

Replacing the requirement for daily electronic reporting by dealers purchasing gillnet-caught king mackerel with an alternative form of daily reporting would not impose an additional reporting burden on dealers. The replacement reporting requirement would be similar to what had been done in previous years or it could be more efficient in monitoring the amount of landings without changing the burden compared with the current daily electronic reporting requirement. NMFS would work with the dealers in developing such a reporting system to ensure timely reporting of landings at no greater burden to the dealers.

Establishing new renewal requirements for commercial king mackerel gillnet permits based on a landings threshold of one pound would not be expected to result in economic effects other than the potential loss of opportunities to excluded permit holders, should they want to re-enter the gillnet component of the fishery to harvest king mackerel in the future. Of the 21 vessels with valid or renewable gillnet permits, 4 vessels would not meet the renewal requirement. These 4 vessels have not landed any king mackerel using gillnets from 2001 through 2015, and thus have not generated any revenues from such activity. Disallowing these 4 vessels to renew their gillnet permits would have no short-term effects on their revenues and profits. It may also be expected that the remaining vessels in the gillnet component of fishery would not experience revenue increases as a result of eliminating 4 vessels. Despite not having used gillnets to harvest king mackerel, those 4 permit owners have continued to renew their gillnet permits. To an extent, their decision not to exercise their option to re-enter the gillnet component of the fishery in the last 15 years may indicate that they have not undertaken substantial investments, *e.g.,* in boats and gear, in preparation for harvesting king mackerel. The gillnet permit cost they have spent, which is currently $10 annually per gillnet permit, is relatively small. There is a good possibility that if they are not able to renew their permits to re-enter the king mackerel gillnet component of the CMP fishery they would not lose any significant investments. They still would stand to forgo future revenues from using gillnets in fishing for king mackerel. Those remaining in the fishery would not face the possibility of additional competition from those ineligible vessels.

The following discussion describes the alternatives that were not selected as preferred by the Council.

Four alternatives, including the preferred alternative, were considered for modifying the commercial daily trip limit for gillnet-caught king mackerel. The first alternative, the no action alternative, would retain the 25,000 lb (11,340 kg) trip limit. This alternative would maintain the same economic benefits per trip but at levels lower than those afforded by the preferred alternative. The second alternative, which would increase the trip limit to 35,000 lb (15,876 kg), would yield lower economic benefits per trip than the preferred alternative. The third alternative would remove the trip limit, and thus would be expected to yield higher economic benefits per trip than the preferred alternative. However, it cannot be determined whether the benefits per trip would translate into total benefits because prices, and thus revenues, would tend to be affected by the amount of landings over a certain time period. This price effect would tend to offset any revenue effects from trip limit changes. That is, larger landings over a shorter period, as in the preferred or no trip limit alternatives, would tend to be associated with lower prices, just as smaller landings over a longer period, as in the no action alternative, would tend to be associated with higher prices. The net economic effects of all these alternatives for increasing the trip limit cannot be determined.

Three alternatives, including the preferred alternative, were considered for modifying the AM for the gillnet component of the king mackerel fishery. The first alternative, the no action alternative, would retain the in-season AM, which would close king mackerel gillnet fishing in the Florida west coast southern subzone when the quota is met or is projected to be met. This alternative would not alter the level of economic benefits from the harvest of king mackerel by commercial gillnet fishermen. The second alternative would establish an annual catch target (ACT), which is the quota, with various options. The first three options would establish an ACT equal to 95 percent, 90 percent, or 80 percent of the gillnet ACL; the fourth option would set the ACT according to the Gulf Council's ACL/ACT control rule (currently equal to 95 percent of the ACL); and the fifth option, which applies only if an ACT is established, would allow the amount of landings under the quota to be added to the following year's quota but the total quota could not exceed the gillnet ACL. The first four options would result in lower short-term revenues and profits than the preferred alternative by restricting the amount of harvest to less than the gillnet ACL. The fifth option has the potential to yield higher revenues than the preferred alternative, because any unused quota would generate additional revenues in the following year. The absence of an overage provision, however, would have adverse consequences on the status of the king mackerel stock and eventually on vessel revenues and profits. The third alternative, with two options, would establish a payback provision. The first option is the preferred alternative, which would establish a payback provision regardless of the stock status, while the second option

would establish a payback provision only if the Gulf migratory group king mackerel stock is overfished. Because the Gulf migratory group king mackerel stock is not overfished, the second option would yield the same economic results as the no action alternative but possibly lower adverse economic impacts than the preferred alternative in the short term should an overage occurs. However, the second option would provide less protection to the king mackerel stock before the stock becomes overfished.

Three alternatives, including the preferred alternative, were considered for modifying the electronic reporting requirements for dealers first receiving king mackerel harvested by gillnets. The first alternative, the no action alternative, would retain the daily electronic reporting requirements. This alternative would not provide timely reporting of landings because some landings reports could not be processed until the next day. The second alternative would remove the daily electronic reporting requirement but would require a weekly electronic reporting instead. While this would be less burdensome to dealers, it would not allow timely reporting of landings, which is necessary to monitor a season that generally lasts for only a few days.

Five alternatives, including the preferred alternative, were considered for renewal requirements for king mackerel gillnet permits. The first alternative, the no action alternative, would maintain all current requirements for renewing king mackerel gillnet permits. This alternative would allow all 21 gillnet permit holders to renew their gillnet permits. The second alternative, with three options, would allow renewal of king mackerel gillnet permits if average landings during 2006–2015 exceed 1 lb (0.45 kg), 10,000 lb (4,536 kg), or 25,000 lb (11,340 kg). The third alternative, with three options, would allow renewal of king mackerel gillnet permits if landings for a single year during 2006–2015 exceed 1 lb (0.45 kg), 10,000 lb (4,536 kg), or 25,000 lb (11,340 kg). This alternative with a landings threshold of 1 lb (0.45 kg) is the preferred alternative. The fourth alternative, with three options, would allow renewal of king mackerel gillnet permits if average landings during 2011–2015 exceed 1 lb (0.45 kg), 10,000 lb (4,536 kg), or 25,000 lb (11,340 kg). The fifth alternative, with three options, would allow renewal of king mackerel gillnet permits if landings for a single year during 2011–2015 exceed 1 lb (0.45 kg), 10,000 lb (4,536 kg), or 25,000 lb (11,340 kg). All these other alternatives, except the no action alternative, would eliminate the same or greater number of vessels than the preferred alternative.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). NMFS is changing the collection-of-information requirement under OMB Control Number 0648–0013. NMFS estimates that no change to the overall reporting burden would result from modifying the required daily reporting method for dealers that purchase king mackerel caught by gillnets during the fishing season. Instead of submitting an electronic form daily, NMFS would require daily reporting by some other means as developed by NMFS. Other means could involve reporting to the NMFS port agents or some other more direct method of reporting to managers, such as by email or phone. Dealers would report any purchase of king mackerel landed by the gillnet component of the fishery with the current and approved requirement for dealers to report fish purchases on a weekly basis, as specified in 50 CFR 622.5(c). NMFS estimates that this requirement would not change the reporting burden of 10 minutes per response for dealers purchasing king mackerel caught by gillnets. This estimate of the public reporting burden includes the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. NMFS will submit this change request to OMB for approval.

NMFS seeks public comment regarding:

- Whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- The accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected;
- The instructions for how to fill out the form or record the information; and
- Ways to minimize the burden of the collection-of-information, including through the use of automated collection techniques or other forms of information technology.

Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS or to OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number. All currently approved collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html*.

List of Subjects in 50 CFR Part 622

Accountability measure, Annual catch limit, Fisheries, Fishing, Gulf of Mexico, King mackerel, Permits, Run-around gillnet.

Dated: September 30, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.5, revise paragraph (c)(1)(i) to read as follows:

§ 622.5 Recordkeeping and reporting—general.

* * * * *

(c) * * *

(1) * * *

(i) A person issued a Gulf and South Atlantic dealer permit must submit a detailed electronic report of all fish first received for a commercial purpose within the time period specified in this paragraph via the dealer electronic trip ticket reporting system. These electronic reports must be submitted at weekly intervals via the dealer electronic trip ticket reporting system by 11:59 p.m., local time, the Tuesday following a reporting week. If no fish were received during a reporting week, an electronic report so stating must be submitted for that reporting week. In addition, during the open season, dealers must submit daily reports for Gulf migratory group king mackerel harvested by the run-around gillnet component in the Florida west coast southern subzone via the port agents, telephone, internet, or other similar means determined by NMFS. From the beginning of the open season until the commercial ACL (commercial quota) for the run-around gillnet sector for Gulf migratory group king mackerel is reached, dealers must submit a daily report if no king mackerel were received during the previous day. NMFS will provide written notice to dealers that first receive Gulf king mackerel

harvested by the run-around gillnet component prior to the beginning of each fishing year if the reporting methods or deadline change from the previous year.

* * * * *

■ 3. In § 622.371, revise paragraph (a) to read as follows:

§ 622.371 Limited access system for commercial vessel permits for king mackerel.

(a) No applications for additional commercial vessel permits for king mackerel will be accepted. Existing vessel permits may be renewed, are subject to the restrictions on transfer or change in paragraph (b) of this section, and are subject to the requirement for timely renewal in paragraph (c) of this section.

* * * * *

■ 4. In § 622.372, add paragraph (d) to read as follows:

§ 622.372 Limited access system for king mackerel gillnet permits applicable in the Florida west coast southern subzone.

* * * * *

(d) *Renewal criteria for a king mackerel gillnet permit.* A king mackerel gillnet permit may be renewed only if NMFS determines at least 1 year of landings from 2006 to 2015 associated with that permit was greater than 1 lb (0.45 kg), round or gutted weight.

(1) *Initial determination.* On or about [*7 days after the date of publication of the final rule in the* **Federal Register**], the RA will mail each king mackerel gillnet permittee a letter via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files, advising the permittee whether the permit is eligible for renewal. A permittee who does not receive a letter from the RA, must contact the RA no later than [*7 days after the date of publication of the final rule in the* **Federal Register**], to clarify the renewal status of the permit. A permittee who is advised that the permit is not renewable based on the RA's determination of eligibility and who disagrees with that determination may appeal that determination.

(2) *Procedure for appealing landings information.* The only item subject to appeal is the landings used to determine whether the permit is eligible for renewal. Appeals based on hardship factors will not be considered. Any appeal under this regulation will be processed by the NMFS National Appeals Office. Appeals will be governed by the regulations and policy of the National Appeals Office at 15 CFR part 906. Appeals must be submitted to the National Appeals Office no later than 90 days after the date the initial determination in issued. Determinations of appeals regarding landings data for 2006 to 2015 will be based on NMFS' logbook records, submitted on or before [*60 days after the date of publication of the final rule in the* **Federal Register**]. If NMFS' logbooks are not available, state landings records or data for 2006 to 2015 that were submitted in compliance with applicable Federal and state regulations on or before [*60 days after the date of publication of the final rule in the* **Federal Register**], may be used.

* * * * *

■ 5. In § 622.385, revise paragraph (a)(2)(ii)(A)(*1*) to read as follows:

§ 622.385 Commercial trip limits.

* * * * *

(a) * * *

(2) * * *

(ii) * * *

(A) * * *

(*1*) In the Florida west coast southern subzone, king mackerel in or from the EEZ may be possessed on board or landed from a vessel for which a commercial vessel permit for king mackerel and a king mackerel gillnet permit have been issued, as required under § 622.370(a)(2), in amounts not exceeding 45,000 lb (20,411 kg) per day, provided the gillnet component for Gulf migratory group king mackerel is not closed under § 622.378(a) or § 622.8(b).

* * * * *

■ 6. In § 622.388:

■ a. Add paragraph (a)(1)(iii); and

■ b. Revise paragraphs (a)(2), (c)(1), and (e)(1)(i) to read as follows:

§ 622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(a) * * *

(1) * * *

(iii) If commercial landings for Gulf migratory group king mackerel caught by run-around gillnet in the Florida west coast southern subzone, as estimated by the SRD, exceed the commercial ACL, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for king mackerel harvested by run-around gillnet in the Florida west coast southern subzone in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector.* If recreational landings, as estimated by the SRD, reach or are projected to reach the recreational ACL of 8.092 million lb (3.670 million kg), the AA will file a notification with the Office of the Federal Register to implement a bag and possession limit for Gulf migratory group king mackerel of zero, unless the best scientific information available determines that a bag limit reduction is unnecessary.

* * * * *

(c) * * *

(1) If the sum of the commercial and recreational landings, as estimated by the SRD, reaches or is projected to reach the stock ACL, as specified in paragraph (c)(3) of this section, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of the fishing year. On and after the effective date of such a notification, all sale and purchase of Gulf migratory group Spanish mackerel is prohibited and the harvest and possession limit of this species in or from the Gulf EEZ is zero.

* * * * *

(e) * * *

(1) * * *

(i) If the sum of all cobia landings, as estimated by the SRD, reaches or is projected to reach the stock quota (stock ACT), specified in § 622.384(d)(1), the AA will file a notification with the Office of the Federal Register to prohibit the harvest of Gulf migratory group cobia in the Gulf zone for the remainder of the fishing year. On and after the effective date of such a notification, all sale and purchase of Gulf migratory group cobia in the Gulf zone is prohibited and the possession limit of this species in or from the Gulf EEZ is zero.

* * * * *

[FR Doc. 2015–25486 Filed 10–6–15; 8:45 am]

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Notices

Federal Register
Vol. 80, No. 194
Wednesday, October 7, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Adoption of Statement

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: The Administrative Conference of the United States adopted one formal statement at its Sixty-Third Plenary Session. The appended statement addresses ''Issue Exhaustion in Preenforcement Judicial Review of Administrative Rulemaking.''

FOR FURTHER INFORMATION CONTACT: Gisselle Bourns, Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW., Washington, DC 20036; Telephone 202–480–2080.

SUPPLEMENTARY INFORMATION: The Administrative Conference Act, 5 U.S.C. 591–596, established the Administrative Conference of the United States. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies and makes recommendations for improvements to agencies, the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 594(1)). For further information about the Conference and its activities, see *www.acus.gov*.

The Conference's Sixty-Third Plenary Session was conducted, for the first time, as a virtual meeting, held via the Internet, in accordance with the Conference's earlier Recommendation, 2011–7, The Federal Advisory Committee Act—Issues and Proposed Reforms. The plenary session was open for participation by Conference members and the public for the period of September 18 through September 25, 2015. The Assembly of the Conference adopted one formal statement. Statement #19, ''Issue Exhaustion in Preenforcement Judicial Review of Administrative Rulemaking,'' examines judicial application of an issue exhaustion requirement in preenforcement review of administrative rulemaking. It invites courts to consider a series of factors when examining the doctrine of issue exhaustion in the context of preenforcement review of agency rules.

The Appendix below sets forth the full text of this statement. The Conference will transmit the statement to federal agencies, relevant committees of Congress, and the Judicial Conference of the United States, as appropriate, for their consideration. The statement is not binding, but it represents the collective views of the membership of the Administrative Conference of the United States. The research report prepared for the Conference on this subject is posted at: *www.acus.gov/63rd*.

Dated: October 2, 2015.

Shawne C. McGibbon,

General Counsel.

Appendix—Statement of the Administrative Conference of the United States

Administrative Conference Statement #19

Issue Exhaustion in Preenforcement Judicial Review of Administrative Rulemaking

Adopted September 25, 2015

The doctrine of issue exhaustion generally bars a litigant challenging agency action from raising issues in court that were not raised first with the agency. Although the doctrine originated in the context of agency adjudication, it has been extended to judicial review of challenges to agency rulemakings. Scholars have observed that issue exhaustion cases ''conspicuously lack discussion of whether, when, why, or how [the issue] exhaustion doctrine developed in the context of adjudication should be applied to rulemaking.'' [1] The Administrative Conference has studied the issue exhaustion doctrine in an effort to bring greater clarity to its application in the context of preenforcement review of agency rules. The Conference believes that this Statement may be useful by setting forth a series of factors that it invites courts to consider when examining issue exhaustion in that context.[2]

Evolution of the Issue Exhaustion Doctrine

The requirement that parties exhaust their administrative remedies (''remedy exhaustion'') is a familiar feature of U.S. administrative law. This doctrine generally bars a party from appealing a final agency action to a court unless the party exhausts prescribed avenues for relief before the agency.[3]

The related but distinct concept of ''issue exhaustion'' prevents a party from raising issues in litigation that were not first raised before the agency, even if the petitioner participated in the administrative process.[4] As with remedy exhaustion, the issue exhaustion doctrine initially arose in the context of agency adjudications.[5]

As the Supreme Court has recognized, ''administrative issue-exhaustion requirements are largely creatures of statute.'' [6] In several judicial review provisions adopted during the 1930s, prior to the advent of the Administrative Procedure Act of 1946, Congress expressly required parties to raise all their objections to agency action before adjudicatory agencies. Since that time, Congress has included issue exhaustion provisions in many statutes governing review of agency orders.[7] The typical statute contains an exception for ''reasonable grounds'' or ''extraordinary circumstances'' and permits the court to

[1] Jeffrey S. Lubbers, Fail to Comment at Your Own Risk: Does Issue Exhaustion Have a Place in Judicial Review of Rules: 11 (May 5, 2015) (Report to the Administrative Conference of the U.S.) [hereinafter Lubbers Report] (citing Peter L. Strauss, et al. Gellhorn and Byse's Administrative Law 1246 (10th ed. 2003)); *see also Koretoff* v. *Vilsach*, 707 F.3d 394, 399 (D.C. Cir. 2013) (Williams, J., concurring) (joining a decision to preclude preenforcement review of new issues but writing separately ''primarily to note that in the realm of judicial review of agency rules, much of the language of our opinions on 'waiver' has been a good deal broader than the actual pattern of our holdings'').

[2] This Statement does not address the application of the doctrine in the context of a challenge to a rule in an agency enforcement action, where the passage of time and new entrants may complicate the inquiry. The Conference has previously identified issues that Congress should not ordinarily preclude courts from considering when rules are challenged in enforcement proceedings. *See* Admin. Conf. of the U.S., Recommendation 82–7, *Judicial Review of Rules in Enforcement Proceedings* (Dec. 17, 1982), *http://www.acus.gov/82-7*.

[3] *Myers* v. *Bethlehem Shipbuilding Corp., 303 U.S. 41, 50-51 (1958).*

[4] *See* Fiber Tower Spectrum Holdings, *LLC* v. *FCC,* No. 14–1039, slip. op. at 9 (D.C. Cir. Apr. 3, 2015), Issue exhaustion statutes may not always be jurisdictional. *E.g., EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584, 1602-03 (2014) (''A rule may be 'jurisdictional,' we have explained. Section7607(d)(7)(B), we hold, is of that character. It does not speak to a court's authority, but only to a party's procedural obligations.'') (citations omitted); *see also Advocates for Highway and Auto Safety* v. *FMSCA,* 429 F.3d 1136, 1148 (D.C. Cir. 2005) (''as a general matter, a party's presentation of issues during a rulemaking proceeding is not a *jurisdicional* matter'') (emphasis in original).

[5] *See Lubbers Report, supra* note 1, at 2-3.

[6] *Sims* v. *Apfel,* 530 U.S. 103, 107 (2000) (plurality opinion).

[7] *See* Lubbers Report, *supra* note 1, at 4-6.

require an agency to take new evidence under certain conditions.[8]

Courts have also imposed issue exhaustion requirements in the adjudication context in the absence of an underlying statute or regulation requiring it. The Supreme Court early on characterized the ''general rule that courts should not topple over administrative decisions unless the administrative body not only has erred but has erred against objection made at the time appropriate under its practice'' as one of ''simple fairness,'' emphasizing that issue exhaustion promotes orderly procedure and good administration by offering the agency an opportunity to act on objections to its proceedings.[9] But questions about the common law application of the doctrine were later raised in *Sims* v. *Apfel,* where the Court held that a judicial issue exhaustion requirement was inappropriate on review of the Social Security Administration's informal, non-adversarial adjudicatory benefit determinations, reasoning that ''the desirability of a court imposing a requirement of issue exhaustion depends on the degree to which the analogy to normal adversarial litigation applies in a particular administrative proceeding.'' [10]

Although the issue exhaustion doctrine originated in the adjudication context, it has been extended to preenforcement review of agency rulemakings. Two statutes have been identified by the Conference as explicitly requiring issue exhaustion for review of agency rules—the Clean Air Act and the Securities Exchange Act of 1934.[11] Both statutes were amended to incorporate issue exhaustion provisions in the 1970s, when Congress enacted numerous regulatory statutes with significant rulemaking provisions. [12]

The doctrine has also been extended to the rulemaking context through common law. Despite *Sims'* focus in the adjudication context on the extent to which the underlying administrative proceeding resembled adversarial litigation for purposes of determining whether the doctrine applied, appellate courts have increasingly applied the doctrine in the absence of a statute requiring it when reviewing preenforcement challenges to agency rules enacted via notice-and-comment proceedings.[13] And at least two appellate courts have applied the doctrine to review of administrative rulemaking after specifically considering *Sims,*[14] although *Sims* was recently cited by the Ninth Circuit as militating against issue exhaustion in an informal rulemaking issued without notice-and-comment procedures.[15]

Relying on their equitable authority, courts have also fashioned exceptions to the issue exhaustion doctrine.[16] The Conference commissioned a consultant's report to identify and articulate the scope of these exceptions in federal appellate case law, as well as to examine the general arguments for or against the doctrine in the rulemaking context.[17] Without endorsing every conclusion expressed therein, the Conference believes that the report of its consultant can provide guidance to courts considering the application of the doctrine as it pertains to preenforcement review of administrative rulemaking.

Factors for Courts To Consider in Applying the Issue Exhaustion Doctrine

The Administrative Conference believes that stakeholders, agencies, and courts benefit when issues are raised during rulemaking proceedings with sufficient specificity to give the agency notice and a fair opportunity to address them prior to judicial review.[18] Many of the justifications for applying the doctrine in judicial review of agency adjudicatory decisions apply squarely to review of rulemakings. The doctrine promotes active public participation, creates orderly processes for resolution of important legal and policy issues raised in agency proceedings, ensures fully informed decisionmaking by administrative agencies, provides a robust record for judicial review, and lends certainty and finality to agency decisionmaking. Issue exhaustion also avoids the potential for significant disruption to extensive work by the agency, which can result if an issue is raised only during judicial review, after the rule has been developed. Application of the doctrine spares courts from hearing objections that could have been cured at the administrative level and reduces the need for agencies to create post-hoc rationalizations.[19]

On the other hand, the Conference also recognizes some practical and doctrinal concerns with uncritically applying issue exhaustion principles developed in the context of formal adversarial agency adjudications to the context of preenforcement rulemaking review.[20] Overbroad application of the doctrine to rulemaking proceedings could serve as a barrier to judicial review for persons or firms who reasonably did not engage in continuous monitoring of the agency in question.[21] Issue exhaustion requirements may also contribute to the burdens of participating in a rulemaking proceeding, by exerting pressure on commenters to raise at the administrative level every issue that they might conceivably invoke on judicial review.[22] Also, an overbroad exhaustion requirement may result in unnecessary uncertainty and inefficiencies by leaving unaddressed fundamental legal questions—such as a rule's constitutionality or validity under a substantive federal statute. These and other concerns have led some observers to question the value of the doctrine as applied to rulemaking, or at least to call for limitations on its scope.

The Conference has compiled a list of factors—some of which may be dispositive in particular cases—that it invites courts to consider when deciding whether to preclude a litigant from raising issues for the first time

[8] *E.g.,* 15 U.S.C. § 77i(a); 29 U.S.C. § 160(e); 42 U.S.C. § 1320a-8(d)(1).

[9] *United States* v. *L.A. Tucker Truck Lines, Inc.,* 344 U.S. 33, 37 (1952) (reviewing an adjudicative order issued by the Interstate Commerce Commission after an adversarial hearing); *see also Advocates for Highway and Auto Safety* v. *FMSCA,* 429 F.3d 1136, 1149 (D.C. Cir. 2005) (applying the same rationale to rulemaking).

[10] *Sims* v. *Apfel,* 530 U.S. 103, 108–12 (2000) (plurality opinion).

[11] 42 U.S.C. 7607(d)(7)(B); 15 U.S.C. 78y(c)(1). However, provisions governing some agencies' ''orders'' have been held to apply to judicial review of rules. *See Citizens Awareness Network* v. *U.S.,* 391 F.3d 338, 345–47 (1st Cir. 2004); *see also Inv. Co. Inst.* v. *Bd. of Govs.,* 551 F.2d 1270, 1276–77 (D.C. Cir. 1977); *American Public Gas Ass'n* v. *Fed. Power Comm'n,* 546 F.2d 983, 986–88 (D.C. Cir. 1976).

[12] Lubbers Report, *supra* note 1, at 4, 11, 13.

[13] *E.g., Koretoff* v. *Vilsack,* 707 F.3d 394, 401 (D.C. Cir. 2013) (Williams, J., concurring) (''[g]enerally speaking, then, the price for a ticket to facial review is to raise objections in the rulemaking''); *City of Portland, Or.* v. *EPA,* 507 F.3d 706, 710 (D.C. Cir. 2007); *Military Toxics Project* v. *EPA,* 146 F.3d 948, 956–57 (D.C. Cir. 1998); *see also* Lubbers Report, *supra note* 1, at 27–30 (describing application of the doctrine as well as varied precedent in appellate courts other than the U.S. Court of Appeals for the D.C. Circuit). No cases were identified that applied the issue exhaustion doctrine in the context of new issues raised during enforcement challenges to rules.

[14] *Advocates for Highway and Auto Safety* v. *FMSCA,* 429 F.3d 1136, 1148–49 (D.C. Cir. 2005); *Universal Health Servs., Inc.* v. *Thompson,* 363 F.3d 1013, 1020 (9th Cir. 2004).

[15] *See Alaska Survival* v. *Surface Transp. Bd.,* 705 F.3d 1073, 1080 (9th Cir. 2013) (describing a Surface Transportation Board (STB) exemption proceeding as a rulemaking but applying the *Sims* rationale to it because the STB's procedures were informal and public comments were not sought).

[16] *E.g., Washington Ass'n for Television and Children (''WATCH'')* v. *FCC,* 712 F.2d 677, 681–82 (D.C. Cir. 1983) (''[Our] cases assume that § 405 contains implied exceptions without explaining why. We understand these cases, however, as implicitly interpreting § 405 to codify the judicially-created doctrine of exhaustion of administrative remedies, which permits courts some discretion to waive exhaustion.'') (footnotes omitted).

[17] *See generally* Lubbers Report, *supra* note 1.

[18] *Nat'l Ass'n of Mfrs.* v. *U.S. Dep't of the Interior,* 134 F.3d 1095, 1111 (D.C. Cir. 1998); *see also Ctr. for Sustainable Econ.* v. *Jewell,* 779 F.3d 588, 602 (D.C. Cir. 2015) (holding on review of an agency adjudicatory decision that ''the question in determining whether an issue was preserved, however, is not simply whether it was raised in some fashion, but whether it was raised with sufficient precision, clarity, and emphasis to give the agency a fair opportunity to address it'').

[19] The argument for judicial application of the doctrine may be especially strong where the challenged issue concerns the factual basis of a rule, the agency's evaluation of alternatives, or the agency's failure to exercise its discretion in a particular manner. Judicial evaluation of the reasonableness of an agency's action in such cases under an arbitrary and capricious standard of review may depend heavily on the administrative record and on the agency's analysis of those issues. *See generally Gage* v. *Atomic Energy Comm'n,* 479 F.2d 1214, 1217–19 (D.C. Cir. 1973).

[20] *See* William Funk, *Exhaustion of Administrative Remedies—New Dimensions Since Darby,* 18 Pace Envtl. L. Rev. 1, 17 (2000) (''[u]nfortunately, some courts have ignored the specific statutory origin for [issue exhaustion] and have applied a similar exhaustion requirement in cases totally unrelated to that statute, while citing cases involving application of that statute'').

[21] The impact of such barriers can fall most heavily on persons or entities whose interests are not in close alignment with the interests that have been advanced most forcefully by other participants in a given proceeding. *See Koretoff* v. *Vilsack,* 707 F.3d 394, 401 (D.C. Cir. 2013) (Williams, J., concurring).

[22] *See* Wendy E. Wagner, *Administrative Law, Filter Failure, and Information Capture,* 59 Duke L.J. 1321, 1363–64 (2010); Lubbers Report, *supra* note 1, at 38–40.

during preenforcement review of an agency rule. The list should be understood as a checklist of potentially relevant factors, not a fixed doctrinal formula, and as inapplicable where a statute directs otherwise. Specifically, the list includes consideration of whether:

- The issue was raised by a participant in the rulemaking other than the litigant.[23]
- The issue was addressed by the agency on its own initiative in the rulemaking.[24]
- The agency failed to address an issue that was so fundamental to the rulemaking proceeding or to the rule's basis and purpose that the agency had an affirmative responsibility to address it.[25]
- The issue involves an objection that the rule violates the U.S. Constitution.[26]
- It would have been futile to raise the issue during the rulemaking proceeding because the agency clearly indicated that it would not entertain comments on or objections regarding that issue.[27]
- The issue could not reasonably be expected to have been raised during the rulemaking proceeding because of the procedures used by the agency.[28]
- The basis for the objection did not exist at a time when rulemaking participants could raise it in a timely comment.[29]

If an issue exhaustion question arises in litigation, litigants should be given an opportunity to demonstrate that some participant adequately raised the issue during the rulemaking or that circumstances exist to justify not requiring issue exhaustion. And if a court declines to apply issue exhaustion principles to preclude review of new issues, the agency should be given an opportunity to respond to new objections on the merits.[30] Where application of the issue exhaustion doctrine forecloses judicial review, the Administrative Procedure Act, 5 U.S.C. 553(e), can provide a procedural mechanism for the public to raise new issues that were not presented to the agency during a rulemaking proceeding: The right to petition agencies for amendment or repeal of rules.

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BILLING CODE 6110–1–P

[23] *See Portland Gen. Elec. Co.* v. *Bonneville Power Admin.,* 501 F.3d 1009, 1024 (9th Cir. 2007) (''In general, we will not invoke the waiver rule in our review of a notice-and-comment proceeding if an agency has had an opportunity to consider the issue. This is true even if the issue was considered sua sponte by the agency or was raised by someone other than the petitioning party.'').

[24] *Id.*

[25] *See NRDC* v. *EPA,* 755 F.3d 1010, 1023 (D.C. Cir. 2014) (''EPA retains a duty to examine key assumptions as part of its affirmative burden of promulgating and explaining a nonarbitrary, non-capricious rule . . .'') (internal quotation marks omitted). This factor may include issues arising under the applicable substantive statute or the APA.

[26] *Cf., Noel Canning* v. *NLRB,* 705 F.3d 490, 497 (D.C. Cir. 2013), *aff'd NLRB* v. *Noel Canning,* 134 S. Ct. 2550 (2014) (invoking ''extraordinary circumstances'' exception in statutory provision requiring issue exhaustion to address constitutional issue not raised with the NLRB because the issue went to the very power of the agency to act and implicated fundamental separation of powers concerns). It is worth emphasizing that regardless of whether the issue exhaustion doctrine would apply, participants in a rulemaking should raise constitutional issues during the rulemaking proceeding to give the agency an opportunity to adjust its rule to eliminate the constitutional objection or at least to explain in the administrative record why its rule does not raise constitutional concerns.

[27] *See Comite De Apoyo A Los Trabajadores Agricolas* v. *Solis,* No. 09–240, 2010 WL 3431761, at *18 (E.D. Pa. Aug. 31, 2010); *cf. WATCH* v. *FCC,* 712 F.2d 677, 682 (D.C. Cir. 1983) (remarking that ''[a] reviewing court . . . may in some cases consider arguments that it would have been futile to raise before the agency,'' but cautioning that ''[f]utility should not lightly be presumed'').

[28] *See Alaska Survival* v. *Surface Transp. Bd.,* 705 F.3d 1073 (9th Cir. 2013) (declining to apply issue exhaustion because the agency's procedures were informal and ''never provided direct notice of or requested public comment'' on challenged issue).

[29] *Cf. CSX Transp., Inc.,* v. *Surface Transp. Bd.,* 584 F.3d 1076, 1079–81 (D.C. Cir. 2009) (declining to apply issue exhaustion to a litigant's argument that the final rule was not a logical outgrowth of the noticed rule).

[30] Courts have a variety of options for soliciting the agency's views that should vary depending on the circumstances. These options include permitting the agency to brief the issue or supplement the administrative record, or ordering a remand for the limited purpose of soliciting the agency's views.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0062]

Availability of an Environmental Assessment and Finding of No Significant Impact for Field Use of Vaccines Against Avian Influenza H5 Virus Strains

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that an environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to the use of one or more veterinary biological products as a treatment for and as an aid in the reduction of highly pathogenic avian influenza (HPAI) incidence caused by strains such as Eurasian H5 viruses of clade 2.3.4.4 lineage. Any biological products would become part of the measures to reduce the incidence of HPAI in the nation's commercial poultry flocks. Based on the environmental assessment, we have concluded that the use of vaccines as described in the environmental assessment will not have a significant impact on the human environment. We are making this environmental assessment and finding of no significant impact available to the public for review and comment.

DATES: We will consider all comments that we receive on or before November 6, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0062.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0062, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0062* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 851–3426, fax (301) 734–4314.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) is authorized to promulgate regulations designed to ensure that veterinary biological products are pure, safe, potent, and efficacious. Veterinary biological products include viruses, serums, toxins, and analogous products of natural or synthetic origin, such as vaccines, antitoxins, or the immunizing components of microorganisms intended for the diagnosis, treatment, or prevention of diseases in domestic animals.

APHIS issues licenses to qualified establishments that produce veterinary biological products and issues permits to importers of such products. APHIS also enforces requirements concerning production, packaging, labeling, and shipping of these products and sets standards for the testing of these products. Regulations concerning veterinary biological products are contained in 9 CFR parts 101 to 124.

Veterinary biological products meeting the requirements of the regulations may be considered for addition to the U.S. National Veterinary Stockpile (NVS). The NVS is the nation's repository of vaccines and other

critical veterinary supplies and equipment. It exists to augment State and local resources in responding to high-consequence livestock diseases that could potentially devastate U.S. agriculture, seriously affect the economy, and threaten public health. NVS vaccines would be used in APHIS programs or under department control or supervision. The addition of vaccines to the stockpile would not preclude private development and use of other poultry vaccines meeting the requirements of the Virus-Serum-Toxin Act.

The arrival in December 2014 of Eurasian H5 strains of highly pathogenic avian influenza (HPAI) and their subsequent dissemination in North America caused a catastrophic outbreak in both domestic poultry and avian wildlife. It is thought that wild, migratory waterfowl carried an H5 virus into North America, which generated reassortants (genetic variants resulting from crosses among AI strains) that spilled over into the domestic poultry population. The H5 viruses are likely to persist within the endemic wild, migratory waterfowl population, which is the primary reservoir of the virus. This viral reservoir will continue to pose a significant threat to U.S. poultry and avian collections.

Two poultry production sectors, commercial meat turkeys and laying chickens, were heavily impacted by these H5 viruses, resulting in the loss or destruction of over 48 million birds between December 2014 and June 2015. Response by regulatory agencies combined with migration of wild waterfowl and the natural disinfectant action of the summer heat temporarily halted new disease outbreaks. The return of potentially infected migratory waterfowl in autumn, however, may precipitate a new round of outbreaks on an expanded national scale.

Therefore, we are advising the public that we have prepared an environmental assessment (EA) entitled ''For Field Use of Avian Influenza Vaccines Against Avian Influenza H5 Virus Strains (August 2015)'' to analyze the potential use of one or more veterinary biological products as a treatment for and as an aid in the reduction of HPAI incidence caused by H5 strain viruses. We are publishing this notice to inform the public that we will accept written comments regarding the EA from interested or affected persons for a period of 30 days from the date of this notice. Based on an individual vaccine's risk analysis and the findings in this EA, APHIS would authorize deployment (including shipment, field testing, addition to the NVS, and use in commercial poultry production) of safe, well-characterized biological products upon making a finding of no significant impact (FONSI).

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. If APHIS receives substantive comments that were not previously considered, the Agency would consider issuing a supplement to the EA and FONSI. Because timeliness is essential, it is imperative that APHIS authorize shipment and field use of safe, well-characterized vaccines as soon as possible, and possibly prior to the close of the comment period of this notice.

Possible Field Use Locations: Where Federal and State authorities agree on use.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 1st day of October 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–25445 Filed 10–6–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; Direct Loan Making

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on a revision and an extension of a currently approved information collection that supports 7 CFR part 764. The Direct Loan Making regulations specify the application process and requirements for direct loan assistance. FSA is adding additional information collection to the existing collection to reflect the addition of the Direct Farm Ownership Microloan (DFOML). The collected information is used in eligibility and feasibility determinations on farm loan applications.

DATES: We will consider comments that we receive by December 7, 2015.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: Go to www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Russ Clanton, Branch Chief, Direct Loan Making and Funds Management, USDA/FSA/FLP, STOP 0523, 1400 Independence Avenue SW., Washington, DC 20250–0503.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Russ Clanton at the above address.

FOR FURTHER INFORMATION CONTACT: Russ Clanton, (202) 690–0214.

SUPPLEMENTARY INFORMATION:

Title: Farm Loan Programs, Direct Loan Making.

OMB Number: 0560–0237.

Expiration Date: 02/29/2016.

Type of Request: Revision and Extension.

Abstract: FSA's Farm Loan Programs provide loans to family farmers to purchase real estate and equipment, and to finance agricultural production. Direct Loan Making regulations at 7 CFR part 764 provide the requirements and process for determining an applicant's eligibility for a direct loan.

Several changes are being made in the estimates for the burden hours and the number of respondents in anticipation of the new DFOML, which will be implemented through rulemaking. FSA anticipates an increase in the use of the forms. Also, the burden hours have changed due to the removal of the existing collection, which was previously included in error. The specific changes are explained below.

There will be no new or revised forms for DFOMLs. With the planned addition of the DFOML and the new applicants expected to apply for these real estate microloans, FSA anticipates the total burden hours for Direct Loan Making increasing by 1,725 hours. The anticipated 3,530 burden hours for DFOML takes into account the number of regular FO applications normally received for loan requests of $50,000 or less, which have a reduced application process and paperwork burden. The hours for the Land Contract Guarantee

Program and Emergency Equine Loss Loan Program, previously merged into the Direct Loan Making total burden hours, have been removed from the collection as they are already accounted for in other existing information collections. Also, the Farm Storage Facility Loan Program is exempted from PRA as specified in 2014 Farm Bill; therefore, those numbers are no longer included in the collection.

The annual number of responses decreased by 12,751, while the number of respondents increases by 172 in the collection. The annual burden hours increase by 1,725 hours in the collection.

The formula used to calculate the total burden hour is estimated average time per response in hours times total annual responses.

Estimate of Respondent Burden: Public reporting burden for the information collection is estimated to average 0.503851 hours per response. The average travel time, which is included in the total burden, is estimated to be 1 hour.

Respondents: Individuals or households, businesses or other for profit farms.

Estimated Annual Number of Respondents: 182,433.

Estimated Number of Reponses per Respondent: 3.8.

Estimated Total Annual Responses: 685,686.

Estimated Average Time per Response: 0.503851 hours.

Estimated Total Annual Burden on Respondents: 345,484 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Val Dolcini,

Administrator, Farm Service Agency.

[FR Doc. 2015–25425 Filed 10–6–15; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; Agricultural Foreign Investment Disclosure Act Report

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on an extension of a currently approved information collection associated with the Agricultural Foreign Investment Disclosure Act (AFIDA) of 1978.

DATES: We will consider comments that we receive by December 7, 2015.

ADDRESSES: We invite you to submit comments on the notice. In your comments, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Lesa A. Johnson, Agricultural Foreign Investment Disclosure Act (AFIDA) Program Manager, Natural Resources Analysis Group, Economic and Policy Analysis Staff, USDA, FSA, STOP 0531, 1400 Independence Avenue SW., Washington, DC 20250–0531.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Lesa A. Johnson at the above addresses.

FOR FURTHER INFORMATION CONTACT: Lesa A. Johnson, (202) 720–9223.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Foreign Investment Disclosure Act Report.

OMB Control Number: 0560–0097.

Expiration Date of Approval: April 30, 2016.

Type of Request: Extension of a currently approved information collection.

Abstract: AFIDA requires foreign persons who hold, acquire, or dispose of any interest in U.S. agricultural land to report the transactions to FSA on an AFIDA report (FSA–153). The information collected is made available to States. Also, although not required by law, the information collected from the AFIDA reports is used to prepare an annual report to Congress and the President concerning the effect of foreign investment upon family farms and rural communities so that Congress may review the annual report and decide if further regulatory action is required. There is no change to the numbers in the collection.

The formula used to calculate the total burden hour is estimated average time per responses hours times total annual responses.

Estimate of Respondent Burden: Public reporting burden for the information collection is estimated to average 0.476 hours per response.

Respondents: Individuals or households, businesses or other for profit farms.

Estimated Annual Number of Respondents: 5,525.

Estimated Number of Reponses per Respondent: 1.

Estimated Total Annual Responses: 5,525.

Estimated Average Time per Response: 0.476 hours.

Estimated Total Annual Burden on Respondents: 2,631.25 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Signed by

Val Dolcini,

Administrator, Farm Service Agency.

[FR Doc. 2015–25426 Filed 10–6–15; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—USDA Foods in Schools Cost Dynamics

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) invites the general public and other public agencies to comment on this proposed information collection. This is a new collection for a study of USDA Foods in Schools Cost Dynamics.

DATES: Written comments on this notice must be received on or before December 7, 2015.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Dennis Ranalli, Policy Analyst, Office of Policy Support, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Dennis Ranalli at 703–305–2576 or via email to *dennis.ranalli@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 1014, Alexandria, Virginia 22301.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Dennis Ranalli at 703–305–2149.

SUPPLEMENTARY INFORMATION:

Title: USDA Foods in Schools Cost Dynamics.

Form Number: N/A.

OMB Number: Not yet assigned.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: USDA Foods play an important role in school meals and may contribute up to 20% of the foods served in school meals through the National School Lunch Program (NSLP). States and School Food Authorities (SFAs) receive a USDA Foods entitlement to acquire products offered through the USDA Foods program. USDA Foods can be directly delivered from USDA's vendor to state warehouses, distributors, buying cooperatives, or SFAs. Fruits and vegetables can be requisitioned through the Department of Defense (DoD) Fresh Fruit and Vegetable Program. Bulk USDA Foods can be sent directly to a processor to create final products for use in school meals.

An SFA's costs of using USDA Foods begin with how it spends its entitlement, which is managed by State Distribution Agencies (SDAs). SFAs incur additional costs to obtain USDA Foods for procurement, storage, distribution and administration. These functions are performed by a variety of agencies involved in this process (FNS, SDAs, storage/distribution contractors, SFAs and schools). SDAs may absorb some of these costs. Finally, the model of contracting with food processors may affect the full cost of USDA Foods to SFAs—whether the contract is a payment for final product (with a rebate or discount for the SFA) or a payment for service, *i.e.,* for transforming the USDA Food into a final product.

While several USDA-funded studies have examined SFA food purchasing practices and have compared foods purchased by SFAs with commercial products, very little research has focused specifically on the full cost of USDA Foods used in school meals. The most recent study on this topic, and the model for the current study, is the State Commodity Distribution System study covering the 1985–86 school year.

The proposed study will examine the variety of factors that determine the cost and value of USDA Foods to local school and school district food programs. The objectives of the study are to (1) identify distribution models (including procurement, transportation, storage and delivery) used by 49 states and the District of Columbia to distribute USDA Foods to schools; (2) identify 4 to 10 procurement and distribution models that represent the state systems used in School Year (SY) 2015–16; and (3) develop cost estimates for a group of USDA Foods, full processed products made from USDA Foods, and comparable commercial products.

Affected Public: Respondent groups include: (1) State officials with responsibility for USDA Food provision and (2) directors of school food authorities.

Estimated Number of Respondents: 440–950. The proposed final samples will include State Distribution Agencies in up to 49 States and the District of Columbia, and 112–280 unique SFAs, depending on how many distribution models are studied (Kansas is excluded because it receives cash payments in lieu of USDA foods). The number studied will be determined on the basis of the results of the survey of SDAs.

Estimated Frequency of Responses per Respondent: All respondents will be asked to respond to each instrument only once.

Estimated Total Annual Responses: 440–950, depending on the number of distribution models studied.

Estimated Time per Response: 43 minutes (0.72 hours). The estimated response time varies from 5 minutes for notifications of the surveys to 360 minutes (6 hours), depending on the survey and the respondent group, as shown in the following table.

Estimated Total Annual Burden on Respondents: 308 to 693 hours.

Affected public	Data collection activity	Respondents	Estimated number of respondents	Frequency of response	Total annual responses	Average hours per response	Total annual burden estimate (hours)
State	Notify state officials of web survey.	State education agency financial officer.	50	1	50	0.08	4
State	Self-Administered Web Survey.	Non-respondents	3	1	3	0.08	0.2
	(Administrative data on USDA Food costs).	State education agency financial officer.	47	1	47	1.0	47
State	Notify state officials of in-person interview.	State education agency financial officer.	8–20	1	8–20	0.25	2–5
State	In-person interview of state distribution agency (Additional information on USDA Food costs).	State education agency financial officer.	8–20	1	8–20	6	48–120
Local and Tribal	Notify local and tribal officials of web survey.	Foodservice director.	112–280	1	112–280	0.08	9.0–22.4
Local and Tribal	Self-Administered Web Survey.	Non-respondents	12–30	1	12–30	0.08	1.0–2.4
	(Administrative data on USDA Food costs).	Foodservice director.	100–250	1	100–250	0.75	75.0–187.5
	Phone Follow-up Survey.	Nonrespondents	20–50	1	20–50	0.08	1.6–4.0
	(Administrative data on USDA Food costs).	Foodservice director.	80–200	1	80–200	1.5	120–300
Grand Total	.....	.....	440–950	1	440–950	0.72	308–693

Dated: September 30, 2015.

Telora T. Dean,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2015–25444 Filed 10–6–15; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revision of Land Management Plan for Carson National Forest; Counties of Colfax, Mora, Rio Arriba, and Taos, New Mexico

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to revise the Carson National Forest Land Management Plan and prepare an associated Environmental Impact Statement.

SUMMARY: As directed by the National Forest Management Act, the USDA Forest Service is revising the existing Carson National Forest's Land Management Plan (hereafter referred to as forest plan) through development of an associated National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS). This Notice describes the documents (Assessment Report of Ecological, Social, and Economic Conditions, Trends, and Sustainability for the Carson NF; Summaries of Public Meetings; and Carson NF's Needs to Change Management Direction of Its Existing 1986 Forest Plan) available for review and how to obtain them; summarizes the needs to change the existing forest plan; provides information concerning public participation and engagement, including the process for submitting comments; provides an estimated schedule for the planning process, including the time available for comments, and includes the names and addresses of agency contacts who can provide additional information.

DATES: Comments concerning the Needs to Change and Proposed Action provided in this Notice will be most useful in the development of the draft revised plan and draft EIS if received by November 20, 2015. The agency expects to release a draft revised plan and draft EIS, developed through a collaborative public engagement process, by late Fall/Winter 2016 and a final revised plan and final EIS by Spring 2018.

ADDRESSES: Send written comments to Carson National Forest, Attn: Plan Revision, 208 Cruz Alta Road, Taos, New Mexico 87571. Comments may also be sent via email to *carsonplan@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Kevin Naranjo, Forest Planner, 575–758–6221. 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.

More information on the planning process can also be found on the Carson National Forest's Web site at *www.fs.usda.gov/goto/carsonforestplan.*

SUPPLEMENTARY INFORMATION:

Name and Address of the Responsible Official

James Duran, Forest Supervisor, Carson National Forest, 208 Cruz Alta, Taos, New Mexico 87571.

Nature of the Decision To Be Made

The Carson National Forest (NF) is preparing an EIS to revise the existing forest plan. The EIS process is meant to inform the Forest Supervisor so he can

decide which alternative best maintains and restores National Forest System terrestrial and aquatic resources, while providing ecosystem services and multiple uses, as required by the National Forest Management Act and the Multiple Use Sustained Yield Act.

The revised forest plan will describe the strategic intent of managing the Carson NF for the next 15 years and will address the needs to change the existing forest plan. The revised forest plan will provide management direction in the form of desired conditions, objectives, standards, guidelines, and suitability of lands. It will identify delineation of new management areas and geographic areas across the Forest; identify the timber sale program quantity; potentially make recommendations to Congress for Wilderness designation; and list rivers and streams eligible for inclusion in the National Wild and Scenic Rivers System. The revised forest plan will also provide a description of the plan area's distinctive roles and contributions within the broader landscape, identify watersheds that are a priority for maintenance or restoration, include a monitoring program, and contain information reflecting expected possible actions over the life of the plan.

The revised forest plan will provide strategic direction and a framework for decision making during the life of the plan, but it will not make site-specific project decisions and will not dictate day-to-day administrative activities needed to carry on the Forest Service's internal operations. The authorization of project level activities will be based on the guidance/direction contained in the revised plan, but will occur through subsequent project specific decision-making, including NEPA.

The revised forest plan will provide broad, strategic guidance that is consistent with other laws and regulations. Though strategic guidance will be provided, no decisions will be made regarding the management of individual roads or trails, such as those might be associated with a Travel Management plan under 36 CFR part 212. Some issues (*e.g.,* hunting regulations), although important, are beyond the authority or control of the National Forest System and cannot be considered. No decision regarding oil and gas leasing availability will be made, though plan components may be brought forward or developed that will help guide oil and gas leasing availability decisions that may be necessary in the future.

Purpose and Need and Proposed Action

According to the National Forest Management Act and 2012 Planning Rule (36 CFR 219), forest plans are to be revised at least every 15 years. The Proposed Action is to revise the forest plan in order to address the needs to change that were identified through public involvement and the assessment process. Alternatives to the Proposed Action will be developed to address the significant issues that are identified through scoping.

The purpose and need for revising the current Carson NF forest plan are: (1) To update the forest plan, which was approved in 1986 and is 29 years old; (2) to reflect changes in economic, social, and ecological conditions, new policies and priorities, and new information based on monitoring and scientific research; and (3) to address the needs to change the existing forest plan, that are summarized below. Extensive public and employee involvement, along with science-based evaluations, have helped to identify these needs to change to the existing forest plan.

What follows is a summary of the identified needs to change. A more fully developed description of the needs to change statements, which has been organized into several resource and management topic sections, is available for review on the plan revision Web site at: *www.fs.usda.gov/goto/carsonforestplan*.

Throughout the Plan

There is a need for the revised plan to better recognize and enhance the Carson NF's role in contributing to local economies, including service-based sectors, such as recreation and tourism, timber and forest products, livestock grazing, and other multiple-use related activities and products.

There is a need to reevaluate management areas in the current plan, to minimize complexity and allow more flexibility for restoration and habitat treatments, as well as update plan content regarding the resources, goods, and services provided by the Carson NF.

There is a need to include plan direction that allows for adaptive management, to address potential climate change effects.

There is a need to develop plan direction related to Forest Service land acquisitions, disposals, and exchanges that are not covered by the existing forest plan.

There is a need to include other plan content or management approaches that: (1) Consider the capacity of local infrastructure, contractors, and markets in moving toward achieving desired conditions; (2) utilize partnership and volunteer opportunities as a management option, to promote movement toward desired conditions; and (3) allow for adapting to fluctuations in forest budgets over the life of the plan, in moving toward achieving desired conditions.

Ecological Integrity

There is a need to develop desired conditions regarding forest and woodland structure, composition, and function, as well as objectives, standards, and guidelines that will promote restoration and achievement of desired conditions; support resiliency and sustainability; and minimize risks to ecosystem integrity.

There is a need to update plan direction to promote the restoration and maintenance of grass productivity, particularly native bunchgrass species, and to limit woody species encroachment and invasive plant establishment, both in grasslands and non-grasslands.

There is a need to update plan direction that supports integrated pest (weed) management.

There is a need to update plan direction which allows for an integrated resource approach to prescribed fire activity, as well as flexibility for restoration and maintenance of ecosystems.

There is a need to update plan direction to promote the use of wildland fire (management of wildfire and prescribed fire) in fire adapted ecosystems, while addressing public safety and health concerns.

There is a need to update plan direction to promote aspen health and resilience through managing regeneration and existing stands.

There is a need to update plan direction to promote the maintenance and restoration of soil condition and function (*i.e.,* soil hydrology, soil stability, nutrient cycling), particularly in lower elevation systems.

There is a need to provide plan direction that promotes the protection, restoration and maintenance of appropriate composition and amount of riparian vegetation.

There is a need to provide plan direction regarding management of riparian areas around all lakes, perennial and intermittent streams, and wetlands.

There is a need to provide plan direction that promotes the protection, restoration, and maintenance of wetland condition and function.

There is a need to provide plan direction for the restoration of watersheds.

There is a need to provide plan direction for the sustainable management of water resources (*e.g.,*

groundwater, springs, wetlands, riparian areas, perennial waters) and their interconnections.

There is a need to update plan direction on managing for sustainable watersheds for multiple uses (*e.g.,* wildlife, livestock, recreation, and mining) and public water supplies.

There is a need to update plan direction to promote desired watershed conditions that maintain water quality and quantity, as well as enhance retention.

Wildlife, Fish, and Plants

There is a need to update plan direction to promote the recovery and conservation of federally recognized species, the maintenance of viable populations of the species of conservation concern, and the maintenance of common and abundant species within the plan area.

There is a need to provide plan direction to address sustainability of habitat(s) for plant and animal species important to tribes and traditional communities.

There is a need to provide plan direction for managing towards terrestrial, riparian, and aquatic habitat connectivity for species movement across the landscape.

There is a need to provide plan direction that allows for improving aquatic passage in streams where it has been compromised. Plan direction should promote the restoration and expansion of the range of native aquatic species and connectivity of fragmented populations.

There is a need to provide plan direction that allows for an assortment of management approaches, including timber harvest, thinning, prescribed burning, and other vegetation management methods, to provide wildlife habitat for species that need a variety of forest habitats, such as interior, edge, young, and old forest.

Cultural and Historic Resources and Uses

There is a need to update plan direction for Native American traditional cultural properties and sacred sites and places, and non-Native American traditional cultural properties.

There is a need to provide plan direction addressing management of historic and contemporary cultural and traditional uses, including both economic and non-economic uses for tribes, and for traditional communities not considered under tribal relations (*i.e.,* traditional Hispanic and Anglo communities).

Areas of Tribal Importance

There is a need to update plan direction addressing consistency of activities with legally mandated trust responsibilities to tribes.

There is a need to update plan direction orders, to ensure privacy for tribes engaged in cultural and ceremonial activities.

There is a need to update plan direction on design, location, installation, maintenance, and abandonment of towers, facilities, and alternative infrastructure within electronic communication sites, while giving due consideration to the value and importance of areas that may be identified as a sacred site or part of an important cultural landscape by tribes.

Multiple Uses

There is a need to provide plan direction for the management of commercial and noncommercial use of forest products.

There is a need to provide plan direction for the livestock grazing program that incorporates adaptive management, to move towards ecosystem-based desired conditions.

There is a need to update plan direction to promote the sustainable management of wild horses.

Recreation

There is a need to provide plan direction that promotes sustainable recreation management and to include management approaches within the revised plan to address user conflicts and demands in moving toward achieving recreation desired conditions.

There is a need to provide guidance for recreation activities that occur in areas sensitive to resource degradation or at risk, due to high visitation.

There is a need to update plan direction for the Continental Divide National Scenic Trail.

There is a need to update plan direction and guidance for incorporating the Recreation Opportunity Spectrum classifications the Scenery Management System integrity objectives across all programs areas.

There is a need to update plan direction for over-snow vehicle use and the recreation special uses program.

Designated Areas

There is a need to update plan direction for managing existing designated areas, including designated wilderness, research natural areas, and designated and eligible wild and scenic rivers, that promote the maintenance of desired values and characteristics unique to each area, as well as newly designated or potential designated areas.

Infrastructure

There is a need to provide plan direction for maintenance of transportation systems in watersheds identified as impaired or at-risk and for the reclamation of non-system roads.

Land Status and Ownership, Use, and Access

There is a need to update plan direction to address legal access for public, private landowner, and tribal needs and management, to promote contiguity of the land base and for reducing small unmanageable tracts of National Forest System lands.

Energy and Minerals

There is a need to update plan direction for recreational mining-related activities and the permitted use of common mineral materials.

There is a need to update plan direction for existing or proposed transmission corridors and renewable energy generation, including solar, biomass, and geothermal, while protecting natural resources, heritage and sacred sites, tribal traditional activities, and scenery.

Public Involvement

A Notice of initiating the assessment phase of forest plan revision for the Carson NF was published in the **Federal Register** on February 27, 2014 (79 FR 11074). Subsequently, the Carson NF held or participated in 32 public meetings and collaborative work sessions in communities around the forest, to explain the plan revision process and solicit comments, opinions, data, and ideas from members of the public, governmental entities, tribes, land grants, and nongovernmental organizations. Fifteen meetings were held in June 2014 providing an opportunity for people to express how they value and use the forest and asking what they want the forest to look like in the future. This information was used to inform the assessment for the Carson NF. The Carson and Santa Fe NFs jointly held 3 meetings in April/May of 2015 with members of local land grants, to present and discuss the plan revision process. In June of 2015, the forest held 14 community public meetings to present the key findings of the assessment and to have participants come up with management solutions to address these key findings or other issues of concern. The input from these meetings was used to inform and update both the assessment and needs-to-change statements. Approximately 556 people attended the 32 meetings and nearly 1,800 comment letters or forms were received, either at the meetings or

by email, postal mail, or web-form. Public Information to the public was provided by a dedicated forest plan revision Web page and through mailings, flyers, news releases, Twitter, and radio interviews. Any comments related to the Carson NF's assessment report that are received following the publication of this Notice may be considered in the draft and final environmental impact statements.

Scoping Process

Written comments received in response to this Notice will be analyzed to complete the identification of the needs for change to the existing plan, further develop the proposed action, and identify potential significant issues. Significant issues will, in turn, form the basis for developing alternatives to the proposed action. Comments on the Needs to Change the Forest Plan and Proposed Action will be most valuable if received by November 20, 2015, and should clearly articulate the reviewer's issues and concerns. Comments received in response to this Notice, including the names and addresses of those who comment, will be part of the public record. Comments submitted anonymously will be accepted and considered in the NEPA process; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents. See the below Objection Process description, particularly the requirements for filing an objection, on how anonymous comments are handled during the objection process. Refer to the Carson NF's Web site at *www.fs.usda.gov/goto/carsonforestplan* for information on when public meetings will be scheduled for refining the Proposed Action and identifying possible alternatives to the Proposed Action.

Applicable Planning Rule

Preparation of the revised forest plan for the Carson NF began with the assessment of the conditions and trends of the Forest's ecological, social, and economic resources, initiated under the planning procedures contained in the 2012 Forest Service planning rule (36 CFR 219 (2012)).

Permits or Licenses Required To Implement the Proposed Action

No permits or licenses are needed for the development or revision of a forest plan.

Proposed Decisions Are Subject To Objection

The proposed decision to approve the revised forest plan for the Carson NF will be subject to the objection process identified in 36 CFR part 219 Subpart B (219.50 to 219.62). According to 36 CFR 219.53(a), those who may file an objection are individuals and entities who have submitted substantive formal comments related to plan revision, during the opportunities provided for public comment throughout the planning process.

Documents Available for Review

The (1) Assessment Report of Ecological, Social, and Economic Conditions, Trends, and Sustainability for the Carson National Forest and (2) Carson National Forest's Needs to Change Management Direction of Its Existing 1986 Forest Plan, as well as summaries of the public meetings and public meeting materials, and public comments are posted on the Carson NF's Web site at: *http://www.fs.usda.gov/goto/carsonforestplan*. As necessary or appropriate, the material available on this site will be further adjusted as part of the planning process using the provisions of the 2012 planning rule.

Authority: 16 U.S.C. 1600–1614; 36 CFR part 219 [77 FR 21260–21273].

Responsible Official

The responsible official for revision of the Carson NF's forest plan is Forest Supervisor James Duran, Carson National Forest, 208 Cruz Alta Road, Taos, New Mexico 87571.

Dated: September 29, 2015.

James Duran,

Forest Supervisor, Carson National Forest.

[FR Doc. 2015–25519 Filed 10–6–15; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Submission for OMB Review; Comment Request

October 1, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by November 6, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: National Woodland Owner Survey.

OMB Control Number: 0596–0078.

Summary of Collection: The Forest and Rangeland Renewable Resources Planning Act of 1974 (Pub. L. 93–278 Sec. 3) and the Forest and Rangeland Renewable Resources Research Act of 1978 (Pub. L. 307 Sec. 3) are the legal authorities for conducting the National Woodland Owner Survey. The National Woodland Owner Survey (NWOS) collects information to help answer questions related to the characteristics of the landholdings and landowners, ownership objectives, the supply of timber and non-timber products, forest management practices, climate change, wildfires, invasive species, and delivery of the concerns/constraints perceived by the landowners.

Need and Use of the Information: The NWOS will utilize a mixed-mode survey technique involving cognitive interviews, focus groups, self-

administered questionnaires, and telephone interviews. The Forest Service (FS) will use several, interrelated forms: Long, short, state-specific, science modules, corporate, public and urban versions to collect information. Data collected will help FS to determine the opportunities and constraints that private woodland owners typically face; and facilitate planning and implementing forest policies and programs. If the information is not collected the knowledge and understanding of private woodland ownerships and their concerns and activities will be severely limited.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit Institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 10,281.

Frequency of Responses: Reporting: Other (every 5 years).

Total Burden Hours: 4,452.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–25552 Filed 10–6–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Re-establish the Lake Tahoe Basin Federal Advisory Committee call for nominations.

SUMMARY: The Secretary of Agriculture (Secretary) intends to re-establish the charter for the Lake Tahoe Basin Federal Advisory Committee (Committee). The purpose of the Committee is to provide advice to the Secretary and to the Federal Interagency Partnership on how the Partnership can best fulfill its duties pursuant to Executive Order 13057 to protect the extraordinary natural, recreational, and ecological resources in the Lake Tahoe Region. The Secretary has determined that the work of the Committee is in the public interest and relevant to the duties of the Department of Agriculture. Therefore, the Secretary continuously seeks nominations to fill vacancies on the Committee. Additional information concerning the Committee can be found by visiting the Committee's Web site at: *http://www.fs.usda.gov/goto/ltbmu/LTFAC.*

DATES: Nominations must be received on or before November 23, 2015. Nominations must contain a completed application packet that includes the nominee's name, resume, and completed Form AD–755, Advisory Committee or Research and Promotion Background Information. The Form AD–755 may be obtained from the Forest Service contact person or from the following Web site: *http://www.ocio.usda.gov/forms/doc/AD-755_Master_2012_508%20Ver.pdf.* The packages must be sent to the addresses below.

ADDRESSES: Send nominations and applications to Lynn Wright, Acting Partnership/FACA Coordinator, U.S. Department of Agriculture, Forest Service, Lake Tahoe Basin Management Unit, 35 College Drive, South Lake Tahoe, California 96150.

FOR FURTHER INFORMATION CONTACT: Lynn Wright, Acting Partnership/FACA Coordinator, U.S. Department of Agriculture, Forest Service, Lake Tahoe Basin Management Unit, 35 College Drive, South Lake Tahoe, California 96150, or by phone at 530–543–2627, or by email at *hwright01@fs.fed.us.* Individuals who use telecommunications devices or 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:

Background

In accordance with the provisions of the Federal Advisory Committee Act, the Secretary of Agriculture intends to re-establish the Committee. The Committee will be a discretionary advisory committee. The Committee will operate under the provisions of FACA and will report to the Secretary of Agriculture through the Chief of the Forest Service.

The Committee provides a critical role in advising the Secretary of Agriculture and the Lake Tahoe Federal Interagency Partnership on coordinating federal programs to achieve the goals of the Lake Tahoe Environmental Improvement Program.

Advisory Council Organization

The Committee charter and membership is renewed every two years. The members will represent a broad array of interests in the Lake Tahoe Basin. The Council will be comprised of not more than 20 members. Two representatives will be selected as members-at-large, and one representative will be selected from each of the following sectors:

1. Gaming
2. Environmental
3. National Environmental
4. Ski resorts
5. North Shore economic/recreation
6. South Shore economic/recreation
7. Resort associations
8. Education
9. Property rights advocates
10. Science and Research
11. California local government
12. Nevada local government
13. Washoe Tribe
14. State of California
15. State of Nevada
16. Tahoe Regional Planning Agency
17. Labor
18. Transportation

Of these members, one will become the Chairperson who is recognized for their ability to lead a group in a fair and focused manner and who has been briefed on the mission of this Committee. The Committee meets twice a year, but may meet as often as necessary to complete its business. The appointment of members to the Committee is made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to represent the above vacancies on the Committee. Individuals may also nominate themselves. To be considered for membership, nominees must provide:

1. Resume describing qualifications for membership to the Committee;

2. Cover letter with a rationale for serving on the Committee and what they can contribute;

3. Show their past experience in working successfully as part of a coordinating group;

4. Complete Form AD–755, Advisory Committee or Research and Promotion Background Information; and

5. Letters of recommendation are welcome.

All nominations will be vetted by U.S. Department of Agriculture (USDA). A list of qualified applicants from which the Secretary of Agriculture shall appoint to the Committee will be prepared. Applicants are strongly encouraged to submit nominations priority mail via United States Post Office to ensure timely receipt by the USDA. Members of the Committee will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Committee, subject to approval by the Designated Federal Officer (DFO).

Equal opportunity practices, in accordance with USDA policies shall be followed in all appointments to the Committee. To ensure that the recommendation of the Committee have taken into account the needs of the diverse groups served by the Departments, membership should

include, to the extent practicable, individuals with demonstrated ability to represent all racial and ethnic groups, women and men, and persons with disabilities.

Dated: September 29, 2015.

Gregory L. Parham,

Assistant Secretary for Administration.

[FR Doc. 2015–25596 Filed 10–6–15; 8:45 am]

BILLING CODE 3411–15–P

APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Annual Meeting

TIME AND DATE: 10:00 a.m.–12:30 p.m. November 6, 2015.

PLACE: Harrisburg Hilton and Towers, One North Second Street, Harrisburg, PA 17101.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public: The primary purpose of this meeting is to (1) Review the independent auditors' report of the Commission's financial statements for fiscal year 2014–2015; (2) Review the Low-Level Radioactive Waste (LLRW) generation information for 2014; (3) Consider a proposed budget for fiscal year 2016–2017; (4) Review recent regional and national developments regarding LLRW management and disposal; and (5) Elect the Commission's Officers.

Portions Closed to the Public: Executive Session, if deemed necessary, will be announced at the meeting.

CONTACT PERSON FOR MORE INFORMATION: Rich Janati, Administrator of the Commission, at 717–787–2163.

Rich Janati,

Administrator, Appalachian Compact Commission.

[FR Doc. 2015–24940 Filed 10–6–15; 8:45 am]

BILLING CODE 0000–00–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Age Search Service

AGENCY: U.S. Census Bureau, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before December 7, 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(s) and instructions should be directed to Cleo Henderson, U.S. Census Bureau, National Processing Center, Jeffersonville, Indiana 47132; phone: (812) 218–3434; or: *cleo.henderson@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Age Search is a service provided by the U.S. Census Bureau for persons who need official transcripts of personal data as proof of age for pensions, retirement plans, medicare, and social security. The transcripts are also used as proof of citizenship to obtain passports or to provide evidence of family relationship for rights of inheritance. The Age Search forms are used by the public in order to provide the Census Bureau with the necessary information to conduct a search of historical population decennial census records in order to provide the requested transcript. The Age Search service is self-supporting and is funded by the fees collected from the individuals requesting the service.

II. Method of Collection

The Form BC–600, Application for Search of Census Records, is a public use form that is submitted by applicants requesting information from the decennial census records. Applicants are requested to enclose the appropriate fee by check or money order with the completed and signed Form BC–600 or BC–600sp and return by mail to the U.S. Census Bureau, Post Office Box 1545, Jeffersonville, Indiana 47131. The Form BC–649 (L), which is called a ''Not Found'', advises the applicant that the search for information from the census records was unsuccessful. The BC–658 (L) is sent to the applicant when insufficient information has been received on which to base a search of the census records. These two forms request additional information from the applicant to aid in the search of census records.

III. Data

OMB Control Number: 0607- 0117.

Form Numbers: BC–600, BC–649(L), BC–658(L).

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,479 Total.

BC–600 2,070.

BC–649(L) 396.

BC–658(L) 17.

Estimated Time per Response:

BC–600 12 minutes.

BC–649(L) 6 minutes.

BC–658(L) 6 minutes.

Estimated Total Annual Burden Hours: 456.

Estimated Total Annual Cost: The Age Search processing fee is $65.00 per case. An additional charge of $20 per case for expedited requests requiring results within one day is also available.

Respondent's Obligation: Required to obtain or retain benefits.

Legal Authority: Title 13 U.S.C., section 8.

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: October 2, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–25493 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Generic Clearance for Master Address File (MAF) and Topologically Integrated Geographic Encoding and Referencing (TIGER) Update Activities

AGENCY: U.S. Census Bureau, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before December 7, 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 email at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mike Benton, U.S. Census Bureau, 5H022D, Washington DC 20233, 301–763–2860 (or via email at *Mike.Benton@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau presently operates a generic clearance covering activities involving respondent burden associated with updating our Master Address File (MAF) and Topologically Integrated Geographic Encoding and Referencing (TIGER) Database (MTdb). The MTdb is the Census Bureau's integrated address geographic database. We now propose to extend the generic clearance to cover update activities we will undertake during the next three fiscal years.

Under the terms of the generic clearance, we plan to submit a request for OMB approval that will describe, in general terms, all planned activities for the entire period. We will provide information to OMB at least two weeks before the planned start of each activity giving more exact details, examples of forms, and final estimates of respondent burden. We also will file a year-end summary with OMB after the close of each fiscal year giving results of each activity conducted. The generic clearance enables OMB to review our overall strategy for MTdb updating in advance, instead of reviewing each activity in isolation shortly before the planned start.

The Census Bureau used the addresses in the MTdb for mailing and delivering questionnaires to households during the 2010 Census and will do so for the 2020 Census. These addresses are also used as a sampling frame for our demographic current surveys. Prior to Census 2000, the Census Bureau built a new address list for each decennial census. The MTdb built for the 2010 Census is designed to be kept up-to-date, thereby eliminating the need to develop a completely new address list for future censuses and surveys. The Census Bureau plans to use the MTdb for post-Census 2010 evaluations and as a sampling frame for the American Community Survey and our other demographic current surveys. The TIGER component of the MTdb is a geographic system that maps the entire country in Census Blocks with applicable address ranges or living quarter location information. The MTdb allows us to assign each address to the appropriate Census Block, produce maps as needed and publish results at the appropriate level of geographic detail. The following are descriptions of activities we plan to conduct under the clearance for the next three fiscal years. The Census Bureau has conducted these activities (or similar ones) previously and the respondent burden remains relatively unchanged from one time to another. The estimated number of respondents is based on historical contact data, and applied to the number of Census Blocks in sample.

Demographic Area Address Listing (DAAL)

The Demographic Area Address Listing (DAAL) program encompasses the geographic area updates for the Community Address Updating System (CAUS) and the National Health Interview Survey (NHIS), the area and group quarters frame listings for many ongoing demographic surveys (the Current Population Survey, the Consumer Expenditures Survey, etc.), and any other operations which choose to use the Listing and Mapping Application (LiMA) for evaluations, assessments, or to collect updates for the MTdb. Note that LiMA replaced the Automated Listing and Mapping System (ALMI). The CAUS program was designed to address quality concerns relating to areas with high concentrations of noncity-style addresses, and to provide a rural counterpart to the update of city-style addresses the Census Bureau will receive from the U.S. Postal Services's Delivery Sequence File. The ongoing demographic surveys, as part of the 2000 Sample Redesign Program, use the MTdb as one of several sources of addresses from which they select their samples.

The DAAL program is a cooperative effort among many divisions at the Census Bureau; it includes automated listing software, systems, and procedures that will allow us to conduct listing operations in a dependent manner based on information contained in the MTdb. The DAAL operations will be conducted on an ongoing basis in potentially any county across the country. Field Representatives (FRs) will canvass selected 2010 Census tabulation blocks in an effort to improve the address list in areas where substantial address changes may have occurred that have not been added to the MTdb through regular update operations, and/or in blocks in the area or group quarters frame sample for the demographic surveys. FRs will update existing address information and, when necessary, contact individuals to collect accurate location and mailing address information. In general, contact with a household will occur only when the FR is adding a unit to the address list, there is a missing mailing address flag, and/or the individual's address is not posted or visible to the FR. There is no pre-determined or scripted list of questions asked for households as part of this listing operation. If an address is not posted or visible to the FR, the FR will ask about the address of the structure, the mailing address, and, in some instances, the year the structure was built. If the occupants of these households are not at home, the FR may attempt to contact a neighbor to obtain the correct address information. DAAL will collect Group Quarters (GQ) information from all GQs in the selected blocks, there is not scripted list of questions, the FRs will ask information about the GQ such as the number of beds, the GQ name, and so on.

DAAL is an ongoing operation. Listing assignments are distributed quarterly with the work conducted throughout the time period. We expect the DAAL listing operation will be conducted throughout the entire time period of the extension.

MAF Coverage Study

The MAF Coverage Study (MAFCS) is an ongoing Address Canvassing operation designed to produce MAF

coverage estimates at national and sub-national levels. In addition, MAFCS will evaluate the in-office address canvassing operation and provide continuous updates to the MAF for current surveys and the Census. MAFCS leverages existing Census Bureau programs and systems to achieve these objectives. Data collection for MAFCS will occur using DAAL and DAAL staff; hence, there will be a large increase to the DAAL operation workload.

II. Method of Collection

The primary method of data collection for most operations/evaluations will be personal observation or personal interview by FRs using the operation/evaluation's listing form or questionnaire. In some cases, the interview could be by telephone callback if no one was home during the initial visit.

III. Data

OMB Control Number: 0607–0809.

Form Number: Some form numbers for activities have not yet been assigned.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents:

FY16: 60,000 HH
2,000 GQs
FY17: 60,000 HH
2,000 GQs
FY18: 60,000 HH
2,000 GQs

Estimated Time per Response: 3 min/HH; 10 min/GQ

Estimated Total Annual Burden Hours:

FY16: 3,333
FY17: 3,333
FY18: 3,333

Estimated Total Annual Cost to Public: $0

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Sections 141 and 193.

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: October 2, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–25506 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review and new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The period of review (POR) for the administrative review and new shipper reviews is September 1, 2013, through August 31, 2014. The Department preliminarily determines that China Kingdom (Beijing) Import & Export Co., Ltd. (China Kingdom), Deyan Aquatic Products and Food Co., Ltd. (Deyan Aquatic), Hubei Yuesheng Aquatic Products Co., Ltd. (Hubei Yuesheng), and Weishan Hongda Aquatic Food Co., Ltd (Weishan Hongda) have not made sales of subject merchandise in the United States at prices below normal value. With respect to Shanghai Ocean Flavor International Trading Co., Ltd. (Shanghai Ocean), see section below entitled *''Separate Rate for a Non-Selected Company.''*

DATES: Effective Date: October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla (China Kingdom), Andre Gziryan (Deyan Aquatic), Bryan Hansen (Hubei Yuesheng) or Catherine Cartsos (Weishan Hongda), AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3477, (202) 482–2201, (202) 482–3683, or (202) 482–1757, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the antidumping duty order is freshwater crawfish tail meat, which is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10, 1605.40.10.90, 0306.19.00.10, and 0306.29.00.00. On February 10, 2012, the Department added HTSUS classification number 0306.29.01.00 to the scope description pursuant to a request by U.S. Customs and Border Protection (CBP). While the HTSUS numbers are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[1]

Methodology

The Department conducted these reviews in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export Price is calculated in accordance with section 772(c) of the Act. Because the PRC is a non-market economy (NME) within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* 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 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/index.html.* The signed Preliminary Decision Memorandum and the electronic versions are identical in content.

[1] *See* the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

Separate Rate for a Non-Selected Company

Shanghai Ocean is the only exporter of crawfish tail meat from the PRC that demonstrated its eligibility for a separate rate which was not selected for individual examination in this administrative review. The calculated rates of the respondents selected for individual examination are all zero. We conclude that, in this case a reasonable method for determining the rate for the non-selected company, Shanghai Ocean, is to apply the average of the zero margins calculated for the two mandatory respondents in the administrative review, China Kingdom and Deyan Aquatic. For a detailed discussion, *see* Preliminary Decision Memorandum.

Preliminary Results of Reviews

The Department determines that the following preliminary dumping margins exist for the administrative review covering the period September 1, 2013, through August 31, 2014:

Producer/exporter	Weighted average dumping margin (percent)
China Kingdom (Beijing) Import & Export Co., Ltd	0.00
Deyan Aquatic Products and Food Co., Ltd	0.00
Shanghai Ocean Flavor International Trading Co., Ltd	0.00

As a result of the new shipper reviews, the Department preliminarily determines that dumping margins of 0.00 percent exist for merchandise produced and exported by Hubei Yuesheng Aquatic Products Co., Ltd. and for merchandise produced and exported by Weishan Hongda Aquatic Food Co., Ltd. covering the period September 1, 2013, through August 31, 2014.

Disclosure and Public Comment

The Department will disclose calculations performed in these preliminary results to parties within five days after the date of publication of this notice.[2] Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs no later than 30 days after the date of publication of these preliminary results of review.[3] Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the time limit for filing the case briefs, as specified by 19 CFR 351.309(d).

Interested parties who wish to request a hearing, must submit a written request to the Assistant Secretary for Enforcement and Compliance. All documents must be filed electronically using ACCESS which is available to registered users at *http://access.trade.gov.* An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[4] Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing, which will be held at the U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined.[5] Parties should confirm by telephone or email the date, time, and location of the hearing.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act, the Department will issue the final results of these reviews, including the results of its analysis of issues raised by parties in their comments, within 120 days after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rates

Upon issuing the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews.[6] If a respondent's weighted average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of these reviews, the Department will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and, where possible, the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). In these preliminary results, the Department applied the assessment rate calculation method adopted in the *Final Modification for Reviews, i.e.,* on the basis of monthly average-to-average comparisons using only the transactions associated with the importer with offsets being provided for non-dumped comparisons.[7] Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. [8]

Pursuant to the Department's assessment practice in NME cases,[9] for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. We intend to issue assessment instructions to CBP 15 days after the date of publication of the final results of these reviews.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 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 these reviews (except if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, then no cash deposit will be required) (2) for previously investigated or reviewed PRC and non-PRC 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 PRC 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 PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter.

With respect to Hubei Yuesheng, a new shipper respondent, the Department established a combination cash deposit rate for this company

[2] *See* 19 CFR 351.224(b).

[3] *See* 19 CFR 351.309(c).

[4] *See* 19 CFR 351.310(c).

[5] *Id.*

[6] *See* 19 CFR 351.212(b)(1).

[7] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[8] *See* 19 CFR 351.106(c)(2).

[9] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

consistent with its practice as follows: (1) For subject merchandise produced and exported by Hubei Yuesheng, the cash deposit rate will be the rate established for Hubei Yuesheng in the final results of the NSR; (2) for subject merchandise exported by Hubei Yuesheng, but not produced by Hubei Yuesheng, the cash deposit rate will be the rate for the PRC-wide entity; and (3) for subject merchandise produced by Hubei Yuesheng but not exported by Hubei Yuesheng, the cash deposit rate will be the rate applicable to the exporter.

With respect to Weishan Hongda, a new shipper respondent, the Department established a combination cash deposit rate for this company consistent with its practice as follows: (1) For subject merchandise produced and exported by Weishan Hongda, the cash deposit rate will be the rate established for Weishan Hongda in the final results of the NSR; (2) for subject merchandise exported by Weishan Hongda, but not produced by Weishan Hongda, the cash deposit rate will be the rate for the PRC-wide entity; and (3) for subject merchandise produced by Weishan Hongda but not exported by Weishan Hongda, the cash deposit rate will be the rate applicable to the exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 these PORs. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing the preliminary results of these reviews in accordance with sections 751(a)(1), 751(a)(2)(B)(iv), 751(a)(3), 777(i) of the Act and 19 CFR 351.213(h), 351.214 and 351.221(b)(4).

Dated: September 30, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2015–25412 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 14–1A004]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review to DFA of California, Application no. 14–1A004.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (''OTEA'') of the International Trade Administration, Department of Commerce, issued an amended Export Trade Certificate of Review to DFA of California on September 17, 2015. The original Certificate was issued on March 2, 2015.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325 (2015). OTEA is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary to publish a summary of the certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of the Amendment to the Certificate: Add the following six companies as Members of DFA's Certificate, with respect to the covered products listed below:

- Walnuts: CR Crain and Sons, Inc. (Los Molinos, CA); RPC Packing, Inc. (Porterville, CA); CAPEX (Corning, CA)
- Prunes: Taylor Brothers Farms, Inc (Yuba City, CA); RPC Packing, Inc. (Porterville, CA); Sun-Maid Growers of California (Kingsburg, CA)
- Figs: Fig Garden Packing, Inc. (Fresno, CA)

DFA's Export Trade Certificate of Review complete amended Membership is listed below:

1. Alpine Pacific Nut Company, Hughson, CA
2. Andersen & Sons Shelling, Vina, CA
3. Avanti Nut Company, Inc., Stockton, CA
4. Berberian Nut Company, LLC, Chico, CA
5. Carriere Family Farms, Inc., Glenn, CA
6. California Almond Packers and Exporters (CAPEX), Corning, CA
7. Continente Nut LLC, Oakley, CA
8. C. R. Crain & Sons, Inc., Los Molinos, CA
9. Crain Walnut Shelling, Inc., Los Molinos, CA
10. Crisp California Walnuts, Stratford, CA
11. Diamond Foods, Inc., Stockton, CA
12. Empire Nut Company, Colusa, CA
13. Fig Garden Packing, Inc., Fresno, CA
14. Gold River Orchards, Inc., Escalon, CA
15. Grower Direct Nut Company, Hughson, CA
16. GSF Nut Company, Orosi, CA
17. Guerra Nut Shelling Company, Hollister, CA
18. Hill View Packing Company Inc., Gustine, CA
19. Linden Nut Company, Linden, CA
20. Mariani Nut Company, Winters, CA
21. Mariani Packing Company, Inc., Vacaville, CA
22. Mid Valley Nut Company Inc., Hughson, CA
23. National Raisin Company, Fowler, CA
24. Poindexter Nut Company, Selma, CA
25. Prima Noce Packing, Linden, CA
26. RPC Packing Inc., Porterville, CA
27. Sacramento Packing, Inc., Yuba City, CA
28. Sacramento Valley Walnut Growers, Inc., Yuba City, CA
29. San Joaquin Figs, Inc., Fresno, CA
30. Shoei Foods USA, Inc., Olivehurst, CA

31. Stapleton-Spence Packing, Gridley, CA
32. Sun-Maid Growers of California, Kingsburg, CA
33. Sunsweet Growers Inc., Yuba City, CA
34. Taylor Brothers Farms, Inc., Yuba City, CA
35. T.M. Duche Nut Company, Inc., Orland, CA
36. Wilbur Packing Company, Inc., Live Oak, CA
37. Valley Fig Growers, Fresno, CA

Dated: October 1, 2015.

Joseph E. Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration.

[FR Doc. 2015–25449 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–844]

Narrow Woven Ribbons with Woven Selvedge from Taiwan; Preliminary Results of 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 an administrative review of the antidumping duty order on narrow woven ribbons with woven selvedge from Taiwan. The review covers two producers/exporters of the subject merchandise. The Department selected one mandatory respondent for individual examination, Roung Shu Industry Corporation (Roung Shu). The POR is September 1, 2013, through August 31, 2014. We preliminarily determine that sales of subject merchandise to the United States have been made at prices below normal value (NV). We invite all interested parties to comment on these preliminary results.

DATES: Effective date: October 7, 2015.

FOR FURTHER INFORMATION CONTACT: David Crespo or Alice Maldonado, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3693 and (202) 482–4682, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to this order covers narrow woven ribbons with woven selvedge.[1] The merchandise subject to this order is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050 and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise covered by this order is dispositive.

Methodology

The Department is conducting this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. A list of the topics included in the Preliminary Decision Memorandum is attached as an Appendix to this notice. 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 it is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://trade.gov/enforcement*. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Rate for Non-Selected Companies

The statute and the Department's regulations do not address what rate to apply to respondents not selected for individual examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for non-selected respondents that are not examined individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis,* or based entirely on facts available, the Department may use ''any reasonable method'' for assigning a rate to non-examined respondents.

For these preliminary results, we calculated a zero margin for Roung Shu. Therefore, we preliminarily determine that, consistent with section 735(c)(5)(B), we will assign A-Madeus Textile Ltd. (A-Madeus), the respondent not selected for individual examination, the most recent above *de minimis* margin calculated for a mandatory respondent, which is from the previous administrative review. As discussed in the Preliminary Decision Memorandum, this is consistent with the Department's practice and the documented history of dumping in this case since the imposition of the order. Using this method, we are preliminarily assigning a margin of 30.64 percent to A-Madeus for these preliminary results.[2]

Preliminary Results of the Review

The Department preliminarily determines that the following weighted-average dumping margins exist:

Producer/exporter	Dumping margin (percent)
Roung Shu Industry Corporation (Roung Shu)	0.00
A-Madeus Textile Ltd. (A-Madeus)	30.64

Disclosure and Public Comment

The Department intends to disclose the calculations performed in connection with these preliminary results to interested parties within five

[1] For a complete description of the scope of the Order, *see* ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Narrow Woven Ribbons with Woven Selvedge from Taiwan,'' from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance (Preliminary Decision Memorandum), dated concurrently with this notice.

[2] This margin is from the 2012–2013 administrative review. *See Narrow Woven Ribbons With Woven Selvedge From Taiwan; Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 19635 (April 13, 2015).

days after the date of publication of this notice.[3] Interested parties may submit case briefs to the Department no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[4] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[5] Case and rebuttal briefs should be filed using ACCESS.[6]

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, filed electronically via ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[7] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[8]

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

Assessment Rates

Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[9]

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. For the company which was not selected for individual review (*i.e.,* A-Madeus), we will assign an assessment rate based on the methodology described in the ''Rate for Non-Selected Companies'' section, above. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[10]

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be equal to the dumping margins established in the final results of this administrative review, unless the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.37 percent, the all-others rate determined in the less-than-fair-value investigation.[11] These cash 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) 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

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 30, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2015–25571 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–843]

Certain Lined Paper Products From India: Notice of Preliminary Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain lined

[3] *See* 19 CFR 351.224(b).

[4] *See* 19 CFR 351.309(d).

[5] *See* 19 CFR 351.309(c)(2) and (d)(2).

[6] *See* 19 CFR 351.303.

[7] *See* 19 CFR 351.310(c).

[8] *Id.*

[9] *See* 19 CFR 351.212(b)(1).

[10] *See* section 751(a)(2)(C) of the Act.

[11] *See Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Amended Antidumping Duty Orders,* 75 FR 56982, 56985 (Sept. 17, 2010).

paper products (CLPP) from India.[1] The period of review (POR) is September 1, 2013, through August 31, 2014.[2] We preliminarily determine that during the POR, mandatory respondent Kokuyo Riddhi [3] made sales of subject merchandise at less than normal value (NV) and mandatory respondent SAB International (SAB) did not. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson or George McMahon, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; telephone (202) 482–3797 or (202) 482–1167, respectively.

Scope of the Order

The merchandise covered by the *CLPP Order* is certain lined paper products. The merchandise subject to this order is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.[4]

Methodology

The Department is conducting this review in accordance with Section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export prices have been calculated in accordance with section 772 of the Act. Normal value has been calculated in accordance with section 773 of the Act. Because we disregarded the below-cost sales of Kokuyo Riddhi in the most recent administrative review of these companies completed before the initiation of this review,[5] we have reasonable grounds to believe or suspect that Kokuyo Riddhi's sales of the foreign like product under consideration for the determination of normal value in this review have been made at prices below the cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we have conducted a COP analysis of Kokuyo Riddhi's sales. Based on this test, we disregarded certain sales made by Kokuyo Riddhi in its comparison market which were made at below-cost prices.[6]

For a full description of the methodology underlying our conclusions, please 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 available to all parties in the Central Records Unit (CRU), 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/index.html*. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Calculation of Normal Value Based on Constructed Value

SAB reported that it made no sales to the home market.[7] Pursuant to 773(a)(1)(C)(i) of the Act, we examined SAB's third country sales and have determined that such sales do not constitute a viable comparison market (CM) within the meaning of section 773(a)(1)(B)(ii)(II) of the Act.[8] Therefore, for these preliminary results, we relied on constructed value (CV) as the basis for calculating NV, in accordance with section 773(a)(4) and (e) of the Act.[9]

Preliminary Results of the Review

As a result of this review, we preliminarily determine the following weighted-average dumping margins for the POR:

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006) (*CLPP Order*).

[2] The Department initiated the review with regard to seven companies: Kokuyo Riddhi Paper Products Private Limited (Kokuyo Riddhi), Marisa International (Marisa), Navneet Publications (India) Ltd./Navneet Education Limited (Navneet), Pioneer Stationery Private Limited (Pioneer), Riddhi Enterprises (Riddhi), SAB International (SAB), and Super Impex (AKA M/S Super Impex) (Super Impex). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 64565 (October 30, 2014). We subsequently rescinded the review for three companies: Marisa, Pioneer, and Super Impex. *See Certain Lined Paper Products From India: Partial Rescission of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 15553 (March 24, 2015).

[3] The Department has determined that Kokuyo Riddhi Paper Products Private Limited (Kokuyo Riddhi) is the successor-in-interest to Riddhi Enterprises. *See Certain Lined Paper Products From India: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 80 FR 18373 (April 6, 2015) (*Final Results of CCR—Kokuyo Riddhi*), and the accompanying Issues and Decision Memorandum. Accordingly, we refer to Kokuyo Riddhi and Riddhi Enterprises as Kokuyo Riddhi in this review.

[4] For a complete description of the Scope of the Order, *see* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Lined Paper Products from India; 2013–2014'' dated concurrently with these results and hereby adopted by this notice (Preliminary Decision Memorandum).

[5] *See Certain Lined Paper Products From India: Final Results of Antidumping Duty Administrative Review; 2010–2011,* 78 FR 22232 (April 15, 2013), as amended in *Certain Lined Paper Products from India: Notice of Correction to the Final Results of Antidumping Duty Administrative Review; 2010–2011,* 80 FR 29300 (May 21, 2015).

[6] On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and countervailing duty law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production. *See* Trade Preferences Extension Act of 2015, Pub. L. 114–27, 129 Stat. 362 (2015) (TPEA). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015). The amendments to section 773(b)(2) of the Act are applicable to determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. *Id.,* 80 FR at 46795. Because in this review questionnaires had been issued prior to the applicability date, these specific amendments do not apply to this review. *Id.,* 80 FR at 46794–95. The 2015 amendments may be found at *https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.*

[7] *See* SAB's Section A questionnaire response dated January 26, 2015 (SAB's Sec AQR) at Exhibit A–1 and page 2.

[8] *See* SAB's Sec AQR; *see also* revised data in SAB's Section A–D supplemental questionnaire response dated April 27, 2015 at Exhibits S1–1 (a), Exhibits S1–1 (b), and the accompanying SAB's U.S. and Third Country sales database for sales during the POR.

[9] *See* Preliminary Decision Memorandum at 12.

[10] The margin for Navneet is the calculated weighted-average margin of Kokuyo Riddhi, the sole mandatory respondent receiving a margin that is above *de minimis* in these preliminary results. For further discussion, *see* the Preliminary Decision Memorandum at the ''Margin for Company Not Selected for Individual Examination'' section.

Producer/exporter	Weighted-average dumping margin (percent)
Kokuyo Riddhi Paper Products Private Limited (formerly known as Riddhi Enterprises).	11.77
SAB International	*de minimis*
Navneet Publications (India) Ltd./Navneet Education Limited [10].	11.77

Assessment Rate

Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. For any individually examined respondents whose weighted-average dumping margin is above *de minimis,* we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[11] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.,* 0.50 percent). Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review where applicable.

In accordance with the Department's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by each respondent for which they did not know that their merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Kokuyo Riddhi and SAB will be the rates established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently 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 3.91 percent, the all-others rate established in the investigation.

Disclosure and Public Comment

The Department intends to disclose to interested parties to this proceeding the calculations performed in connection with these preliminary results within five days after the date of publication of this notice.[12] Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[13] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[14] All case and rebuttal briefs must be filed electronically using ACCESS, and must also be served on interested parties.[15] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Executive summaries should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[16] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. 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 time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless the deadline is extended pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.213(h)(2), the Department intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their case and rebuttal briefs, within 120 days after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Notification to Importers

This notice 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 and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of review are issued and published in accordance

[11] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[12] *See* 19 CFR 351.224(b).

[13] *See* 19 CFR 351.309(d).

[14] *See* 19 CFR 351.309(c)(2) and (d)(2).

[15] *See* 19 CFR 351.303(f).

[16] *See* 19 CFR 351.310(c).

with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 30, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2015–25572 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent To Conduct Scoping and To Prepare a Draft Environmental Impact Statement for the Proposed Wisconsin—Lake Michigan National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of intent to conduct scoping, hold public scoping meetings and to prepare a draft environmental impact statement and management plan.

SUMMARY: In accordance with section 304(a) of the National Marine Sanctuaries Act, as amended, (NMSA) (16 U.S.C. 1431 *et seq.*), and based on the resources and boundaries described in the community-based nomination submitted to NOAA on December 2, 2014 (*www.nominate.noaa.gov/nominations*), NOAA is initiating a process to consider designating an area of Wisconsin's Lake Michigan as a national marine sanctuary. The designation process, as required by the NMSA, will be conducted concurrently with a public process under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*). This notice also informs the public that NOAA will coordinate its responsibilities under section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470) with its ongoing NEPA process, pursuant to 36 CFR 800.8(a), including the use of NEPA documents and public and stakeholder meetings to also meet the requirements of section 106. The public scoping process is intended to solicit information and comments on the range of issues and the significant issues to be analyzed in depth in an environmental impact statement related to designating this area as a national marine sanctuary. The results of this scoping process will assist NOAA in moving forward with the designation process and in formulating alternatives for the draft environmental impact statement and proposed regulations, including developing national marine sanctuary boundaries. It will also inform the initiation of any consultations with federal, state, or local agencies and other interested parties, as appropriate.

DATES: Comments must be received by January 15, 2016. Public scoping meetings will be held as detailed below:

(1) Manitowoc, WI
Date: November 17, 2015
Location: Wisconsin Maritime Museum
Address: 75 Maritime Drive, Manitowoc, WI
Time: 6:30–8:30 p.m.

(2) Port Washington, WI
Date: November 18, 2015
Location: Wilson House
Address: 200 N. Franklin St., Port Washington, WI
Time: 6:30–8:30 p.m.

(3) Sheboygan, WI
Date: November 19, 2015
Location: University of Wisconsin-Sheboygan, Main Building, Wombat Room (Room 2114)
Address: 1 University Drive, Sheboygan, WI
Time: 6:30–8:30 p.m.

ADDRESSES: Comments may be submitted by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov//#!docketDetail;D=NOAA-NOS-2015-0112,* click the ''Comment Now!'' icon, complete the required fields and enter or attach your comments.
- *Mail:* Ellen Brody, Great Lakes Regional Coordinator, 4840 S State Road, Ann Arbor, MI 48108–9719.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily submitted by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Ellen Brody, Great Lakes Regional Coordinator, 734–741–2270, *ellen.brody@noaa.gov*

SUPPLEMENTARY INFORMATION:

I. Background

The NMSA authorizes the Secretary of Commerce (Secretary) to designate and protect as national marine sanctuaries areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities. Day-to-day management of national marine sanctuaries has been delegated by the Secretary to ONMS. The primary objective of the NMSA is to protect the biological and cultural resources of the sanctuary system, such as coral reefs, marine animals, historic shipwrecks, historic structures, and archaeological sites.

The area being considered for designation as a national marine sanctuary is a region that includes 875 square miles of Lake Michigan waters and bottomlands adjacent to Manitowoc, Sheboygan, and Ozaukee counties and the cities of Port Washington, Sheboygan, Manitowoc, and Two Rivers. It includes 80 miles of

shoreline and extends 9 to 14 miles from the shoreline. The area contains an extraordinary collection of submerged maritime heritage resources as demonstrated by the listing of 15 shipwrecks on the National Register of Historic Places. The area includes 39 known shipwrecks, 123 reported vessel losses, numerous other historic maritime-related features, and is adjacent to communities that have embraced their centuries-long relationship with Lake Michigan.

This collection of shipwrecks is nationally significant because of the architectural and archaeological integrity of the shipwrecks, the representative nature of the sample of vessels, their location on one of the nation's most important transportation corridors, and the potential for the discovery of other shipwrecks and submerged pre-contact cultural sites. The historic shipwrecks are representative of the vessels that sailed and steamed this corridor, carrying grain and raw materials east as other vessels came west loaded with coal. Many of the shipwrecks retain an unusual degree of architectural integrity, with 15 vessels that are intact. NOAA encourages the public to review the full nomination at *www.nominate.noaa.gov/nominations.*

II. Need for Action

Wisconsin Governor Scott Walker, on behalf of the State of Wisconsin; the Cities of Two Rivers, Manitowoc, Sheboygan, and Port Washington; the Counties of Manitowoc, Sheboygan, and Ozaukee submitted a nomination to NOAA on December 2, 2014 through the Sanctuary Nomination Process (SNP) (79 FR 33851) asking NOAA to consider designating this area of Wisconsin's Lake Michigan waters as a national marine sanctuary. The State of Wisconsin's selection of this geographic area for the nomination drew heavily from a 2008 report conducted by the Wisconsin History Society and funded by the Wisconsin Coastal Management Program (*Wisconsin's Historic Shipwrecks: An Overview and Analysis of Locations for a State/Federal Partnership with the National Marine Sanctuary Program,* 2008). This report analyzed all Wisconsin shipwrecks in both Lake Superior and Lake Michigan, concluding that the 875-square-mile area in the nomination had the best potential for a national marine sanctuary designation based on the national significance of the shipwrecks. The nomination also identified opportunities for NOAA to strengthen and expand on resource protection, education, and research programs by state of Wisconsin agencies and in the four communities along the Lake Michigan coast.

NOAA is initiating the process to designate this area as a national marine sanctuary based on the nomination submitted to the agency as part of the SNP. NOAA's review of the nomination against the criteria and considerations of the SNP, including the requirement for broad-based community support indicated strong merit in proposing this area as a national marine sanctuary. NOAA completed its review of the nomination on February 5, 2015, and added the area to the inventory of nominations that are eligible for designation. Designation under the NMSA would allow NOAA to supplement and complement work by the State of Wisconsin and other federal agencies to protect this collection of nationally significant shipwrecks.

III. Process

The process for designating the Wisconsin–Lake Michigan area as a national marine sanctuary includes the following stages:

1. Public Scoping Process—Information collection and characterization, including the consideration of public comments received during scoping;

2. Preparation and release of draft designation documents including a draft environmental impact statement (DEIS) that identifies boundary alternatives, a draft management plan (DMP), as well as a notice of proposed rulemaking (NPRM) to define proposed sanctuary regulations. Draft documents would be used to initiate consultations with federal, state, or local agencies and other interested parties, as appropriate;

3. Public review and comment on the DEIS, DMP and NPRM;

4. Preparation and release of a final environmental impact statement, final management plan, including a response to public comments, with a final rule and regulations, if appropriate.

With this notice, NOAA is initiating a public scoping process to:

1. Gather information and public comments from individuals, organizations, and government agencies on the designation of the Wisconsin–Lake Michigan area as a national marine sanctuary based on the community-based nomination of December 2014, especially: (a) The spatial extent of the proposed boundary; and (b) the resources that would be protected;

2. Help determine the scope and significance of issues to be addressed in the preparation of an environmental analysis under NEPA including socioeconomic impacts of designation, effects of designation on cultural and biological resources, and threats to resources within the proposed area;

3. Help determine the proposed action and possible alternatives pursuant to NEPA and to conduct any appropriate consultations.

IV. Consultation Under Section 106 of the National Historic Preservation Act

This notice confirms that NOAA will fulfill its responsibility under section 106 of the National Historic Preservation Act (NHPA) through the ongoing NEPA process, pursuant to 36 CFR 800.8(a) including the use of NEPA documents and public and stakeholder meetings to meet the section 106 requirements. The NHPA specifically applies to any agency undertaking that may affect historic properties. Pursuant to 36 CFR 800.16(1)(1), historic properties includes: ''any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. The term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.''

In fulfilling its responsibility under the NHPA and NEPA, NOAA intends to identify consulting parties; identify historic properties and assess the effects of the undertaking on such properties; initiate formal consultation with the State Historic Preservation Officer, the Advisory Council of Historic Preservation, and other consulting parties; involve the public in accordance with NOAA's NEPA procedures, and develop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects on historic properties and describe them in any environmental assessment or draft environmental impact statement.

Authority: 16 U.S.C. 1431 et seq

Dated: September 30, 2015.

John Armor,

Acting Director for the Office of National Marine Sanctuaries.

[FR Doc. 2015–25509 Filed 10–5–15; 11:15 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XS35

Marine Mammals; File No. 14450

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that a major amendment to Permit No. 14450–03 has been issued to the National Marine Fisheries Service's Southeast Fisheries Science Center (SEFSC), 75 Virginia Beach Drive, Miami, FL 33149 [Responsible Party: Bonnie Ponwith, Ph.D.].

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the following offices: Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On July 9, 2015, notice was published in the **Federal Register** (80 FR 39411) that a request for an amendment to Permit No. 14450–02 to conduct research on cetaceans had been submitted by the above-named applicant. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit amendment authorizes takes by harassment of non-ESA listed cetaceans during vessel surveys to support NMFS stock assessments as follows: 40 Bryde's whales (*Balaenoptera edeni*), 40 of each species of short-finned (*Globicephala macrorhynchus*) and long-finned (*G. melas*) pilot whales, and 20 individuals each of the 21 other authorized non-listed cetacean species, annually. Tags would be either suction cup attachments or minimally invasive dart attachments. A maximum of 2 tags could be placed on an animal at one time. Adults of both sexes without calves would be tagged. In addition, import and export of marine mammal samples from sources, other than current biopsy sampling, is authorized. The permit expires on February 28, 2019.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: October 1, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–25502 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE230

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Horseshoe Crabs; Application for Exempted Fishing Permit, 2015

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

ACTION: Notification of a proposal to conduct exempted fishing; request for comments.

SUMMARY: The Director, Office of Sustainable Fisheries, has made a preliminary determination that the subject exempted fishing permit (EFP) application submitted by Limuli Laboratories of Cape May Court House, NJ, contains all the required information and warrants further consideration. The proposed EFP would allow the harvest of up to 10,000 horseshoe crabs from the Carl N. Shuster Jr. Horseshoe Crab Reserve (Reserve) for biomedical purposes and require, as a condition of the EFP, the collection of data related to the status of horseshoe crabs within the reserve. The Director has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Atlantic States Marine Fisheries Commission's (Commission) Horseshoe Crab Interstate Fisheries Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Director, Office of Sustainable Fisheries, proposes to recommend that an EFP be issued that would allow up to two commercial fishing vessels to conduct fishing operations that are otherwise restricted by the regulations promulgated under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act). The EFP would allow for an exemption from the Reserve.

Regulations under the Atlantic Coastal Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Written comments on this action must be received on or before October 19, 2015.

ADDRESSES: Written comments should be sent to Alan Risenhoover, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910. Mark the outside of the envelope ''Comments on Horseshoe Crab EFP Proposal.'' Comments may also be sent via fax to (301) 713–0596. Comments on this notice may also be submitted by email to: *nmfs.state-federal@noaa.gov*. Include in the subject line of the email comment the following document identifier: ''Horseshoe Crab EFP Proposal Comments.''

FOR FURTHER INFORMATION CONTACT: Derek Orner, Office of Sustainable Fisheries, (301) 427–8567.

SUPPLEMENTARY INFORMATION:

Background

Limuli Laboratories submitted an application for an EFP dated January 31, 2014, to collect up to 10,000 horseshoe crabs for biomedical and data collection purposes from the Reserve. The applicant has applied for, and received, a similar EFP every year from 2001–2013. The current EFP application specifies that: (1) The same methods would be used that were used in years 2001–2013, (2) at least 15 percent of the bled horseshoe crabs would be tagged, and (3) there had not been any sighting or capture of marine mammals or endangered species in the trawling nets of fishing vessels engaged in the collection of horseshoe crabs since 1993. The project submitted by Limuli Laboratories would provide morphological data on horseshoe crab catch, would tag a portion of the caught horseshoe crabs, and would use the blood from the caught horseshoe crabs to manufacture Limulus Amebocyte Lysate (LAL), an important health and safety product used for the detection of endotoxins. The LAL assay is used by medical professionals, drug companies, and pharmacies to detect endotoxins in intravenous pharmaceuticals and medical devices that come into contact with human blood or spinal fluid.

Result of 2013 EFP

During the 2013 season, a total of 3,500 horseshoe crabs were gathered over a period of ten days, from the Reserve for the manufacture of LAL. After transportation to the laboratory, the horseshoe crabs were inspected for size, injuries, and responsiveness. The injured horseshoe crabs numbered 272, or 7.8% of the total, while 36, or 1.0%, were noted as slow moving. In addition, three horseshoe crabs were rejected due to small size. Overall, 3,189 horseshoe crabs were used (bled) in the manufacture of LAL. Two hundred of the bled horseshoe crabs were randomly selected for activity, morphometric and aging studies. The activity level was categorized as ''active'' for 192 studied animals and ''extremely active'' for eight. Morphometric studies noted that average inter-ocular distances, the prosoma widths and the weights of these 200 horseshoe crabs trended toward the higher end of the range established over the study period (2001–2011). Of the 200 horseshoe crabs examined in 2013, more than half (57%) were categorized as medium aged followed by young (37%). Older animals numbered 10 or 5% which is much less than the percentages reported in 2010 and 2011 and similar to the 2007 year.

The 200 studied horseshoe crabs and 325 additional bled horseshoe crabs were tagged and released into the Delaware Bay. To date, 116 live re-sightings have occurred from the release of 5,463 horseshoe crabs collected from the Reserve. The observed horseshoe crabs were found 1 to 8 years after release, primarily along the Delaware Bay shores during their spawning season.

Data collected under previous EFPs were supplied to NMFS, the Commission and the State of New Jersey. There was no EFP issued for 2014.

Proposed 2015 EFP

Limuli Laboratories proposes to conduct an exempted fishery operation in 2015 using the same means, methods, and seasons proposed/utilized during the EFPs in 2001–2013. Limuli proposes to annually continue to tag at least 15 percent of the bled horseshoe crabs as they did in 2013. NMFS would require that the following terms and conditions be met for issuance of the EFP for 2015:

1. Limiting the number of horseshoe crabs collected in the Reserve to no more than 500 crabs per day and to a total of no more than 10,000 crabs per year;

2. Requiring collections to take place over a total of approximately 20 days during the months of July, August, September, October, and November. (Horseshoe crabs are readily available in harvestable concentrations nearshore earlier in the year, and offshore in the Reserve from July through November.);

3. Requiring that a 5½ inch (14.0 cm) flounder net be used by the vessel to collect the horseshoe crabs. This condition would allow for continuation of traditional harvest gear and adds to the consistency in the way horseshoe crabs are harvested for data collection;

4. Limiting trawl tow times to 30 minutes as a conservation measure to protect sea turtles, which are expected to be migrating through the area during the collection period, and are vulnerable to bottom trawling;

5. Requiring that the collected horseshoe crabs be picked up from the fishing vessels at docks in the Cape May Area and transported to local laboratories, bled for LAL, and released alive the following morning into the Lower Delaware Bay; and

6. Requiring that any turtle take be reported to NMFS, Northeast Region, Assistant Regional Administrator of Protected Resources Division, within 24 hours of returning from the trip in which the incidental take occurred.

As part of the terms and conditions of the EFP, for all horseshoe crabs bled for LAL, NMFS would require that the EFP holder provide data annually on sex ratio and daily harvest. Also, the EFP holder would be required to examine at least 200 horseshoe crabs annually for morphometric data. Terms and conditions may be added or amended prior to the issuance of the EFP or on an annual basis.

The proposed EFP would exempt two commercial vessels from regulations at 50 CFR 697.7(e) and 697.23(f), which prohibit the harvest and possession of horseshoe crabs from the Reserve on a vessel with a trawl or dredge gear aboard.

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

Dated: October 2, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–25540 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent to Conduct Scoping and to Prepare a Draft Environmental Impact Statement for the Proposed Mallows Bay—Potomac River National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of intent to conduct scoping, hold public scoping meetings and to prepare a draft environmental impact statement and management plan.

SUMMARY: In accordance with section 304(a) of the National Marine Sanctuaries Act, as amended, (NMSA) (16 U.S.C. 1431 *et seq.*) and based on the resources and boundaries described in the community-based nomination submitted to NOAA on September 16, 2014 (*nominate.noaa.gov/nominations*) NOAA is initiating a process to consider designating Mallows Bay-Potomac River as a national marine sanctuary. The designation process, as required by the NMSA, will be conducted concurrently with a public process under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*). This notice also informs the public that NOAA will coordinate its responsibilities under section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470) with its ongoing NEPA process, pursuant to 36 CFR 800.8(a), including the use of NEPA documents and public and stakeholder meetings to also meet the requirements of section 106. The public scoping process is intended to solicit information and comments on the range of issues and the significant issues to be analyzed in depth in an environmental impact statement related to designating this area as a national marine sanctuary. The results of this scoping process will assist NOAA in moving forward with the designation process and in formulating alternatives for the draft environmental impact statement and proposed regulations, including developing sanctuary boundaries. It will also inform the initiation of any consultations with federal, state, or local agencies and other interested parties, as appropriate.

DATES: Comments must be received by January 15, 2016. Public scoping meetings will be held as detailed below:

(1) La Plata, MD

Date: November 4, 2015

Location: Charles County Government Building Auditorium
Address: 200 Baltimore Street, La Plata, MD
Time: 6:30–9:00 p.m.
(2) Annapolis, MD
Date: November 10, 2015
Location: Annapolis Maritime Museum
Address: 723 Second Street, Annapolis, MD
Time: 6:30–9:00 p.m.

ADDRESSES: Comments may be submitted by any one of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NOS-2015-0111,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Paul Orlando, Regional Coordinator, Northeast and Great Lakes Region, 410 Severn Ave, Suite 207–A, Annapolis MD 21403.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily submitted by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Paul Orlando, Regional Coordinator, Northeast and Great Lakes Region, (240) 460–1978, *paul.orlando@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NMSA authorizes the Secretary of Commerce (Secretary) to designate and protect as national marine sanctuaries areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities. Day-to-day management of national marine sanctuaries has been delegated by the Secretary to ONMS. The primary objective of the NMSA is to protect the biological and cultural resources of the sanctuary system, such as coral reefs, marine animals, historical shipwrecks, historic structures, and archaeological sites.

The Mallows Bay area of the tidal Potomac River being considered for designation as a national marine sanctuary is an area 40 miles south of Washington, DC off the Nanjemoy Peninsula of Charles County, MD. The area includes submerged lands along the Potomac River that begin at the mean high tide water mark off Sandy Point and extend westward to the low water line just east of the Maryland-Virginia border near Clifton Point, VA. From there, the area extends southward following the Maryland-Virginia border to Brent's Point, VA. It then extends northeast to Smith Point, MD and follows the low water mark north along the Maryland shoreline back to Sandy Point. This area includes the waters of Wades Bay, Blue Banks, Mallows Bay, Liverpool Cove and the Mallows Bay ''Burning Basin'' as far east as the egress for Marlow Creek into the basin itself.

This is an area of national significance featuring unique historical, archaeological, cultural, ecological, and esthetic resources and qualities, which offer opportunities for conservation, education, recreation, and research. Its maritime landscape is home to a diverse collection of historic shipwrecks from the Revolutionary War through the present, totaling nearly 200 known vessels including the remains of the largest ''Ghost Fleet'' of World War I, wooden steamships built for the U.S. Emergency Fleet.

The area's archaeological and cultural resources cover centuries of history from the earliest American Indian presence in the region circa 12,000 years ago to the roles that this area played in the Revolutionary, Civil and two World Wars, as well as in successive regimes of Potomac fishing industries. Its largely undeveloped landscape and waterscape have been identified as one of the most ecologically valuable areas in Maryland, providing important habitat for fish and wildlife, including rare, threatened and endangered species. NOAA encourages the public to review the full nomination at *www.nominate.noaa.gov/nominations.*

II. Need for action

On September 16, 2014, pursuant to Section 304 of the National Marine Sanctuaries Act and the Sanctuary Nomination Process (79 FR 33851), a coalition of community groups submitted a nomination asking NOAA to designate Mallows Bay-Potomac River as a national marine sanctuary. The nomination cited conservation goals to protect and conserve the fragile remains of the Nation's cultural heritage as well as the opportunities to expand public access, recreation, tourism, research, and education to the area.

The Maryland Department of Natural Resources (DNR), Maryland Historical Trust, Maryland Department of Tourism, and Charles County, MD, have worked together with community partners to initiate additional conservation and compatible public access strategies in and around Mallows Bay, consistent with numerous planning and implementation documents. In 2010, DNR purchased a portion of land adjacent to Mallows Bay and made it available to Charles County to create and manage Mallows Bay County Park, the main launch point for access to the historic shipwrecks. Pursuant to the National Historic Preservation Act, Maryland Historical Trust has stewardship and oversight responsibility for the shipwrecks, along with hundreds of other historic sites around the state. Maryland DNR manages the waterbody and associated ecosystem resources, including land use, resource conservation and extraction activities. The lands on either side of Mallows Bay County Park are held by the U.S. Department of Interior's Bureau of Land Management and a private citizen.

DNR and the Mallows Bay Steering Committee convened a committee to discuss the concept of a national marine sanctuary and ultimately to develop the nomination that was submitted to NOAA. The committee, which represented a broad base of constituency groups, employed a consensus-based process to discuss a variety of issues, considerations, and priorities leading up to the nomination. The nomination was endorsed by a diverse coalition of organizations and individuals at local, state, regional and national levels including elected officials, businesses, Native Americans, environmental, recreation, conservation, fishing, tourism, museums, historical societies, and education groups. The nomination identified opportunities for NOAA to protect, study, interpret, and manage the area's unique resources, including by building on existing local, county, and State of Maryland efforts to manage the area for the protection of shipwrecks.

NOAA is initiating the process to designate this area as a national marine sanctuary based on the nomination submitted to the agency as part of the Sanctuary Nomination Process (SNP). NOAA's review of the nomination against the criteria and considerations of the SNP, including the requirement for broad-based community support indicated strong merit in proposing this area as a national marine sanctuary.

NOAA completed its review of the nomination in accordance with the Sanctuary Nomination Process and on January 12, 2015 added the area to the inventory of nominations that are eligible for designation. Designation under the NMSA would allow NOAA to supplement and complement work by the State of Maryland and other federal agencies to protect this collection of nationally significant shipwrecks.

III. Process

The process for designating Mallows Bay-Potomac River as a national marine sanctuary includes the following stages:

1. Public Scoping Process—Information collection and characterization, including the consideration of public comments received during scoping;

2. Preparation and release of draft designation documents including a draft environmental impact statement (DEIS) that identifies boundary alternatives, a draft management plan (DMP), as well as a notice of proposed rulemaking (NPRM) to define proposed sanctuary regulations. Draft documents would be used to initiate consultations with federal, state, or local agencies and other interested parties, as appropriate;

3. Public review and comment on the DEIS, DMP, and NPRM;

4. Preparation and release of a final environmental impact statement, final management plan, including a response to public comments, with a final rule and regulations, if appropriate.

With this notice, NOAA is initiating a public scoping process to:

1. Gather information and public comments from individuals, organizations, and government agencies on the designation of Mallows Bay—Potomac River as a national marine sanctuary based on the community-based nomination of September 2014, especially: a) the spatial extent of the proposed boundary; and b) the resources that would be protected;

2. Help determine the scope and significance of issues to be addressed in the preparation of an environmental analysis under NEPA including socioeconomic impacts of designation, effects of designation on cultural and biological resources, and threats to resources within the proposed area;

3. Help determine the proposed action and possible alternatives pursuant to NEPA and to conduct any appropriate consultations.

IV. Consultation Under Section 106 of the National Historic Preservation Act

This notice confirms that NOAA will fulfill its responsibility under section 106 of the National Historic Preservation Act (NHPA) through the ongoing NEPA process, pursuant to 36 CFR 800.8(a) including the use of NEPA documents and public and stakeholder meetings to meet the section 106 requirements. The NHPA specifically applies to any agency undertaking that may affect historic properties. Pursuant to 36 CFR 800.16(1)(1), historic properties includes: ''any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. The term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.'' In fulfilling its responsibility under the NHPA and NEPA, NOAA intends to identify consulting parties; identify historic properties and assess the effects of the undertaking on such properties; initiate formal consultation with the State Historic Preservation Officer, the Advisory Council of Historic Preservation, and other consulting parties; involve the public in accordance with NOAA's NEPA procedures, and develop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects on historic properties and describe them in any environmental assessment or draft environmental impact statement.

Authority: 16 U.S.C. 1431 *et seq.*

Dated: September 30, 2015.

John Armor,

Acting Director for the Office of National Marine Sanctuaries.

[FR Doc. 2015–25510 Filed 10–5–15; 11:15 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE069

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Kodiak Ferry Terminal and Dock Improvements Project

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to the Alaska Department of Transportation and Public Facilities (DOT&PF) to incidentally harass four species of marine mammals during activities related to the reconstruction of the existing ferry terminal at Pier 1 in Kodiak, AK.

DATES: This authorization is effective from September 30, 2015, through September 29, 2016.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of DOT&PF's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On March 27, 2015, NMFS received an application from the DOT&PF for the taking of marine mammals incidental to reconstructing the existing ferry terminal at Pier 1 in Kodiak, Alaska, referred to as the Kodiak Ferry Terminal and Dock Improvements project (State Project Number 68938). On June 18, 2015 NMFS received a revised application. NMFS determined that the application was adequate and complete on June 25, 2015. DOT&PF proposed to conduct in-water work that may incidentally harass marine mammals (*i.e.,* pile driving and removal). This IHA is valid from September 30, 2015 through September 29, 2016.

Activities included as part of the Kodiak Ferry Terminal and Dock Improvements project (Pier 1 project) with potential to affect marine mammals include vibratory and impact pile-driving operations and use of a down-the-hole (DTH) drill/hammer to install piles in bedrock. The use of impact and vibratory pile driving as well as DTH drilling is expected to produce underwater sound at levels that have the potential to result in limited injury and behavioral harassment of marine mammals. Species with the expected potential to be present during the project timeframe include transient killer whale (*Orcinus orca*), western distinct population segment (wDPS) of Steller sea lion (*Eumetopias jubatus jubatus*), harbor porpoise (*Phocoena phocoena*), and harbor seal (*Phoca vitulina richardii*).

Description of the Specified Activity

Overview

DOT&PF requested an IHA for work that includes removal of the old timber dock and piles and installation of the new dock, including mooring and fender systems. The existing decking, piles, and other dock materials will be removed. Temporary steel H-piles will be installed to support temporary false work structures (*i.e.,* templates). The new dock will be supported by steel piles, and dock fenders will include steel piles and timber piles.

Dates and Duration

Pile installation and extraction associated with the Pier 1 project will begin no sooner than September 30, 2015 and will be completed no later than September 29, 2016 (1 year following IHA issuance). To minimize impacts to pink salmon (*Oncorhynchus gorbuscha*) fry and coho salmon (*O. kisutch*) smolt, all in-water pile extraction and installation is planned to be completed by April 30, 2016. If work cannot be completed by April 30, the Alaska Department of Fish & Game (ADF&G) recommended that the DOT&PF refrain from impact pile installation without a bubble curtain from May 1 through June 30 within the 12-hour period beginning daily at the start of civil dawn (Marie 2015). ADF&G stated that this is the daily time period when the majority of juvenile salmon are moving through the project area, and a 12-hour quiet period may protect migrating juvenile salmon from excessive noise (Frost 2015). Impact pile installation would be acceptable without a bubble curtain from May 1 through June 30 in the evenings, beginning at 12 hours past civil dawn (Marie 2015). At this time, DOT&PF does not propose using bubble curtains. However, it is possible that in-water work may extend past April 30 in compliance with the mitigation for salmon as recommended by ADF&G.

The Kodiak Pier 1 Project is estimated to require 120 total days of in-water pile extraction and installation construction work, which includes vibratory driving, impact driving, and down-hole drilling. The total number of in-water pile extraction and installation days (120 days) includes approximately 80 days of vibratory pile extraction and installation, 22 days of impact hammering, and 60 days of down-hole drilling. The 22 days of impact hammering are subsumed within the same 80 days during which extraction and installation will occur. The construction schedule assumes that approximately 20 days of drilling will overlap with impact and vibratory pile driving activities. The project will require an estimated 60 hours of vibratory hammer time, 440 hours of down-hole drilling time, and 2 hours of impact hammer time. DOT&PF has conservatively added a contingency of 25% to the total hours required resulting in 75 hours of vibratory hammer time, 550 hours of down-hole drilling time, and 3 hours of impact hammer time.

Specific Geographic Region

The Kodiak Ferry Terminal and Dock at Pier 1 is located in the City of Kodiak, Alaska, at 57°47′12.78″ N., 152°24′09.73″ W., on the northeastern corner of Kodiak Island, in the Gulf of Alaska. Pier 1 is an active ferry terminal and multi-use dock located in Near Island Channel, which separates downtown Kodiak from Near Island.

Detailed Description of Activities

We provided a description of the proposed action in our **Federal Register** notice announcing the proposed authorization (80 FR 51211; August 24, 2015). Please refer to that document; we provide only summary information here.

DOT&PF plans to construct a new ferry terminal at Pier 1 in Kodiak. The project includes the removal of 196 timber piles and 14 steel piles using a vibratory hammer, crane, and/or clamshell bucket. DOT&PF would install and remove 88 temporary steel pipe or H-piles using a vibratory hammer; install 8 16-in timber and 10 18-in steel piles using a vibratory hammer, and install 88 24-in steel piles using a vibratory hammer, down-hole drill/hammer, and impact hammer. The activities are expected to take place over 120 days, weather permitting. DOT&PF would limit pile driving and removal activities to daylight hours only, however, drilling, would not be limited to daylight hours.

Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on August 24, 2015 (80 FR 51211). During the 30-day public comment period, the Marine Mammal Commission (Commission) submitted a letter. The letter is available on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* All comments specific to the DOT&PF's application that address the statutory and regulatory requirements or findings NMFS must make to issue an IHA are addressed in this section of the **Federal Register** notice.

Comment 1: The Commission recommended that NMFS require AK DOT to (1) re-estimate the Level A and B harassment zones for both vibratory and impact pile driving of the various types of piles based on a 15 log R transmission loss value and/or a Level B harassment threshold of 120-dB re 1 μPa threshold for vibratory pile driving and (2) conduct monitoring of those revised zones rather than the zones stipulated in the **Federal Register** notice.

Response: While we agree generally with the Commission's points, we feel that the deviations from standard practice are supportable. As such, we elect to use transmission loss values based on 18logR for vibratory pile driving and 17logR for impact pile driving while noting that the Alaska Regional Office agreed with our ZOI calculations and used the same methods in their analysis pursuant to section 7 of the ESA. The Commission acknowledges that these issues do not affect the estimated number of takes authorized, and recommends simply that we require DOT&PF to re-estimate the ZOIs and conduct monitoring of the revised zones rather than those stipulated in our notice of proposed authorization. We partially concur with the Commission's recommendation and will require DOT&PF to monitor the revised ZOIs, with the exception of the larger ZOI associated with vibratory driving. The project site is located in a narrowly constrained water body, and local topography and existing structures make it unlikely that the actual insonified area would exceed that estimated in our notice of proposed authorization. We therefore retain that ZOI in the IHA. NMFS appreciates the Commissions concerns and will encourage future applicants to utilize NMFS' methodologies when measuring ambient sound levels for incorporation into future IHA applications.

Description of Marine Mammals in the Area of the Specified Activity

There are four marine mammal species known to occur in the vicinity of the project area which may be subjected to Level A and Level B harassment. These are the killer whale, Steller sea lion, harbor porpoise, and harbor seal.

We have reviewed DOT&PF's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Section 3 of DOT&PF's application as well as the proposed incidental harassment authorization published in the **Federal Register** (80 FR 51211) instead of reprinting the information here. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts which provide information regarding the biology and behavior of the marine resources that occur in the vicinity of the project area. We provided additional information for the potentially affected stocks, including details of stock-wide status, trends, and threats, in our **Federal Register** notice of proposed authorization (80 FR 51211).

Table 1 lists marine mammal stocks that could occur in the vicinity of the existing ferry terminal at Pier 1that may be subject to Level A and B harassment and summarizes key information regarding stock status and abundance. Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars*, for more detailed accounts of these stocks' status and abundance.

TABLE 1—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA

Species	Stock(s) abundance estimate [1]	ESA* status	MMPA** status	Frequency of occurrence
Killer Whale (*Orcinus orca*) *Eastern N. Pacific, Alaska Resident Stock*.	2,347	.....	Non-depleted	Occasional.
Killer Whale (*Orcinus orca*) ..... *Eastern N. Pacific, Gulf of Alaska, Aleutian Islands, and Bering Sea Transient Stock*.	587	.....	Non-depleted	Occasional.
Harbor Porpoise (*Phocoena phocoena*) *Gulf of Alaska Stock*.	31,046	.....	Non-depleted and Strategic.	Occasional.
Steller Sea Lion (*Eumetopias jubatus*) *wDPS Stock*.	52,200	Endangered	Depleted and ..... Strategic	Common.
Harbor Seal (*Phoca vitulina richardii*) *South Kodiak Stock*.	11,117	.....	Non-depleted	Occasional.

[1] NOAA/NMFS 2014 marine mammal stock assessment reports at *http://www.nmfs.noaa.gov/pr/sars/species.htm*.
*ESA = Endangered Species Act
**MMPA = Marine Mammal Protection Act

Potential Effects of the Specified Activity on Marine Mammals

The **Federal Register** notice of proposed authorization (80 FR 51211) provides a general background on sound relevant to the specified activity as well as a detailed description of marine mammal hearing and of the potential effects of these construction activities on marine mammals, and is not repeated here.

Anticipated Effects on Habitat

We described potential impacts to marine mammal habitat in detail in our **Federal Register** notice of proposed authorization. In summary, the project activities would not modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range. Because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences for individual marine mammals or their populations

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses.

Measurements from similar pile driving events were utilized to estimate zones of influence (ZOI; see ''Estimated Take by Incidental Harassment''). ZOIs

are often used to establish a mitigation zone around each pile (when deemed practicable) to identify where Level A harassment to marine mammals may occur, and also provide estimates of the areas Level B harassment zones. ZOIs may vary between different diameter piles and types of installation methods. DOT&PF will employ the following mitigation measures:

(a) Conduct briefings between construction supervisors and crews, marine mammal monitoring team, and DOT&PF's staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(b) For in-water heavy machinery work other than pile driving (using, *e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile).

(c) Utilize pile caps when impact driving is underway.

Monitoring and Shutdown for Pile Driving

The following measures apply to DOT&PF's mitigation through shutdown and disturbance zones:

Shutdown Zone—For all pile driving activities, the DOT&PF's will establish a shutdown zone. Shutdown zones are intended to contain the area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals. A conservative 4-meter shutdown zone will be in effect for Steller sea lions and harbor seals. Note that pile driving operations do not need to shut down if Steller sea lions are observed in the Shutdown zone. Occurrences of sea lions in that zone will be recorded as Level A takes. The shutdown zone for harbor porpoises and killer whales will be 20 meters. DOT&PF, would also implement a minimum shutdown zone of 10 m radius for all marine mammals for in-water heavy machinery work other than pile driving. These precautionary measures are intended to further reduce the unlikely possibility of injury from direct physical interaction with construction operations.

Disturbance Zone—The disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see ''Proposed Monitoring and Reporting''). Nominal radial distances for disturbance zones are shown in Table 2.

During impact driving, the disturbance zone shall extend to 350 meters for Steller sea lions, harbor seals, harbor porpoises, and killer whales. This 350-meter distance will serve as a shutdown zone for all other marine mammals for which take is not authorized (*e.g.* humpback whale, Dall's porpoise, gray whale, fin whale, or any other) to avoid Level B take. Level B take of humpback whales, Dall's porpoises, gray whales, and fin whales is not requested and will be avoided by shutting down before individuals of these species enter the Level B zone.

During vibratory pile installation and removal, the disturbance zone shall extend to 1,150 meters for Steller sea lions, harbor seals, harbor porpoises, and killer whales. This distance will also serve as a shutdown zone for all other marine mammals for which take is not authorized to avoid Level B take.

During DTH drilling, the disturbance zone shall extend to 300meters for species for which take is authorized. This distance will serve as a shutdown zone for all other marine mammals for which take is not authorized to avoid Level B take. Note that per request from the applicant we considered additional information for purposes of developing an appropriate DTH monitoring zone. Our findings are based on 2015 hydroacoustic monitoring conducted near Pier 3 in Kodiak provided recent sound source level values (PND 2015). We considered this the best available information for DTH proxy source levels and used it to derive the DTH disturbance zone radius for this project. This change has no effect on estimated take levels associated with DTH drilling.

Thresholds for Level A and Level B harassment are shown in Table 2.

TABLE 2—MINIMUM RADIAL DISTANCE TO SHUTDOWN AND DISTURBANCE ZONES

Method	Level A		Level B
	Pinnipeds	Cetaceans	Pinnipeds and cetaceans
Vibratory hammer	.....	.....	1150 m
Down-hole Drill (continuous)	.....	.....	300 m
Impact hammer (all with Caps)	4	20	350 m

Time Restrictions—For all in-water pile driving activities, the DOT&PF shall operate up to a maximum of 10 hours per day, which allows time for twilight operations during shortened winter days.

In order to document observed incidents of harassment, observers record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile and the estimated ZOIs for relevant activities (*i.e.,* pile installation and removal). This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

Ramp Up or Soft Start—The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify

the reduction in energy for any given hammer because of variation across drivers. The project will utilize soft start techniques for all vibratory and impact pile driving. We require the DOT&PF to initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a 1-minute waiting period, with the procedure repeated two additional times. For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a 1-minute waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's pile driving work and at any time following a cessation of pile driving of 30 minutes or longer.

If a marine mammal is present within the Level A harassment zone, ramping up will be delayed until the animal(s) leaves the Level A harassment zone. Activity will begin only after the Wildlife Observer has determined, through sighting, that the animal(s) has moved outside the Level A harassment zone or 15 minutes have passed for small odontocetes and pinnipeds and 30 minutes have passed for large and medium-sized whales, including killer whales, without re-detection of the animal.

If a Steller sea lion, harbor seal, harbor porpoise, or killer whale is present in the Level B harassment zone, ramping up will begin and a Level B take will be documented. Ramping up will occur when these species are in the Level B harassment zone whether they entered the Level B zone from the Level A zone, or from outside the project area.

If any marine mammal other than Steller sea lions, harbor seals, harbor porpoises, or killer whales is present in the Level B harassment zone, ramping up will be delayed until the animal(s) leaves the zone. Ramping up will begin only after the Wildlife Observer has determined, through sighting, that the animal(s) has moved outside the harassment zone or 15 minutes have passed for small odontocetes and pinnipeds and 30 minutes have passed for large and medium-sized whales without re-detection of the animal.

Monitoring

Monitoring Protocols—Monitoring would be conducted before, during, and after pile driving. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown and that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from thirty minutes prior to initiation through thirty minutes post-completion of pile driving activities. Pile driving activities include the time to remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by at least two qualified observers, who will be stationed to provide adequate view of the harassment zone mammals. One observer will be stationed on Pier 1 while a second observer may be located on Near Island or another site offering optimal viewing. Observers must be in a location that allows them to implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Monitoring will take place from 30 minutes prior to initiation through 30 minutes post-completion of pile driving activities.

Qualified observers are trained biologists, with the following minimum qualifications:

(a) Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

(b) Education, training, or suitable combination thereof in biological science, wildlife management, mammalogy or related fields. Observers should have field experience in identification and behavior of marine mammals and project-specific training.

(c) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

(d) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(e) Experience or training in protocols to communicate with contractors and operators, including shut down procedures.

(f) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary

(g) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(h) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

(g) Must read and understand the monitoring plan and the IHA; agree to enforce the conditions presented therein, be able to coordinate and communicate with other personnel, and identify and report incidental harassment of marine mammals.

(h) Have no other project-related responsibility other than marine mammal monitoring, documentation, and reporting during observation periods.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for 30 minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, etc.).

If waters exceed a sea-state which restricts the observers' ability to make observations within the marine mammal shutdown zone (*e.g.* excessive wind or fog), pile installation will cease. Pile driving will not be initiated until the entire shutdown zone is visible.

The waters will be scanned 30 minutes prior to commencing pile driving at the beginning of each day, prior to commencing pile driving after any stoppage of 30 minutes or greater, and 30 minutes after driving operations have ceased for the day. If marine mammals enter or are observed within the designated marine mammal shutdown zone during or 30 minutes prior to pile driving, the monitors will notify the on-site construction manager to not begin until the animal has moved outside the designated radius.

If any marine mammal species are encountered during activities that are not listed in Table 1 for authorized taking and are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 120 dB re 1mPa (rms), then the Holder of this Authorization

must stop pile driving activities and report observations to NMFS' Office of Protected Resources.

If a marine mammal approaches or enters the shutdown zone during the course of vibratory pile driving operations, activity will be halted and delayed until he animal has voluntarily left and been visually confirmed beyond the shutdown zone. If a marine mammal is seen above water and then dives below, the contractor would wait 15 minutes for pinnipeds and 30 minutes for cetaceans. If no marine mammals are seen by the observer in that time it will be assumed that the animal has moved beyond the exclusion zone.

Monitoring will be conducted throughout the time required to drive a pile. Marine mammal presence within the Level B harassment zone will be monitored, but vibratory driving or DTH drilling will not be stopped if marine mammals are found to be present. Any marine mammal documented within the Level B harassment zone during these activities would constitute a Level B take (harassment), and will be recorded and reported as such.

Mitigation Conclusions

We have carefully evaluated DOT&PF's proposed mitigation measures and considered their effectiveness in past implementation to determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1 above).

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1 above).

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1 above).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of DOT&PF's proposed measures, including information from monitoring of implementation of mitigation measures very similar to those described here under previous IHAs from other marine construction projects, we have determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should improve our understanding of one or more of the following:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

The DOT&PF consulted with NMFS to create a marine mammal monitoring plan as part of the IHA application for this project.

Visual Marine Mammal Observations

- At least two marine mammal observers (MMOs) meeting the minimum qualifications listed below will monitor the shutdown and disturbance zones during impact driving, vibratory pile driving and down-hole drilling. One observer will be stationed on Pier 1 while a second observer will be located on Near Island or another site offering optimal viewing.
- During all in-water driving and drilling activity, the disturbance zone will be monitored by two observers at locations listed above. The monitoring staff will record any presence of marine mammals by species, will document any behavioral responses noted, and record Level B takes when sightings overlap with pile installation activities.
- The individuals will scan the waters within each monitoring zone activity using binoculars (Vector 10×42 or equivalent), spotting scopes (Swarovski 20–60 zoom or equivalent), and visual observation.

• The area within which the disturbance zone thresholds could be exceeded will be monitored for the presence of marine mammals. Marine mammal presence within these zones, if any, will be monitored but pile driving activity will not be stopped if marine mammals were found to be present. Any marine mammal documented within the disturbance zone will constitute a Level B take, and will be recorded and used to document the number of take incidents.

• If waters exceed a sea-state which restricts the observers' ability to make observations within the marine mammal buffer zone (*e.g.* excessive wind or fog), pile installation will cease until conditions allow the resumption of monitoring.

• The waters will be scanned for 30 minutes before driving operations begin for the day and 30 minutes after any and all pile driving and removal activities cease for the day.

• If marine mammals enter or are observed within the designated marine shutdown zone during or 30 minutes prior to pile driving, the monitors will notify the on-site construction manager to not begin until the animal has moved outside the designated radius.

• If a marine mammal approaches the shutdown zone prior to initiation of pile driving, the DOT&PF cannot commence activities until the marine mammal (a) is observed to have left the Level A harassment zone or (b) or has not been detected for 15 minutes (small odontocetes and pinnipeds) or for 30 minutes (large and medium-sized whales, including killer whales) without re-detection of the animal.

• The waters will continue to be scanned for at least 30 minutes after pile driving has completed each day, and after each stoppage of 30 minutes or greater.

Data Collection

Observers are required to use approved data forms. Among other pieces of information, DOT&PF will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the DOT&PF will attempt to distinguish between the number of individual animals taken and the number of incidents of take. At a minimum, the following information will be collected on the sighting forms:

• Date and time that monitored activity begins or ends;

• Construction activities occurring during each observation period;

• Weather parameters (*e.g.,* percent cover, visibility);

• Water conditions (*e.g.,* sea state, tide state);

• Species, numbers, and, if possible, sex and age class of marine mammals;

• Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;

• Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

• Locations of all marine mammal observations; and

• Other human activity in the area.

Reporting

DOT&PF will notify NMFS prior to the initiation of the pile driving activities and will provide NMFS with a draft monitoring report within 90 days of the conclusion of the proposed construction work. This report will detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Anticipated takes would be both Level A, for Steller sea lions only, and Level B harassment resulting from vibratory pile driving/removal and drilling. Note that lethal takes are not expected. Furthermore, mitigation measures are expected to minimize the number of Level A injurious takes.

Given the many uncertainties in predicting the quantity and types of impacts of sound in every given situation on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound, based on the available science.

This practice potentially overestimates the numbers of marine mammals taken for stationary activities, as it is likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (*e.g.,* because of foraging opportunities) is stronger than the deterrence presented by the harassing activity.

The method used for calculating potential exposures to impact and vibratory pile driving noise for each threshold was estimated using local marine mammal data sets, the Biological Opinion, best professional judgment from state and federal agencies, and data from IHA estimates on similar projects with similar actions. Our take estimation methodology was described in detail in our **Federal Register** notice announcing the proposed authorization (80 FR 51211; August 24, 2015) and is not repeated here. Brief descriptions are provided below and results are in Table 4.

Steller Sea Lions

Incidental take was estimated for Steller sea lions by assuming that, within any given day, about 40 unique individual Steller sea lions may be present at some time during that day within the Level B harassment zone during active pile extraction or installation. This estimate was derived from the following information, previously described in the proposed authorization **Federal Register** notice (80 FR 51211; August 24, 2015).

Pinniped population estimates are typically made when the animals are hauled out and available to be counted. Steller sea lions hauled out on the Dog Bay float are believed to represent the Kodiak Harbor population. Aerial surveys from 2004 through 2006 indicated peak winter (October–April) counts at the Dog Bay float ranging from 27 to 33 animals (Wynn *et al.* 2011). Counts in February 2015 during a site visit by HDR biologists ranged from approximately 28 to 45 Steller sea lions. More than 100 Steller sea lions were counted on the Dog Bay float at times in spring 2015, although the mean number was much smaller (Wynne 2015b). Together, this information may indicate a maximum population of about 120 Steller sea lions that uses the Kodiak harbor area.

Steller sea lions found in more ''natural'' settings do not usually eat

every day, but tend to forage every 1–2 days and return to haulouts to rest between foraging trips (Merrick and Loughlin 1997; Rehburg *et al.* 2009). This means that on any given day a maximum of about 60 Steller sea lions from the local population may be foraging. Note that there are at least four other seafood processing facilities in Kodiak that operate concurrently with the one located next to Pier 1, and all are visited by local Steller sea lions looking for food (Wynne 2015a). The seafood processing facility adjacent to the Pier 1 project site is not the only source of food for local Steller sea lions that inhabit the harbor area. The foraging habits of Steller sea lions using the Dog Bay float and Kodiak harbor area are not documented, but it is reasonable to assume that, given the abundance of readily available food, not every Steller sea lion in the area visits the seafood processing plant adjacent to Pier 1 every day. If about half of the foraging Steller sea lions visit the seafood processing plant adjacent to Pier 1, it is estimated that about 30 unique individual Steller sea lions likely pass through the Pier 1 project area each day and could be exposed to Level B harassment. To be conservative, exposure is estimated at 40 unique individual Steller sea lions per day.

It is assumed that Steller sea lions may be present every day, and also that take will include multiple harassments of the same individual(s) both within and among days, which means that these estimates are likely an overestimate of the number of individuals.

Expected durations of pile extraction and driving were estimated in Section 1.4 of the application. For each pile extraction or installation activity, the calculation for Steller sea lion exposures to underwater noise is therefore estimated as:

Exposure estimate = (number of animals exposed> sound thresholds)/day * number of days of activity

An estimated total of 3,200 Steller sea lions (40 sea lions/day * 80 days of pile installation or extraction) could be exposed to noise at the Level B harassment level during vibratory and impact pile driving (Table 3). Potential exposure at the Level B harassment level for down-hole drilling is estimated at 60 Steller sea lions, roughly one every one to two days.

TABLE 3—NUMBERS OF POTENTIAL EXPOSURES OF STELLER SEA LIONS TO LEVEL A AND LEVEL B HARASSMENT NOISE FROM PILE DRIVING BASED ON PREDICTED UNDERWATER NOISE LEVELS RESULTING FROM PROJECT ACTIVITIES

	Vibratory and impact	Down-hole drill	Impact hammer
	Level B	Level B	Level A
Number of Days	80 days	60 days	22 days
Number of Steller Sea Lion Exposures	3,200	60	30

The attraction of sea lions to the seafood processing plant increases the possibility of individual Steller sea lions occasionally entering the shutdown zone before they are observed and before pile driving can be shut down. Even with marine mammal observers present at all times during pile installation, it is possible that sea lions could approach quickly and enter the shutdown zone, even as pile driving activity is being shut down. This likelihood is increased by the high level of sea lion activity in the area, with Steller sea lions following vessels and swimming around vessels at the neighboring dock. It is possible that a single sea lion could be taken each day that impact pile driving occurs. As such, NMFS allowed an additional 22 Level A takes plus a roughly 30 percent contingency of 8 additional takes, for a total of 30 takes for Level A harassment. Potential for Level A harassment of Steller sea lions is estimated to only occur during impact hammering due to the very small Level A harassment zones for all other construction activities.

Harbor Seals

Harbor seals are expected to be encountered in low numbers, if at all, within the project area. However, based on the known range of the South Kodiak stock, and occasional sightings during monitoring of projects at other locations on Kodiak Island, NMFS has authorized 40 Level B takes (1 take every other day) of harbor seals by exposure to underwater noise over the duration of construction activities.

Harbor Porpoises

Harbor porpoises are expected to be encountered in low numbers, if at all, within the project area. However, based on the known range of the Gulf of Alaska stock and occasional sightings during monitoring of projects at other locations on Kodiak Island, NMFS has authorized 40 Level B takes (1 take every other day) of harbor porpoises by exposure to underwater noise over the duration of construction activities.

Killer Whales

Resident killer whales are rarely sighted in the project area and, therefore, NMFS is not proposing the take of any resident killer whales. Transient killer whales are expected to be encountered in the project area occasionally, although no data exist to quantify killer whale attendance. Killer whales are expected to be in the Kodiak harbor area sporadically from January through April and to enter the project area in low numbers. Based on the known range and behavior of the Alaska Resident stock and the Gulf of Alaska, Aleutian Islands, and Bering Sea Transient stocks, it is reasonable to estimate that 6 individual whales may enter the project area twice a month from February through May. NMFS, therefore, has authorized 48 Level B takes (6 killer whales/visit * 2 visits/month * 4 months) of killer whales by exposure to

Analyses and Determinations

Negligible Impact Analysis

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location,

migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

To avoid repetition, the discussion of our analyses applies to all the species listed in Table 4, with the exception of Steller sea lions, given that the anticipated effects of this pile driving project on marine mammals are expected to be relatively similar in nature. There is no information about the size, status, or structure of any species or stock that would lead to a different analysis for this activity, else species-specific factors would be identified and analyzed. A separate analysis is included for Steller sea lions.

Pile extraction, pile driving, and down-hole drilling activities associated with the reconstruction of the Pier 1 Kodiak Ferry Terminal and Dock, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A (injury) of Steller sea lions and Level B harassment (behavioral disturbance) for all species authorized for take, from underwater sounds generated from pile driving and drilling. Potential takes could occur if individuals of these species are present in the insonified zone when pile driving or drilling is under way.

The takes from Level B harassment will be due to potential behavioral disturbance and TTS. Serious injury or death is unlikely for all authorized species and injury is unlikely for these species, with the exception of Steller sea lions, as DOT&PF will enact several required mitigation measures. Soft start techniques will be employed during pile driving operations to allow marine mammals to vacate the area prior to commencement of full power driving. Pile cushions will be used for all impact driving. DOT&PF will establish and monitor shutdown zones for authorized species with the exception of Steller sea lions. These measures will prevent injury to these species, except for Steller sea lions. DOT&PF will also record all occurrences of marine mammals and any behavior or behavioral reactions observed, any observed incidents of behavioral harassment, and any required shutdowns, and will submit a report upon completion of the project. We have determined that the required mitigation measures are sufficient to reduce the effects of the specified activities to the level of least practicable impact, as required by the MMPA.

The DOT&PF's proposed activities are localized and of short duration. The entire project area is limited to the Pier 1 area and its immediate surroundings. Specifically, the use of impact driving will be limited to an estimated maximum of 3 hours over the course of 80 days of construction, and will likely require less time. Each 24-inch pile will require about five blows of an impact hammer to confirm that piles are set into bedrock for a maximum time expected of 1 minute of impact hammering per pile (88 piles × 1 minute/per pile = 88 minutes). Vibratory driving will be necessary for an estimated maximum of 75 hours and down-hole drilling will require a maximum of 550 hours. Vibratory driving and down-hole drilling do not have significant potential to cause injury to marine mammals due to the relatively low source levels produced and the lack of potentially injurious source characteristics.

The Level A takes for Steller sea lions are likely to be in the form of PTS. The possibility of take by serious injury or death is considered very unlikely as only acoustic injury is anticipated to occur. However, the number of Steller sea lions potentially exposed to Level A harassment is a small portion of entire population. Furthermore, sea lions resident to the project area are likely to have experienced frequent deterrence by fisherman protecting their gear or catch as was described in the **Federal Register** notice of proposed authorization. Such deterrence, typically involving ''seal bombs'', produces sound above that believed to potential cause permanent hearing impairment in pinnipeds. Therefore, it is likely that Steller sea lions occurring within the shutdown zone—for which Level A harassment is authorized—would not in fact experience additional hearing impairment. In the unlikely event that injury, in the form of acoustic impairment, did occur to this small number of sea lions it would be unlikely to have an adverse effect on the continued existence of the stock.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, including Steller sea lion critical habitat. The project activities would not modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. In response to vibratory driving, pinnipeds (which may become somewhat habituated to human activity in industrial or urban waterways) have been observed to orient towards and sometimes move towards the sound. The pile extraction and driving activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in other similar locations, which have taken place with no reported serious injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of serious injury or mortality to authorized species and additional auditory injury to hearing impaired Steller sea lions may reasonably be considered discountable; (2) the anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior and; (3) the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

Based on the analysis contained herein of the likely effects of the

specified activity on marine mammals and their habitat, and taking into consideration the implementation of the planned monitoring and mitigation measures, NMFS finds that the total marine mammal take from the DOT&PF's reconstruction of the Pier 1 Kodiak Ferry Terminal and Dock will have a negligible impact on the affected marine mammal species or stocks.

TABLE 4—ESTIMATED NUMBERS AND PERCENTAGE OF STOCK THAT MAY BE EXPOSED TO LEVEL A AND B HARASSMENT

Species	Proposed authorized takes	Stock(s) abundance estimate	Percentage of total stock
Killer Whale (*Orcinus orca*) *Eastern N. Pacific, Gulf of Alaska, Aleutian Islands, and Bering Seat Transient Stock*	48	587	8.1
Harbor Porpoise (*Phocoena phocoena*) *Gulf of Alaska Stock*	40	31,046	<0.01
Steller Sea Lion (*Eumetopias jubatus*) *wDPS Stock*	*3,290	52,200	6.3
Harbor Seal (*Phoca vitulina richardii*) *South Kodiak Stock*	40	11,117	<0.01

*(Includes 3,260 Level B and 30 Level A takes)

Small Numbers Analysis

Table 4 demonstrates the number of animals that could be exposed to received noise levels that could cause Level A and Level B behavioral harassment for the proposed work at the Pier 1 project site. The analyses provided above represents between <0.01%–8.1% of the populations of these stocks that could be affected by harassment. The numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or populations even if each estimated taking occurred to a new individual—an extremely unlikely scenario. For pinnipeds, especially Steller sea lions, occurring in the vicinity of Pier 1 there will almost certainly be some overlap in individuals present day-to-day, and these takes are likely to occur only within some small portion of the overall regional stock.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, which are expected to reduce the number of marine mammals potentially affected by the proposed action, NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

Alaska Natives have traditionally harvested subsistence resources in the Kodiak area for many hundreds of years, particularly Steller sea lions and harbor seals. No traditional subsistence hunting areas are within the project vicinity. The nearest haulouts for Steller sea lions and harbor seals are the Long Island and Cape Chiniak haul-outs and the Marmot Island rookery, many miles away. These locations are respectively 4, 12 and 30 nautical miles distant from the project area. Since all project activities will take place within the immediate vicinity of the Pier 1 site, the project will not have an adverse impact on the availability of marine mammals for subsistence use at locations farther away. No disturbance or displacement of sea lions or harbor seals from traditional hunting areas by activities associated with the Pier 1 project is expected. No changes to availability of subsistence resources will result from Pier 1 project activities. Therefore, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

The Steller sea lion is the only marine mammal species listed as endangered under the ESA with confirmed occurrence in the study area. On July 31, 2015 NMFS issued the *Kodiak Ferry Terminal Improvements Project Biological Opinion* finding that the proposed action is not likely to jeopardize the continued existence of wDPS Steller sea lions.

National Environmental Policy Act (NEPA)

NMFS drafted a document titled *Environmental Assessment for Issuance of an Incidental Harassment Authorization to the Alaska Department of Transportation and Public Facilities for the Take of Marine Mammals Incidental to a Kodiak Ferry Terminal and Dock Improvements Project* and *Finding of No Significant Impact* (FONSI). The FONSI was signed on September 30, 2015.

Authorization

As a result of these determinations, we have issued an IHA to DOT&PF for conducting the described activities related to the reconstruction of the ferry terminal at Pier 1 in Kodiak, AK from September 30, 2015 through September 29, 2016 provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: October 1, 2015.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–25452 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Community Broadband Workshop

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA), as part of its BroadbandUSA initiative will hold a one-day regional broadband Workshop, ''California Broadband Workshop,'' to help communities expand their broadband capacity and increase utilization of broadband. The Workshop will put forward best practices and lessons learned from network infrastructure build-outs and digital inclusion programs from California and surrounding states, including projects funded by NTIA's Broadband Technology Opportunities Program (BTOP) and State Broadband Initiative (SBI) grant programs. It also will include access to regional policymakers, federal funders and industry providers. The California Broadband Workshop will also explore the impact of municipal networks on local and regional economic development and discuss effective business and public-private partnership models, as well as lessons

learned in the implementation of networks, adoption and use of broadband.

DATES: The California Broadband Workshop will be held on November 17, 2015, from 9:00 a.m. to 5:00 p.m., Pacific Time.

ADDRESSES: The meeting will be held in the Hahn Auditorium at the Computer History Museum, 1401 N. Shoreline Blvd., Mountain View, CA, 94043.

FOR FURTHER INFORMATION CONTACT: Barbara Brown, National Telecommunications and Information Administration, U.S. Department of Commerce, Room 4889, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4374; email: *bbrown@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002; email: *press@ntia.doc.gov*.

SUPPLEMENTARY INFORMATION: The California Broadband Workshop will include presentations from representatives of NTIA's BroadbandUSA initiative, who will discuss lessons learned through NTIA's implementation of the BTOP and SBI grants and explore key elements required for successful broadband projects using a mix of regional examples. Panel presentations will discuss real-world examples of how broadband and the high-speed applications it makes possible, such as those used in Smart Cities, help spur community economic development, workforce development and education. Topics will include state- and regional-level implementation, including marketing/demand aggregation, outreach, coordination with government agencies, partnership strategies, construction and oversight. One panel will examine municipal networks, economic development, and business model options, including private networks, public/private partnerships, co-ops and municipal systems. Panelists will also provide tips to communities on financing options and how to research grant opportunities, make a compelling case to funders and leverage multiple federal and state funding streams.

The Workshop will be open to the public and press on a first come, first served basis. Since space is limited, however, NTIA requests that interested individuals pre-register for the workshop. Information on how to pre-register for the meeting will be available on NTIA's Web site: *http://www.ntia.doc.gov/other-publication/2015/CABroadbandSummit.*

NTIA will ask registrants to provide their first and last names and email addresses for both registration purposes and to receive any updates on the Workshop. If capacity for the meeting is reached prior to the meeting, NTIA will maintain a waiting list and will inform those on the waiting list if space becomes available.

The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as language interpretation or other ancillary aids, are asked to notify the NTIA contact listed above at least seven (7) business days before the meeting.

Meeting updates and relevant documents will be also available on NTIA's Web site at *http://www.ntia.doc.gov/other-publication/2015/CABroadbandSummit.*

Dated: October 2, 2015.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2015–25505 Filed 10–6–15; 8:45 am]

BILLING CODE 3510–60–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Friday, October 9, 2015.

PLACE: Three Lafayette Centre, 1155 21st Street NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, enforcement, and examinations matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2015–25603 Filed 10–5–15; 11:15 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Consumer Advisory Board Meeting

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the announcement of a public meeting of the Consumer Advisory Board (CAB or Board) of the Consumer Financial Protection Bureau (Bureau). The notice also describes the functions of the Board. Notice of the meeting is permitted by section 9 of the CAB Charter and is intended to notify the public of this meeting. Specifically, Section 9(d) of the CAB Charter states:

(1) Each meeting of the Board shall be open to public observation, to the extent that a facility is available to accommodate the public, unless the Bureau, in accordance with paragraph (4) of this section, determines that the meeting shall be closed. The Bureau also will make reasonable efforts to make the meetings available to the public through live Web streaming. (2) Notice of the time, place and purpose of each meeting, as well as a summary of the proposed agenda, shall be published in the **Federal Register** not more than 45 or less than 15 days prior to the scheduled meeting date. Shorter notice may be given when the Bureau determines that the Board's business so requires; in such event, the public will be given notice at the earliest practicable time. (3) Minutes of meetings, records, reports, studies, and agenda of the Board shall be posted on the Bureau's Web site (*www.consumerfinance.gov*). (4) The Bureau may close to the public a portion of any meeting, for confidential discussion. If the Bureau closes a meeting or any portion of a meeting, the Bureau will issue, at least annually, a summary of the Board's activities during such closed meetings or portions of meetings.

DATES: The meeting date is Thursday, October 22, 2015, 10:00 a.m. to 3:30 p.m. Eastern Daylight Time.

ADDRESSES: The meeting location is Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Crystal Dully, Consumer Advisory Board and Councils Office, External Affairs, 1275 First Street NE., Washington, DC 20002; telephone: 202–435–9588; *CFPB_CABandCouncilsEvents@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 1014(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (*http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf*) (Dodd-Frank Act) provides: ''The Director shall establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in

the consumer financial products or services industry, including regional trends, concerns, and other relevant information.'' 12 U.S.C. 5494.

(a) The purpose of the Board is outlined in Section 1014(a) of the Dodd-Frank Act (*http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf*), which states that the Board shall ''advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws'' and ''provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.'' (b) To carry out the Board's purpose, the scope of its activities shall include providing information, analysis, and recommendations to the Bureau. The Board will generally serve as a vehicle for market intelligence and expertise for the Bureau. Its objectives will include identifying and assessing the impact on consumers and other market participants of new, emerging, and changing products, practices, or services. (c) The Board will also be available to advise and consult with the Director and the Bureau on other matters related to the Bureau's functions under the Dodd-Frank Act.

II. Agenda

The Consumer Advisory Board will discuss Arbitration, Trends and Themes in the marketplace, and Reaching Limited English Speaking Consumers.

Persons who need a reasonable accommodation to participate should contact *CFPB_504Request@cfpb.gov,* 202–435–9EEO, 1–855–233–0362, or 202–435–9742 (TTY) at least ten business days prior to the meeting or event to request assistance. The request must identify the date, time, location, and title of the meeting or event, the nature of the assistance requested, and contact information for the requester. CFPB will strive to provide, but cannot guarantee that accommodation will be provided for late requests.

Individuals who wish to attend the Consumer Advisory Board meeting must RSVP to *cfpb_cabandcouncilsevents@cfpb.gov* by noon, October 21, 2015. Members of the public must RSVP by the due date and must include ''CAB'' in the subject line of the RSVP.

III. Availability

The Board's agenda will be made available to the public on October 7, 2015, via *consumerfinance.gov*. Individuals should express in their RSVP if they require a paper copy of the agenda.

A recording and transcript of this meeting will be available after the meeting on the CFPB's Web site *consumerfinance.gov*.

Dated: October 2, 2015.

Christopher D'Angelo,

Chief of Staff, Bureau of Consumer Financial Protection.

[FR Doc. 2015–25539 Filed 10–6–15; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

One-Time Deauthorization of Water Resources Projects

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of Interim Deauthorization List.

SUMMARY: The U.S. Army Corps of Engineers is publishing an Interim Deauthorization List of water resources development projects and separable elements that have been identified for deauthorization in accordance with section 6001(c) of the Water Resources Reform and Development Act of 2014, Public Law 113–121, 128 STAT. 1346–1347 (WRRDA 2014), and is soliciting comments from the public on the list for 90 calendar days. Comments should be provided to the contact named below by January 4, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph W. Aldridge, Headquarters, U.S. Army Corps of Engineers, Attention: CECW–IP, Washington, DC 20314–1000. Tel. (202) 761–4130 or *joseph.w.aldridge@usace.army.mil*.

SUPPLEMENTARY INFORMATION: Interim Deauthorization List required by § 6001(c).

Section 6001(c) provides that the Secretary shall develop an Interim Deauthorization List that identifies each water resources development project, or separable element of a project, that meets the following criteria. Projects and separable elements eligible for deauthorization are those uncompleted construction projects and separable elements meeting all of the following criteria: (1) They were authorized for construction before November 8, 2007, or their most recent modification of the construction authorization predates November 8, 2007; (2) their construction has not been initiated, or, if construction has been initiated, there have been no obligations of Federal or non-federal funds for construction in the current fiscal year or any of the past 6 fiscal years; and, (3) there has been no funding for a post-authorization study in the current fiscal year or any of the past 6 fiscal years. As specifically provided in section 6001(f)(1)(B) of WRRDA 2014, water resources development projects include environmental infrastructure assistance projects and programs of the U.S. Army Corps of Engineers. In accordance with section 103(f) of the Water Resources Development Act of 1986, separable elements is defined as ''a portion of a project—

(1) which is physically separable from other portions of the project; and

(2) which—

(A) achieves hydrologic effects, or

(B) produces physical or economic benefits, which are separately identifiable from those produced by other portions of the project.''

The following elements of an authorized water resources development project also qualify as separable elements: An element for which there is an executed design agreement or project partnership agreement specific to that element; an element that has received funding specified for that element; an element that was authorized separately from or as an amendment to the authorization for the remainder of the water resources development project, that was separately identified in the authorization for the water resources development project, or for which a statute specifies an authorized cost, estimated cost, or amount authorized to be appropriated; an element that has been placed in service or for which the Government or the non-federal partner has assumed operation and maintenance; an element that has been deauthorized; or the remaining portion of the water resources development project apart from other separable elements. Following a 90-day public review period of the Interim Deauthorization List, the Assistant Secretary of the Army for Civil Works (ASA(CW)) will publish a Final Deauthorization List in the **Federal Register**. Section 6001(d)(2)(A) of WRRDA 2014 requires that the Secretary shall include on the Final Deauthorization List projects and separable elements of projects that have, in the aggregate, an estimated Federal cost to complete that is at least $18 billion. The ASA(CW) has strived to meet the requirements of Section 6001, but was not able to identify projects that totaled $18 billion.

The projects and elements on the Final Deauthorization List will be deauthorized automatically after 180 days following the date that the ASA(CW) submits the Final Deauthorization List to Congress, unless

the Congress passes a joint resolution disapproving the Final Deauthorization List or the non-Federal interest for the project or separable element of the project provides sufficient funds to complete the project or separable element. The amount shown as the Federal Balance to complete is a working estimate generally based on the authorization and as such any non-Federal interests considering providing sufficient funds to complete a project or separable element should contact the appropriate District Commander to discuss the process necessary to develop a final cost to complete a project or separable element.

The Interim Deauthorization List follows below in Table 1.

TABLE 1 (INTERIM DEAUTHORIZATION LIST)

State	Business line	Corps district	Congressional districts	Project/element name	Project/element type [1]	Public law of authorization or latest amendment	Section of public law	Project/element phase and status [2]	Latest fiscal year of federal or non–federal obligations for construction	Federal balance to complete (subject to Section 902 where applicable)
AL	NAV	SAM	AL 2, 3 & 4	ALABAMA–COOSA RIVER AND TRIBUTARIES, AL (COOSA RIVER BETWEEN MONTGOMERY AND GADSDEN).	PROJECT	99–662	813	CONSTRUCTION NOT INITIATED.	1986	$3,781,921,691
AL	EI	SAM	AL 4	DUCK RIVER, AL	PROJECT	106–554	108a	CONSTRUCTION NOT INITIATED.	NO OBLIGATION FOR CONSTRUCTION.	5,000,000
AR	EI	MVK	AR 4	UNION COUNTY, AR	PROJECT	106–554	108d	CONSTRUCTION NOT INITIATED.	2008	51,247,100
AR	FRM	MVM	AR 1	L'ANGUILLE RIVER BASIN, AR.	PROJECT	99–662	103	CONSTRUCTION NOT INITIATED.	2004	19,466,768
AR	FRM	SWL	AR 1, 2, 3 & 4; OK 1	ARKANSAS RIVER LEVEES, AR.	PROJECT	101–640	110(a1)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	591,605
AR	AER	SWL	AR 3	BEAVER DAM , AR (TROUT PRODUCTION CENTER).	SEPARABLE ELEMENT.	94–587	105	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	5,990,000
AR	EI	SWL	AR 3	BEAVER LAKE, BENTON/WASH, AR.	SEPARABLE ELEMENT.	104–303	523	CONSTRUCTION PAUSED.	2002	5,000,000
CA	EI	SPK	CA 4	CALAVERAS COUNTY, CA.	PROJECT	104–303	526	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,500,000
CA	EI	SPK	CA 3 & 5	CLEAR LAKE BASIN, CA.	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
CA	FRM	SPK	CA 3	COLUSA TROUGH DRAINAGE CANAL, SACRAMENTO RIVER AND TRIBUTARIES, CA.	PROJECT	99–662	830	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	18,900,846
CA	EI	SPK	CA 21	PINE FLAT DAM, CA	PROJECT	106–541	101b(7)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	41,502,918
CA	EI	SPL	CA 39	CHINO HILLS, CA	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
CA	EI	SPL	CA 39 & 45	EASTERN MUNICIPAL WATER DISTRICT, CA.	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
CA	FRM	SPL	CA 24	GOLETA & VICINITY, CA.	PROJECT	102–580	102b	CONSTRUCTION PAUSED.	1984	1,233,626
CA	EI	SPL	CA 44	LOS ANGELES HARBOR/TERMINAL ISLAND, CA.	PROJECT	106–554	108d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	6,500,000
CA	FRM	SPL	CA 24	LOWER MISSION CREEK, CA.	PROJECT	100–676	3a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	14,625,971
CA	EI	SPL	CA 26, 27 & 29	SAN DIEGO AREA WATER REUSE DEMOSTRATION FACILITIES, CA.	PROJECT	102–580	217c(2)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	5,000,000
CA	EI	SPL	CA 52	SAN DIEGO COUNTY, CA (CORONADO TRANSBAY WASTEWATER PIPELINE).	PROJECT	106–554	108d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	10,000,000
CA	EI	SPL	CA 26, 27 & 29	SOUTHERN CALIFORNIA COMPREHENSIVE WATER REUSE SYSTEM, CA.	PROJECT	102–580	217c(1)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	5,000,000

TABLE 1 (INTERIM DEAUTHORIZATION LIST)—Continued

State	Business line	Corps district	Congressional districts	Project/element name	Project/element type (1)	Public law of authorization or latest amendment	Section of public law	Project/element phase and status (2)	Latest fiscal year of federal or non–federal obligations for construction	Federal balance to complete (subject to Section 902 where applicable)
CT	EI	NAE	CT 4	BRIDGEPORT COMBINED SEWER OVERFLOW PTOJECT, CT.	PROJECT	106–53	502b	CONSTRUCTION NOT INITIATED.	NO OBLIGATION FOR CONSTRUCTION.	10,000,000
CT	EI	NAE	CT 1	HARTFORD, CT	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	10,000,000
CT	EI	NAE	CT 3	NEW HAVEN, CT	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	10,000,000
CT, ME, MA, NH, RI & VT.	AER	NAE	CT 1, 2, 3, 4 & 5; ME 1, & 2; MA 1, 2, 3, 4, 5, 6, 7, 8, & 9; NH 1 & 2; RI 1 & 2; VT AT LARGE.	NEW ENGLAND WATER RESOURCES AND ECOSYSTEM RESTORATION, CT, ME, MA, NH, RI & VT.	PROJECT	106–541	507	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	(3)0
DC & MD	EI	NAB		WASHINGTON DC AND MARYLAND, D.C. & MD.	PROJECT	106–554	108d	CONSTRUCTION NOT INITIATED.	1998	14,807,000
FL	AER	SAJ	FL 17, 18, 19, 20, 21, 22 & 23.	COMPREHENSIVE EVERGLADES RESTORATION PLAN, FL (LAKE BELT GROUND RESERVOIR TECHNOLOGY).	SEPARABLE ELEMENT.	106–541	601 b2biiii	CONSTRUCTION NOT INITIATED.	2005	17,000,000
FL	AER	SAJ	FL 17, 18, 20, 21, 22, 23, 25, 26 & 27.	COMPREHENSIVE EVERGLADES RESTORATION PLAN, FL (NORTH NEW RIVER IMPROVEMENTS).	SEPARABLE ELEMENT.	106–541	601 b2cix	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	67,150,000
FL	AER	SAJ	FL 18, 20, 21, 22, 23, 24, 25, 26 & 27.	COMPREHENSIVE EVERGLADES RESTORATION PLAN, FL (RAISE AND BRIDGE EAST PORTION OF TAMIAMI TRAIL AND FILL MIAMI CANAL WITHIN WATER) (CONSEVATION AREA 3).	SEPARABLE ELEMENT.	106–541	601 b2cviii	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	21,500,000
FL	AER	SAJ	FL 16 & 23	COMPREHENSIVE EVERGLADES RESTORATION PLAN, FL (TAYLOR CREEK/NUBBIN SLOUGH STORAGE AND TREATMENT AREA).	SEPARABLE ELEMENT.	106–541	601 b2cvii	CONSTRUCTION NOT INITIATED.	NO OBLIGATION FOR CONSTRUCTION.	67,800,000
FL	AER	SAJ	FL 17, 18, 20, 21, 22, 23, 25, 26 & 27.	COMPREHENSIVE EVERGLADES RESTORATION PLAN, FL (WASTEWATER REUSE TECHNOLOGY).	SEPARABLE ELEMENT.	106–541	601 b2biiii	CONSTRUCTION NOT INITIATED.	2005	20,500,000
FL	NAV	SAJ	FL 12	HUDSON RIVER, FL ..	PROJECT	81–516	101	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	3,650,000

FL	EI	SAJ	FL 27	KEY BISCAYNE, FL	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		1,543,324
FL	FRM	SAJ	FL 14	LITTLE TALBOT ISLAND, FL.	PROJECT	106–53	101b7	CONSTRUCTION PAUSED.	2000		6,786,030
FL	EI	SAJ	FL 14	SOUTH TAMPA, FL	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		1,543,324
FL	NAV	SAJ	FL 10, 11, 12 & 13	TAMPA HARBOR, ALAFIA RIVER, FL.	PROJECT	106–554	107	CONSTRUCTION NOT INITIATED.	2006		64,771,847
FL	NAV	SAJ	FL 10, 11, 12 & 13	TAMPA HARBOR, FL ((PORT SUTTON TURNING BASIN) WIDENING TO AN ADDITIONAL 105 FEET TO THE FENDER LINE ALONG PENDOLA POINT).	SEPARABLE ELEMENT.	99–662	858	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		8,434,881
HI	FRM	POH	HI 1	WAIKIKI EROSION CONTROL, HI.	PROJECT	89–298	301	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		16,584,000
IL	EI	LRC	IL 11 & 14	AURORA, IL	PROJECT	106–554	108d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		8,000,000
IL	FRM	LRC	IL 9, 10 & 14	DES PLAINES RIVER, IL (NORTH FORK MILL CREEK DAM MODIFICATION).	SEPARABLE ELEMENT.	106–53	101b10	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		5,795,400
IN	EI	LRE	IN 3	FORT WAYNE, IN	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		1,529,324
IN	EI	LRL	IN 7	INDIANAPOLIS, IN	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		1,543,324
KY	FRM	LRH	KY 5	BEAVER CREEK BASIN, KY.	PROJECT	89–298	204	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		20,873,500
KY & TN	AER	MVM	TN 8; KY 1	REELFOOT LAKE, TN & KY.	PROJECT	106–53	101b11	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		33,072,769
LA	FRM	MVK	LA 1	PEARL RIVER, SLIDELL, SAINT TAMMANY PARISH, LA.	PROJECT	99–662	401b	CONSTRUCTION NOT INITIATED.	2002		29,311,000
LA	FRM	MVN	LA 1, 2 & 6	AMITE RIVER AND TRIBUTARIES, LA.	PROJECT	102–580	101(11)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		38,058,405
LA	FRM	MVN	LA 6	BAYOU COCODRIE AND TRIBUTARIES, LA.	PROJECT	93–251	87	CONSTRUCTION PAUSED.	1987		345,472,000
LA	NAV	MVN	LA 1, 2, 3 & 6	GULF INTRACOASTAL WATERWAY, LA–TX SECTION, LA & TX.	PROJECT	87–874	101	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		201,422,000
LA	EI	MVN	LA 1 & 2	KENNER, LA	PROJECT	106–554	108	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		5,000,000
LA	EI	MVN	LA 1 & 2	ST. CHARLES, ST. BERNARD, AND PLAQUEMINES PARISHES, LA.	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		1,543,324
LA	EI	MVN	LA 2 & 6	ST. JOHN THE BAPTIST AND ST. JAMES PARISHES, LA.	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		1,543,324
LA	FRM	MVN	LA 1	TANGIPAHOA, TCHEFUNCTE, AND TICKFAW RIVERS, LA.	PROJECT	99–662	401	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		21,723,000
MA	EI	NAE	MA 9	FALL RIVER AND NEW BEDFORD, MA.	PROJECT	106–554	108c	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.		35,000,000

TABLE 1 (INTERIM DEAUTHORIZATION LIST)—Continued

State	Business line	Corps district	Congressional districts	Project/element name	Project/element type (1)	Public law of authorization or latest amendment	Section of public law	Project/element phase and status (2)	Latest fiscal year of federal or non–federal obligations for construction	Federal balance to complete (subject to Section 902 where applicable)
MA	FRM	NAE	MA 4, 7 & 8	MUDDY RIVER, BROOKLINE AND BOSTON, MA (AQUATIC ECOSYSTEM RESTORATION FEATURES).	SEPARABLE ELEMENT.	106–541	522	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	24,050,000
MI	NAV	LRE	MI 1	ALPENA HARBOR, MI (25 FOOT CHANNEL).	PROJECT	104–303	363d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	4,063,120
MI	NAV	LRE	MI 5	BAY CITY, MI	PROJECT	101–640	105	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	8,466,275
MI	EI	LRE	MI 6	BENTON HARBOR, ST JOSEPH WASTEWATER TREATMENT PLANT, ST JOSEPH, MI.	PROJECT	106–554	108d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,500,000
MI	NAV	LRE	MI 1	CHARLEVOIX, MI (REVETMENT CONNECTION).	SEPARABLE ELEMENT.	106–53	373	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	52,500
MI	NAV	LRE	MI 1	ONTONAGON HARBOR, ONTONAGON COUNTY MI.	PROJECT	104–303	363e	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	37,134,623
MI	FRM	LRE	MI 5	SAGINAW RIVER AND TRIBUTARIES, MI (CASS RIVER AT VASSAR).	SEPARABLE ELEMENT.	106–53	364(3)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	13,909,394
MI	FRM	LRE	MI 4 & 5	SAGINAW RIVER AND TRIBUTARIES, MI (CURTIS ROAD BRIDGE).	SEPARABLE ELEMENT.	99–662	845	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	720,653
MI	FRM	LRE	MI 5	SAGINAW RIVER AND TRIBUTARIES, MI (FLINT RIVER AT FLINT).	SEPARABLE ELEMENT.	104–303	329	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	571,781
MI	FRM	LRE	MI 4 & 5	SAGINAW RIVER AND TRIBUTARIES, MI (SHIAWASSEE FLATS).	SEPARABLE ELEMENT.	106–53	364(4)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	106,825,583
MI, MN & WI.	NAV	LRE	MI 1; MN 8; WI 7	GREAT LAKES CONNECTING CHANNELS & HARBORS, MN, MI & WI.	PROJECT	101–640	101a15	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	17,938,174
MN	NAV	LRE	MN 8	DULUTH, MN (ALTERNATIVE TECHNOLOGY PROJECT).	PROJECT	104–303	541a/b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,000,000
MN	EI	LRE	MN 8	LAKE SUPERIOR CENTER, MN.	PROJECT	104–303	542	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	10,000,000
MN	EI	MVP	MN 5	MISSISSIPPI PLACE, MN.	PROJECT	106–53	577	CONSTRUCTION NOT INITIATED.	2006	2,968,178
MN & WI	NAV	LRE	MN 8; WI 7	DULUTH—SUPERIOR CHANNEL EXTENSION, MN & WI.	PROJECT	99–662	201a	CONSTRUCTION PAUSED.	1995	14,064,481
MO	EI	NWK	MO 4 & 6	KANSAS CITY, MO	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	15,000,000

MO & IL	NAV	MVS	MO 1, 2, 3, & 8; IL 12 & 13.	ST LOUIS HARBOR, MO & IL.	PROJECT	99–662	601a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	43,253,100
MS	FRM	MVK	MS 2	YAZOO BASIN, TRIBUTARIES, MS.	PROJECT	89–298	204	CONSTRUCTION PAUSED.	2007	233,490,728
MS	NAV	MVK	MS 2	YAZOO RIVER, MS (SHEPARDSTOWN BRIDGE).	SEPARABLE ELEMENT.	99–662	822	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	2,011,094
MS & LA	AER	MVN	LA 2	MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MS & LA.	PROJECT	100–676	3(a)8	CONSTRUCTION NOT INITIATED.	2003	70,668,540
NC	EI	SAW	NC 8	LUMBERTON, NC	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,700,000
NC	EI	SAW	NC 8 & 9	UNION COUNTY, NC	PROJECT	106–554	108a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
NC & SC	FRM	SAW	NC 9 & 12	SUGAR CREEK BASIN, NC & SC.	PROJECT	99–662	401a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	54,523,100
NH	EI	NAE	NH 2	NASHUA, NH (COMBINED SEWER OVERFLOW).	PROJECT	106–53	502b	CONSTRUCTION NOT INITIATED.	NO OBLIGATION FOR CONSTRUCTION.	19,853,000
NH	EI	NAE	NH 1	ROCHESTER, NH	PROJECT	104–303	504(e) (4)	CONSTRUCTION NOT INITIATED.	NO OBLIGATION FOR CONSTRUCTION.	10,897,120
NJ	EI	NAN	NJ 8	ELIZABETH, NJ	PROJECT	106–53	502(f)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	20,000,000
NJ	EI	NAN	NJ 8	NORTH HUDSON, NJ	PROJECT	106–53	502(f)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	20,000,000
NJ	EI	NAN	NJ 9	PATTERSON AND PASSAIC COUNTY, NJ.	PROJECT	106–554	108c	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	30,000,000
NJ	EI	NAP	NJ 4, 6 & 12	STATE OF NEW JERSEY AND NEW JERSEY WASTEWATER TREATMENT TRUST, NJ.	PROJECT	102–580	219c (10)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
NJ	EI	NAP	NJ 5	TOWN OF NEWTON, NJ.	PROJECT	106–554	108d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	7,000,000
NV	FRM	SPL	NV 4	LAS VEGAS WASH AND TRIBUTARIES, NV.	PROJECT	102–580	101(13)	CONSTRUCTION NOT INITIATED.	NO OBLIGATION FOR CONSTRUCTION.	3,360,938
NV	FRM	SPL	NV 4	LAS VEGAS, NV	PROJECT	109–103	115	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	20,000,000
NY	EI	LRB	NY26 & 27	ERIE COUNTY, BUFFALO AMHRST, NY.	SEPARABLE ELEMENT.	102–580	221	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	7,000,000
NY	EI	LRB	NY 26 & 27	ERIE COUNTY, NY (SLUDGE DISPOSAL).	PROJECT	102–580	219c (12)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
NY	EI	LRB	NY 26 & 27	ERIE COUNTY, NY (WATER QUALITY TUNNEL).	PROJECT	102–580	219c (11)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
NY	EI	LRB	NY26 & 27	LEWISTON STORMWATER, NY.	SEPARABLE ELEMENT.	102–580	222	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	200,000
NY	EI	LRB	NY 24	LIVERPOOL, NY	PROJECT	106–554	108d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	2,000,000
NY	EI	NAN	NY 10 & 11; NJ 8	INNER HARBOR PROJECT, NEW YORK, NY.	PROJECT	106–53	502(f)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	15,000,000
NY	FRM	NAN	NY 17, 18, 19 & 20	LOWER HUDSON RIVER & TRIBUTARIES, NY.	PROJECT	106–53	212e	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	30,000,000
NY	EI	NAN	NY 6 & 11	OUTER HARBOR PROJECT, NEW YORK, NY.	PROJECT	106–53	502(f)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	15,000,000

TABLE 1 (INTERIM DEAUTHORIZATION LIST)—Continued

State	Business line	Corps district	Congressional districts	Project/element name	Project/element type [1]	Public law of authorization or latest amendment	Section of public law	Project/element phase and status [2]	Latest fiscal year of federal or non–federal obligations for construction	Federal balance to complete (subject to Section 902 where applicable)
NY/NJ	NAV	NAN	NJ 6, 9 & 13; NY 7, 8, 9, 12, 13,14 & 15.	NEW YORK HARBOR COLLECTION AND REMOVAL OF DRIFT, NY & NJ.	PROJECT	101–640	102	CONSTRUCTION PAUSED.	2005	201,549,768
OH	NAV	LRB	OH 9	OTTAWA RIVER HARBOR, OH.	PROJECT	101–640	107a7	CONSTRUCTION NOT INITIATED.	2006	13,218,200
OH	FRM	LRH	OH 15	HOCKING RIVER, LOGAN, OH.	PROJECT	99–662	401a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	16,282,709
OH	FRM	LRL	OH 8	MIAMI RIVER BASIN, PLEASANT RUN, VICINITY FAIRFIELD, OH.	PROJECT	99–662	401a	CONSTRUCTION NOT INITIATED.	NO OBLIGATION FOR CONSTRUCTION.	18,041,480
OK	HYD	SWT	OK 2	FORT GIBSON LAKE, OK (POWER UNITS 5 & 6).	SEPARABLE ELEMENT.	99–662	601a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	45,485,000
OR	EI	NWP	OR 1	ASTORIA, OR	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	5,000,000
OR	EI	NWP	OR 2	HOOD RIVER, OR	PROJECT	106–554	108a (36)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
OR	EI	NWP	OR 2	MEDFORD, OR	PROJECT	106–554	108a (37)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
OR	EI	NWP	OR 1 & 2	PORTLAND, OR	PROJECT	106–554	108a (38)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
PA	EI	LRP	PA 5	COUDERSPORT, PA	PROJECT	106–554	108	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
PA	EI	LRP	PA 18	FINDLAY TOWNSHIP, PA.	PROJECT	106–53	502	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	11,000,000
PA	EI	LRP	PA 9	GREENSBORO AND GLASSWORKS, PA.	PROJECT	102–580	219c(15)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,543,324
PA	EI	LRP	PA 9	JEFFERSON TOWNSHIP, GREENE COUNTY, PA.	PROJECT	106–53	502	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,000,000
PA	EI	LRP	PA 18	NORTH FAYETTE TOWNSHIP, ALLEGHENY COUNTY, PA.	PROJECT	106–53	502	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	500,000
PA	EI	LRP	PA 18	ROBINSON TOWNSHIP, PA.	PROJECT	106–53	502	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,200,000
PA	EI	LRP	PA 14	SPRINGDALE BOROUGH, PA.	PROJECT	106–53	502	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	500,000
PA	EI	LRP	PA 3	TITUSVILLE, PA	PROJECT	106–554	108	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	7,300,000
PA	EI	LRP	PA 9, 12, 14 & 18	WASHINGTON, GREENE, WESTMORELAND, AND FAYETTE COUNTIES, PA.	PROJECT	106–554	108	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	8,000,000
PA	EI	NAB	PA 10	BRADFORD AND SULLIVAN COUNTIES, PA.	SEPARABLE ELEMENT.	106–53	548	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	13,000,000
PA	EI	NAB	PA 11 & 15	DAUPHIN COUNTY, PA.	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	2,000,000
PA	EI	NAB	PA 4	DILLSBURG BOROUGH AUTHORITY, PA.	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	2,000,000
PA	EI	NAB	PA 4	HAMPDEN TOWNSHIP, PA.	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	3,000,000

PA	EI	NAB	PA 4 & 11	MOUNT JOY TOWNSHIP AND CONEWAGO TOWNSHIP, PA.	PROJECT	106–554	108d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	8,300,000
PA	EI	NAB	PA 5	PATTON TOWNSHIP, PA.	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,400,000
PA	EI	NAB	PA 4	UPPER ALLEN TOWNSHIP, PA.	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	3,400,000
PA	FRM	NAP	PA 17	DELAWARE RIVER BASIN—WABASH CREEK, BOROUGH OF TAMAQUA, PA.	PROJECT	93–251	2	CONSTRUCTION NOT INITIATED.	1993	13,194,000
PA	FRM	NAP	PA 2 & 3	PHILADELPHIA, PA (FRANKFORD DAM).	PROJECT	104–303	564e	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	900,000
PA	FRM	NAP	PA 1, 2, 3 & 13	PHILADELPHIA, PA (PENNYPACK PARK).	PROJECT	104–303	564d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	15,000,000
PA	FRM	NAP	PA 2 & 3	PHILADELPHIA, PA (WATER WORKS RESTORATION).	PROJECT	104–303	564a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,000,000
PA	EI	NAP	PA 6	PHOENIXVILLE BOROUGH, CHESTER COUNTY, PA.	PROJECT	106–554	108d	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	2,400,000
PA	EI	NAP	PA 8	TOWAMENCIN TOWNSHIP, PA.	PROJECT	106–53	502b	CONSTRUCTION NOT INITIATED.	2005	1,462,000
PR	FRM	SAJ	PR AT LARGE	GUANAJIBO RIVER, PR.	PROJECT	106–53	101	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	33,495,941
PR	FRM	SAJ	PR AT LARGE	RIO NIGUA AT SALINAS, PR.	PROJECT	106–53	101	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	12,145,000
RI	EI	NAE	RI 2	CRANSTON, RI	PROJECT	101–640	54	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	6,000,000
RI	EI	NAE	RI 1 & 2	DREDGING OF SALT PONDS IN THE STATE OF RHODE ISLAND, RI.	PROJECT	106–53	578	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	1,100,000
SC	EI	SAC	SC 1	CHARLESTON, SC	PROJECT	108–137	127	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	10,000,000
TN	NAV	MVM	TN 9	MEMPHIS HARBOR, MEMPHIS, TN.	PROJECT	106–53	364	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	110,044,000
TN	FRM	MVM	TN 8	NONCONNAH CREEK, TN & MS (EXTENSION).	SEPARABLE ELEMENT.	106–541	334	CONSTRUCTION NOT INITIATED.	2004	36,188,000
TX	FRM	SWF	TX 8 & 17	NAVASOTA RIVER BASIN, TX (MILLICAN LAKE, TX).	SEPARABLE ELEMENT.	90–483	203	CONSTRUCTION NOT INITIATED.	1983	778,421,000
TX	FRM	SWF	TX 2, 8 & 14	TRINITY RIVER AND TRIBUTARIES, TX (LIBERTY LOCAL PROTECTION PROJECT).	SEPARABLE ELEMENT.	108–447	116	CONSTRUCTION NOT INITIATED.	1981	19,985,000
TX	NAV	SWF	TX 2, 8 & 14	TRINITY RIVER AND TRIBUTARIES, TX (NAVIGATION CHANNEL ABOVE LIBERTY).	SEPARABLE ELEMENT.	108–447	116	CONSTRUCTION NOT INITIATED.	1981	5,412,060,000
TX	FRM	SWF	TX 2, 8 & 14	TRINITY RIVER AND TRIBUTARIES, TX (WEST FORK FLOODWAY).	SEPARABLE ELEMENT.	108–447	116	CONSTRUCTION NOT INITIATED.	1981	119,408,000
TX	FRM	SWG	TX 2, 7, 8, 10, 18 & 29	BUFFALO BAYOU AND TRIBUTARIES, TX (HALLS BAYOU).	SEPARABLE ELEMENT.	101–640	101(21)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	112,536,000

TABLE 1 (INTERIM DEAUTHORIZATION LIST)—Continued

State	Business line	Corps district	Congressional districts	Project/element name	Project/element type (1)	Public law of authorization or latest amendment	Section of public law	Project/element phase and status (2)	Latest fiscal year of federal or non–federal obligations for construction	Federal balance to complete (subject to Section 902 where applicable)
TX	FRM	SWG	TX 15 & 34	LOWER RIO GRANDE BASIN, TEXAS (SOUTH MAIN CHANNEL), TX.	SEPARABLE ELEMENT.	99–662	401a	CONSTRUCTION NOT INITIATED.	2005	207,183,000
TX & OK	NAV	SWT	TX 4; OK 2	RED RIVER WATERWAY (BANK STABILIZATION FEATURES).	SEPARABLE ELEMENT.	90–483	101	CONSTRUCTION NOT INITIATED.	2004	685,324,228
UT	EI	SPK	UT 1	CACHE COUNTY, UT	PROJECT	106–53	502b	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	5,000,000
UT	FRM	SPK	UT 4	UPPER JORDAN RIVER, UT.	PROJECT	106–53	357	CONSTRUCTION NOT INITIATED.	2004	11,087,268
VA	FRM	LRH	VA 9	LEVISA AND TUG FORKS AND UPPER CUMBERLAND RIVER VA, WV, KY (HAYSI LAKE, VA).	SEPARABLE ELEMENT.	104–303	353	CONSTRUCTION NOT INITIATED.	1989	185,915,319
VA	NAV	NAO	VA 3	NORFOLK HARBOR ANCHORAGES, VA.	PROJECT	101–640	107a13	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	63,130,000
VA	FRM	NAO	VA 2	WALLOPS ISLAND, VA.	PROJECT	106–53	567	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	8,000,000
WA	REC	NWW	WA 5	SNAKE RIVER INTERPRETIVE CENTER, CLARKSTON, WA.	PROJECT	108–137	124	CONSTRUCTION NOT INITIATED.	2004	3,750,044
WA	AER	NWS	WA 1 & 2	STILLAGUMAISH RIVER BASIN, WA.	PROJECT	106–541	101b (27)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	26,047,966
WV	FRM	LRH	WV 2	CABIN CREEK LPP, WV.	PROJECT	99–662	601a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	10,409,900
WV	FRM	LRH	WV 3	ISLAND CREEK BASIN, VICINITY OF LOGAN, WV (NON–STRUCTURAL FEATURES).	SEPARABLE ELEMENT.	99–662	401a	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	107,707,600
WV	NAV	LRH	WV 1	WEST VIRGINIA PORT DEVELOPMENT, WV.	PROJECT	106–53	557(3)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	24,144,000
WV	NAV	LRP	WV 1	WEIRTON PORT, WV	PROJECT	106–53	557(2)	NEVER FUNDED	NO OBLIGATION FOR CONSTRUCTION.	15,274,778
				# PROJECTS	147				TOTAL	14,348,670,778

NOTES:

(1) PROJECT/ELEMENT TYPE: PROJECT = WATER RESOURCES DEVELOPMENT PROJECT AUTHORIZED FOR CONSTRUCTION, INCLUDING AUTHORIZED ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE PROGRAM IN ACCORDANCE WITH WRRDA 2014, SECTION 6001(f)(1)(B).

(2) PROJECT/ELEMENT PHASE AND STATUS: NEVER FUNDED = NEVER FUNDED FOR CONSTRUCTION, INCLUDING PROJECTS IN PRECONSTRUCTION ENGINEERING AND DESIGN; CONSTRUCTION NOT INITIATED = CONSTRUCTION FUNDED BUT PHYSICAL CONSTRUCTION NOT INITIATED; CONSTRUCTION PAUSED = CONSTRUCTION FUNDED BUT PHYSICAL CONSTRUCTION PAUSED.

(3) PER PUBLIC LAW 106–541, SEC. 507, NO CRITICAL RESTORATION PROJECT MAY BE INITIATED UNDER THIS SUBSECTION AFTER SEPTEMBER 30, 2005.

Authority: This notice is required by § 6001(c) of the Water Resources Reform and Development Act of 2014, Public Law 113–121, 128 STAT 1346–1347.

Dated: September 30, 2015.

Jo-Ellen Darcy,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2015–25586 Filed 10–6–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Feasibility Study and Environmental Impact Statement (EIS) for Navigational Improvements to San Juan Harbor in San Juan, Puerto Rico

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The purpose of the feasibility study is to improve navigation in San Juan Harbor.

ADDRESSES: U.S. Army Corps of Engineers, Planning Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL 32232–0019.

FOR FURTHER INFORMATION CONTACT: Mr. Paul DeMarco at (904) 232–1897 or email at *paul.m.demarco@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Description of the Proposed Action.* Proposed navigational improvements to San Juan Harbor include deepening main channels up to minus 50 feet and widening main channels up to an additional 50 feet. Additional information is available on our Environmental Documents Web page at *http://www.saj.usace.army.mil/About/DivisionsOffices/Planning/EnvironmentalBranch/EnvironmentalDocuments.aspx#SJH.*

2. *Reasonable Alternatives.* Lesser increments of widening and deepening and other alternatives would also be evaluated. The dredged material is expected to be suitable for placement in the Ocean Dredged Material Disposal Site located a few miles from the harbor entrance. Some material may be suitable for placement in dredged holes and for other purposes. Other alternatives as identified during the scoping and plan formulation process will be considered.

3. *Scoping Process:*

a. Public and Agency Involvement. A scoping letter is being sent to agencies, commercial interests, and the public.

b. Issues to be Analyzed in Depth in the DEIS. Important issues expected include impacts to protected species, sea grass, hardgrounds, socio-economic factors, and any other factors that might be determined during the scoping and plan formulation process.

c. Possible Assignments for Input into the EIS Among Lead and Potential Cooperating Agencies.

—U.S. Fish and Wildlife Service: Input concerning listed species, critical habitat, and other fish and wildlife resources.

—National Marine Fisheries Service: Input concerning listed species, critical habitat, and essential fish habitat.

—U.S. Environmental Protection Agency: Input concerning ocean disposal.

—The U.S. Army Corps of Engineers is the Lead agency and, together with the non-federal sponsor (Puerto Rico Ports Authority) will assume responsibility for all other aspects of the EIS.

d. Other Environmental Review and Consultation Requirements. The proposed action is subject to the requirements of the Endangered Species Act, Marine Mammal Protection Act, Essential Fish Habitat requirements, National Historic Preservation Act, numerous other laws and executive orders, and any other requirements that might be identified during the scoping and plan formulation process.

4. *Scoping Meeting.* A public scoping meeting will be held on November 5, 2015, at 9:00 a.m. in Room 101 of the Puerto Rico Convention Center, 100 Convention Boulevard, San Juan, Puerto Rico.

5. *Date the DEIS Made Available to the Public.* Depending on the issues, alternatives, investigations, and other requirements identified during the scoping and plan formulation process; the Draft EIS should be available by September 30, 2017.

Dated: September 29, 2015.

Eric P. Summa,

Chief, Environmental Branch.

[FR Doc. 2015–25574 Filed 10–6–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Announcement of Requirements and Registration for the Reach Higher Career App Challenge

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice; public challenge.

SUMMARY: The U.S. Department of Education (the Department) is announcing the Reach Higher Career App Challenge (RHCAC or Challenge), a prize competition funded by the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV or Act). RHCAC calls upon potential entrants, who may include eligible educators, mobile application (app) developers, and other interested individuals to submit information concerning concepts for mobile apps, which may include a prototype, to improve access to information about career and technical education (CTE), help students, including students with disabilities and English Learners, navigate education and career paths, and increase the capacity of career counselors to serve students. The Challenge seeks solutions that: (1) Are focused on middle and high school students, (2) include integrated tools to assess user skills and interests, and (3) offer users accessible information on occupations, education options, credentials, and career-seeking skills through an individualized user experience.

DATES: We must receive your Challenge submission on or before December 7, 2015.

The timeframes for judging the submissions and selecting the finalists will be determined by the Department.

The Department will conduct at least one online information session during the open submission phase of the challenge. The date of the session will be determined and announced by the Department, posted on the Luminary Lightbox™ platform at *www.reachhigherchallenge.com* (Challenge Web page), and sent to entrants by email. The dates for finalist activities including the Virtual Accelerator phase, finalist mentorship, Innovator's Boot Camp, and Demonstration Day (all of these activities are described elsewhere in this notice) will be determined and announced by the Department.

The date for the final judging will be determined and announced by the Department following Demonstration Day.

The winner(s) will be announced on a date determined and announced by the Department.

ADDRESSES: Submit entries for the prize at *www.reachhigherchallenge.com/.*

FOR FURTHER INFORMATION CONTACT: Albert Palacios, U.S. Department of Education, 550 12th Street SW., Room 11086, Washington, DC 20202 or by email: *albert.palacios@ed.gov.* If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the FRS, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Administration of the Challenge Competition

The RHCAC is being conducted by the U.S. Department of Education. Luminary Labs, L.L.C. (Luminary Labs), has been contracted by the Department to assist and support the Department in organizing and managing this competition. Activities conducted by Luminary Labs may also include providing technical assistance to potential entrants, entrants, and finalists.

II. Subject of Challenge Competition

With a constantly evolving career landscape, it is increasingly challenging for students to identify, assess, and act upon their options as they plan for careers and postsecondary education. While the current career guidance and counseling infrastructure plays a critical role in assisting students with postsecondary education and career selection decisions, nationwide, one in five high schools lacks a school counselor.[1] Furthermore, in 2013, the national average student-to-school-counselor ratio for K–12 counselors was 482:1 with peaks of 880:1 in Arizona and 826:1 in California.[2] As a result, students receive limited time with their counselor annually, as they prepare to make important postsecondary education and career decisions.

The Challenge invites potential entrants, who may include eligible educators, mobile app developers, and other interested individuals to submit concepts for mobile apps which may include a prototype to improve access to CTE information that would help students, including students with disabilities and English Learners, navigate education and career pathways, and increase the capacity of career counselors to assist students in making decisions about their education and career options. The Challenge intends that mobile app concepts will be developed into prototypes during the Virtual Accelerator phase. The Challenge seeks mobile app solutions that include integrated tools to assess user skills and interests, while also offering users accessible information on occupations, education options, credentials, and career-seeking skills through an individualized user experience.

The Challenge will be conducted in four phases:

(1) Challenge launch and the open submission phase;

(2) Judging of the submissions and selection of finalists;

(3) Virtual Accelerator phase (inclusive of finalist mentorship, Innovator's Boot Camp, and Demonstration Day); and

(4) Final judging and selection of winner(s). Up to five finalists will be selected from the pool of submissions received during the open submission phase. From the total prize pool of $225,000, each of the finalists will be awarded $25,000 for their submission based on a review by the judging panel using the criteria in paragraph (a) in the *Selection Criteria* section of this notice. Finalists will be encouraged to use their winnings to improve upon their submissions, and are required to participate in the Virtual Accelerator phase, and to attend the Innovator's Boot Camp and Demonstration Day. After the Virtual Accelerator phase, Demonstration Day, and final judging using the criteria in paragraph (b) in the *Selection Criteria* section of this notice, the winner(s) will be selected by the Department and receive the remainder of the prize money.

Virtual Accelerator Phase Description

The Virtual Accelerator phase begins on the date finalists are announced and concludes on Demonstration Day,[3] which is the day when finalists present their submissions to the judging panel. During this phase, the finalists will revise and improve upon their submissions in preparation for Demonstration Day. On Demonstration Day, the finalists will be required to present their concept and demonstrate a final prototype.

General Elements of the Virtual Accelerator phase include the following—

(1) *Mentorship:* Finalists will have access to subject matter experts (SMEs) who will act throughout the Virtual Accelerator phase as mentors, helping the finalists to revise and improve their submissions.

(2) *Innovator's Boot Camp*:[4] Finalists will be required to participate in the Innovator's Boot Camp, which will either be a live event in the greater New York City metropolitan area or a virtual event. Finalists will receive guidance through teaching modules, which may include hands-on activities, with SMEs and Luminary Labs staff. While the agenda has yet to be finalized, major themes will likely include user testing and interface development along with instructions on how to best revise and improve finalists' submissions, potentially including various design and innovation methodologies that would improve CTE programs and improve virtual accessibility for everyone, including individuals with disabilities.

(3) *Demonstration Day Presentation Support:* After the Innovator's Boot Camp and prior to Demonstration Day, all finalists will have the opportunity to practice their presentations and receive feedback from Luminary Labs on how to improve their Demonstration Day presentations.

Following Demonstration Day, a judging panel will provide recommendations to the Department on the selection of one or more winners from the pool of finalists to receive the remainder of the prize money.

Program Authority: The goals, purposes, and activities related to the Challenge are authorized by section 114(c)(1) of Perkins IV, 20 U.S.C. 2324(c)(1). Under this section, the Secretary of the U. S. Department of Education is authorized to carry out research, development, dissemination, evaluation and assessment, capacity building, and technical assistance with regard to CTE programs under Perkins IV. Following the RHCAC, submissions selected as finalists will be made available to the public to improve access to information on CTE programs and career guidance strategies that can be adapted and implemented in local areas thereby building local capacity to counsel students regarding CTE programs.

III. Eligibility

(a) Eligible entrants must be:

(1) Individuals at least 18 years of age and a citizen or permanent resident of the United States;[5]

(2) Teams of individuals that:

(i) Are all at least 18 years of age;

(ii) Include at least one citizen or permanent resident of the United States; and

(iii) May also include foreign citizens who affirm at the time of submission of an entry for the Challenge that they are foreign citizens, who are not permanent residents; or

[1] ''Data Snapshot: Teacher Equity.'' U.S. Department of Education Office for Civil Rights. *www2.ed.gov/about/offices/list/ocr/docs/crdc-teacher-equity-snapshot.pdf*, Accessed September 11, 2015.

[2] ''Student-to-School-Counselor Ratio 2012–2013,'' American Counseling Association. 2014. *www.schoolcounselor.org/asca/media/asca/home/Ratios12-13.pdf*, Accessed September 11, 2015.

[3] The date of the announcement of the finalists will be determined by the Department.

[4] The date of the Innovator's Boot Camp will be determined by the Department.

[5] The 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the outlying areas of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

(3) An entity registered or incorporated in accordance with applicable State and local laws, and maintaining a primary place of business in the United States. The entity may include foreign citizens participating as employees of the entity.

(b) Ineligible entrants include—

(1) A foreign citizen unless participating as part of an eligible team or entity;

(2) A Federal entity;

(3) A Federal employee acting within the scope of his or her employment; and

(4) All employees of the Department, Luminary Labs, Challenge sponsors, and/or any other individual or entity associated with the development or administration of the Challenge, as well as members of such persons' immediate families (spouses, children, siblings, parents), and persons living in the same household as such persons, whether or not related.

(c) Entrants must:

(1) Register on the Challenge Web page (see *Additional Terms* that are Part of the *Official Rules,* under the *General Terms and Conditions* in this notice);

(2) Enter a submission on the Challenge Web page according to the rules, terms, and conditions in this notice;

(3) Comply with all requirements; and

(4) Provide affirmation upon submission of an entry for the Challenge that an entrant is eligible under subsection (a) of this section. If selected as a finalist, entrants must provide documentation to demonstrate their eligibility at that time.

(5) Agree to—

(i) Assume any and all risks and waive claims against the Federal government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in the Challenge, whether the injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arises through negligence or otherwise;

(ii) Indemnify the Federal government against third party claims for damages arising from, or related to, competition activities, patents, copyrights, and trademark infringements; and

(iii) Comply with and abide by the *Official Rules, Terms and Conditions* in this notice, and the decisions of the Department which shall be final and binding in all respects.

(d) Entrants are not required to obtain liability insurance or demonstrate financial responsibility in order to participate in the Challenge.

IV. Prizes

The total prize pool for the Challenge is $225,000. From the $225,000 Challenge prize pool funds, up to five finalist teams will be awarded $25,000 each following the judging of the open submissions. Finalists will improve and revise upon their submissions during the Virtual Accelerator phase in preparation for Demonstration Day. After Demonstration Day, a judging panel will provide recommendations to the Department on the selection of one or more winners from the pool of finalists to receive the remainder of the prize money.

Prizes awarded under this competition will be paid by electronic funds transfer. Winners are responsible for any applicable local, State, and Federal taxes and reporting that may be required under applicable tax laws.

V. Selection Criteria

(a) To participate in the Challenge, an entrant must submit an eligible entry according to the *Eligibility* section of this notice. Each of the following five selection criteria may be assigned up to 20 points during the judging of open submissions in order to select finalists (for a total of up to 100 points). The following criteria will be used to select the finalists:

(1) *Actionable Outcomes.* The extent that the submission demonstrates seamless career choice decision-making through the integration of—

(i) An interactive tool that assesses user skills and interests;

(ii) Up-to-date occupational data;

(iii) Educational options, including CTE programs,[6] technical skill credentials, and postsecondary certificate and degree programs; and

(iv) Career-seeking skills which may include, *e.g.,* resume writing skills, interviewing skills, etc.

(2) *Target Audience.* The extent that the submission provides—

(i) Support for educational and career path decision-making across a broad cross-section of students including students with disabilities, English Learners, and students in CTE programs; and

(ii) Support for counselor and/or teacher interactions with students, or plans for accessible features that will provide this support as the app is further developed.

(3) *Scalability.* The extent that the submission offers a viable plan for:

(i) The full development of features, including the integration of comprehensive employment data, effective communication for English Learners and individuals with disabilities, and virtual accessibility in a form that meets a government or industry-recognized standard for accessibility; and

(ii) A prototype to be customized to offer local educational and employment information including how local data and application programming interfaces (APIs) will be used.

(4) *Market Differentiation.* The extent that the submission demonstrates clear differentiation from the current market offerings.

(5) *Commitment.* The extent that the submission illustrates commitment and ability of the finalist to develop a prototype into a fully functional app.

(b) When judging the finalist submissions, judges will recommend to the Department the winner or winners from the pool of the finalists. From the pool of finalists, the winner(s) will be selected based on the five criteria in paragraph (a) of this section and the two additional criteria below. Each of the seven criteria may be assigned up to 20 points during the judging of the finalist submissions (for a total of up to 140 points). These two additional criteria are:

(1) Demonstration of the finalist's ability to effectively revise and improve their concept over the course of the Virtual Accelerator phase; and

(2) Perceived ability of the finalist and their prototype to materially transform career and education decision-making for students.

VI. Submission Information

1. To participate in the Challenge, an entrant—

(a) Must register on the Challenge Web page.

(b) Must enter the required information on the Challenge Web page submission form—

(1) *Contact Information.*

(2) *Submission Name and Information.*

(3) *Actionable Outcomes.* [500 word limit][7] The entrant must provide a description of how its submission meets each component in paragraph (a)(1), *Actionable Outcomes,* under the *Selection Criteria* in this notice.

(4) *Target Audience.* [500 word limit] The entrant must provide a description of how its submission meets each component in section (a)(2), *Target Audience,* under the *Selection Criteria* in this notice.

(5) *Scalability.* [500 word limit] The entrant must provide a description of

[6] ''Career and technical education'' or ''CTE'' as defined in section 3(5) of Perkins IV.

[7] The Challenge Web page will be programmed to limit the number of words to the word limit indicated.

how their submission meets each component in paragraph (a)(3), *Scalability,* under the *Selection Criteria* in this notice.

(6) *Market Differentiation.* [500 word limit] The entrant must provide a description of how its submission meets the component in paragraph (a)(4), *Market Differentiation,* under the *Selection Criteria* in this notice.

(7) *Commitment.* [500 words limit] The entrant must provide a description of how their submission meets each component in paragraph (a)(5), *Commitment,* under the *Selection Criteria* section in this notice.

(8) *Design Documents.* On the submission form of the Challenge Web page, entrants must upload an asset (*e.g.,* video, image, visualization) that illustrates the major design features of the proposed prototype app. (Accepted upload file formats include: .ppt, .pdf, .mp4, .mov, .jpg, .png; files must not exceed 20 megabytes.)

(9) *Third Party Works.* The entrant must indicate whether the submission includes any third party works. If so, the entrant must describe these works and affirm that appropriate documentation for all licenses and releases can be supplied upon request of the Department and/or Luminary Labs.

(10) *Submission Checklist.* The entrant must complete each of the following on the Challenge Web page when submitting their entry:

(i) The entrant attests that if selected as a finalist, their submitted concept could be developed into at least a fully functioning prototype by the conclusion of the Virtual Accelerator phase.

(ii) The entrant agrees to participate in the required Innovator's Boot Camp and present their submission on Demonstration Day if selected as a finalist.

(iii) The entrant acknowledges having read, understood and agreed to the Rules, Terms and Conditions.

(iv) The entrant confirms that the eligibility requirements are met.

(v) The entrant confirms that the submission complies with all applicable privacy laws.

(vi) The entrant confirms that the entrant did not receive assistance from subject matter experts or judges associated with the Challenge when preparing their submission.

(c) May provide the following information on the Challenge Web page submission form—

(1) *Demonstration (Upload).* On the submission form of the Challenge Web page, entrants may upload an asset (*e.g.,* video, image, visualization) that illustrates a demonstration of the prototype. Entrants should not upload files that repeat the information they provided in paragraphs (b)(3) through (b)(9) of this section above. (Accepted file formats include: .ppt, .pdf, .mp4, .mov, .jpg, .png; files must not exceed 20 megabytes.)

(2) *Demonstration (Link).* On the submission form of the Challenge Web page, entrants may provide a link to an asset (*e.g.,* video, image, visualization, working prototype) that illustrates a demonstration of the prototype. Entrants should not provide links to files that repeat the information they provided in paragraphs (b)(3) through (b)(9) of this section. (Videos may be posted to video-sharing sites like YouTube or Vimeo.)

(3) *GitHub Link.* On the submission form of the Challenge Web page, entrants may provide a link to the GitHub repository for the entrant's prototype.

2. *Content and Form of Application Submission:* To submit an entry to the Challenge, an entrant must complete the submission form on the Challenge Web page.

3. *Submission Dates and Times:*

To submit an entry to the Challenge, an entrant must go to the Challenge Web page and complete all required fields of the Challenge submission form before the close of the open submission phase, which is currently scheduled for December 7, 2015 at 11:59:59 p.m., Washington DC time. Each entrant must complete all of the required fields in the Challenge submission form in accordance with the *Official Rules, Terms and Conditions* in this notice.

All entrants are required to provide consent to the *Official Rules, Terms and Conditions* in this notice upon submitting an entry. Submissions must be received during the open submissions phase of the Challenge to be eligible. The open submissions phase officially begins October 7, 2015 with this announcement of the Challenge and continues to December 7, 2015 at 11:59:59 p.m., Washington DC time. Luminary Labs is the official timekeeper for the Challenge. Once submitted, a submission may not be altered during the open submissions phase. The Department reserves the right to disqualify any submission that the Department deems inappropriate.

During the Virtual Accelerator phase, the finalists will be required to give their Demonstration Day presentation and demonstrate a final prototype.

Entrants may enter individually or as part of a team, and teams are strongly encouraged. Each team member must be clearly identified on the team's submission form for the team to be eligible. Teams must designate a primary contact to serve as the team lead (Team Lead) and manage the distribution of any awarded prizes. In the event a dispute regarding the identity of the entrant who actually submitted the entry cannot be resolved by the Department, the affected entry will be deemed ineligible.

The open submissions phase closes at 11:59:59 p.m., Washington DC time December 7, 2015. The Department encourages entrants to submit at least one hour before the deadline to ensure the completed submission is received. If an entrant submits an entry after the deadline date because a technical problem with the Challenge Web page system, the entrant must immediately contact the person listed under **FOR FURTHER INFORMATION CONTACT** in this notice, and provide an explanation of the technical problem experienced on the Challenge Web page system. The Department will accept the entrant's application if the Department can confirm that a technical problem occurred with the Challenge Web page system and that the technical problem affected the entrant's ability to submit an application by 11:59:59 p.m., Washington DC time, on the entry deadline date. The Department will contact the entrant after a determination is made on whether the entry will be accepted.

Note: These extensions apply only to the unavailability of, or technical problems with, the Challenge Web page system. The Department will not grant an entrant an extension if the entrant failed to submit an entry in the system by the application deadline date and time, or if the technical problem experienced is unrelated to the Challenge Web page system.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the submission process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the entry submission process, the entry remains subject to all other requirements and limitations in this notice.

VII. Submission Review Information

Review and Selection Process

Based on their individual expertise, judges will recommend up to five finalists to be selected by the Department from the pool of eligible entries. Once the Department has selected a group of finalists based on the recommendations of the judges consistent with the selection criteria, the finalists will then refine their submissions during the Virtual

Accelerator phase and present their submissions on Demonstration Day.

Entries will be scored by the judges based on the quality of each entry according to the criteria described in paragraph (a) of the *Selection Criteria* section in this notice. When selecting finalists from the open submission phase, each criterion may be worth up to 20 points for a total of up to 100 points. When selecting the winner(s) from the finalists, judges will consider two additional criteria. Each of the seven criteria will be assigned up to 20 points for a total of up to 140 points available.

By participating in the Challenge, each entrant acknowledges and agrees that such recommendations of the judges based on the criteria may differ and agrees to be bound by, and not to challenge, the final decisions of the Department.

VIII. Official Rules, Terms and Conditions

General Terms and Conditions

The Department reserves the right to suspend, postpone, cease, terminate, or otherwise modify this Challenge or any entrant's participation in the Challenge, at any time at the Department's sole discretion.

All entry information submitted on the Challenge Web page and all materials, including any copy of the submission, becomes property of the Department and will not be acknowledged or returned by Luminary Labs or the Department. However, entrants retain ownership of their concepts, including any software, research, or other intellectual property (IP) that they develop in connection therewith, subject to the license granted to the Department to use submissions as set forth in the *Intellectual Property of Solutions* section of this notice. Proof of submission is not considered proof of delivery or receipt of such entry. Furthermore, the Department and Luminary Labs shall have no liability for any submission that is lost, intercepted, or not received by the Department and/or Luminary Labs. The Department and Luminary Labs assume no liability or responsibility for any error, omission, interruption, deletion, theft, destruction, unauthorized access to, or alteration of, submissions.

Representations and Warranties/ Indemnification

By participating in the Challenge, each entrant represents, warrants, and covenants as follows:

(a) The entrants are the sole authors, creators, and owners of the submission;

(b) The entrant's submission—

(i) Is not the subject of any actual or threatened litigation or claim;

(ii) Does not, and will not, violate or infringe upon the intellectual property rights, privacy rights, publicity rights, or other legal rights of any third party;

(iii) Does not, contain any harmful computer code (sometimes referred to as ''malware,'' ''viruses,'' or ''worms''); and

(c) The submission, and entrants' use of the submission, does not, and will not, violate any applicable laws or regulations of the United States.

If the submission includes the work of any third party (such as third party content or open source code), the entrant must be able to provide, upon the request of the Department and/or Luminary Labs, documentation of all appropriate licenses and releases for such third party works. If the entrant cannot provide documentation of all required licenses and releases, the Department reserves the right, in its sole discretion, to disqualify the applicable submission, or direct the entrant to secure the licenses and releases for the Department's benefit within three days of notification of the missing documentation and allow the applicable submission to remain in the Challenge. In addition, the Department reserves all rights to pursue an entrant for claims based on damages incurred by entrant's failure to obtain such licenses and releases.

Entrants will indemnify, defend, and hold harmless the Department and Luminary Labs from and against all third party claims, actions, or proceedings of any kind and from any and all damages, liabilities, costs, and expenses relating to, or arising from, entrant's submission or any breach or alleged breach of any of the representations, warranties, and covenants of entrant hereunder. The Department reserves the right to disqualify any submission that the Department, in its discretion, deems to violate these *Official Rules, Terms and Conditions* in this notice.

Submission License

Each entrant retains title to, and full ownership of, its submission. The entrant expressly reserves all intellectual property rights not expressly granted under this agreement. By participating in the Challenge, each entrant hereby irrevocably grants a license to the Department and Luminary Labs to store and access submissions in perpetuity that may be reproduced or distributed in the future. Please refer to the *Intellectual Property of Submissions* section of this notice for further information regarding rights to submissions.

Publicity Release

By participating in the Challenge, each entrant hereby irrevocably grants to the Department and Luminary Labs the right to use such entrant's name, likeness, image, and biographical information in any and all media for advertising and promotional purposes relating to the Challenge in perpetuity and otherwise as stated in the *Submission License* section of this notice.

Disqualification

The Department reserves the right in its sole discretion to disqualify any entrant who is found to be tampering with the entry process or the operation of the Challenge, Challenge Web page, or other Challenge-related Web pages; to be acting in violation of these *Official Rules, Terms and Conditions;* to be acting in an unsportsmanlike or disruptive manner, or with the intent to disrupt or undermine the legitimate operation of the Challenge; or to annoy, abuse, threaten, or harass any other person; and, the Department reserves the right to seek damages and other remedies from any such person to the fullest extent permitted by law.

Links to Third-Party Web Pages

The Challenge Web page may contain links to third-party Web pages that are not owned or controlled by Luminary Labs or the Department. Luminary Labs and the Department do not endorse or assume any responsibility for any such third party sites. If an entrant accesses a third-party Web page from the Challenge Web page, the entrant does so at the entrant's own risk and expressly relieves Luminary Labs and/or the Department from any and all liability arising from use of any third-party Web page content.

Disclaimer

The Challenge Web page contains information and resources from public and private organizations that may be useful to the reader. Inclusion of this information does not constitute an endorsement by the Department or Luminary Labs of any products or services offered or views expressed. Blog articles provide insights on the activities of schools, programs, grantees, and other education stakeholders to promote continuing discussion of educational innovation and reform. Blog articles do not endorse any educational product, service, curriculum, or pedagogy.

The Challenge Web page also contains hyperlinks and URLs created and maintained by outside organizations, which are provided for the reader's convenience. The Department and Luminary Labs are not responsible for the accuracy of the information contained therein.

Notice to Finalists/Winner(s)

Attempts to notify finalists and winner(s) will be made using the email address associated with the finalist's Luminary Lightbox™ account. The Department and Luminary Labs are not responsible for email or other communication problems of any kind.

If, despite reasonable efforts, an entrant does not respond within three days of the first notification attempt regarding selection as a finalist (or a shorter time as exigencies may require) or if the notification is returned as undeliverable to such entrant, that entrant may forfeit the entrant's finalist status and associated prizes, and an alternate finalist may be selected.

If any potential prize winner is found to be ineligible, has not complied with these *Official Rules, Terms and Conditions,* or declines the applicable prize for any reason prior to award, such potential prize winner will be disqualified. An alternate winner may be selected, or the applicable prize may go unawarded.

Attendance

To maintain eligibility, finalists are required to participate in Challenge activities organized by the Department and Luminary Labs, which include the Virtual Accelerator phase, Webinars, Innovator's Boot Camp, and Demonstration Day. If a finalist is unable to participate in any mandatory activities, the finalist will not be eligible to win the Challenge. Finalists and winner(s) are required to attend these events at their own expense.

Intellectual Property (IP) of Submissions

Entrants retain ownership of their submission, including any software, research or other IP that they develop in connection therewith, subject to the license granted to the Department to use submissions as set forth herein.

Entrants retain all rights to the submission and any invention or work, including any software, submitted as part of the submission, subject to the following—

If the submission wins, the Department retains a nonexclusive, nontransferable, irrevocable, paid-up world-wide license to any such invention or work of the submission throughout the world, in perpetuity, to reproduce, publish or otherwise use the work for Federal purposes and authorize others to do so. Please refer to *Submission License* section of this notice for further information regarding rights to submissions.

Dates/Deadlines

The Department reserves the right to modify any dates or deadlines set forth in these *Official Rules, Terms and Conditions* or otherwise governing the Challenge.

Challenge Termination

The Department reserves the right to suspend, postpone, cease, terminate or otherwise modify this Challenge, or any entrant's participation in the Challenge, at any time at the Department's discretion.

General Liability Release

By participating in the Challenge, each entrant hereby agrees that—

(a) The Department and Luminary Labs shall not be responsible or liable for any losses, damages, or injuries of any kind (including death) resulting from participation in the Challenge or any Challenge-related activity, or from entrants' acceptance, receipt, possession, use, or misuse of any prize; and

(b) The entrant will indemnify, defend, and hold harmless the Department and Luminary Labs from and against all third party claims, actions, or proceedings of any kind and from any and all damages, liabilities, costs, and expenses relating to, or arising from, the entrant's participation in the Challenge.

Without limiting the generality of the foregoing, the Department and Luminary Labs are not responsible for incomplete, illegible, misdirected, misprinted, late, lost, postage-due, damaged, or stolen entries or prize notifications; or for lost, interrupted, inaccessible, or unavailable networks, servers, satellites, Internet Service Providers, Web pages, or other connections; or for miscommunications, failed, jumbled, scrambled, delayed, or misdirected computer, telephone, cable transmissions or other communications; or for any technical malfunctions, failures, difficulties, or other errors of any kind or nature; or for the incorrect or inaccurate capture of information, or the failure to capture any information.

These *Official Rules, Terms and Conditions* cannot be modified except by the Department in its sole and absolute discretion. The invalidity or unenforceability of any provision of these *Official Rules, Terms and Conditions* shall not affect the validity or enforceability of any other provision. In the event that any provision is determined to be invalid or otherwise unenforceable or illegal, these *Official Rules, Terms and Conditions* shall otherwise remain in effect and shall be construed in accordance with their terms as if the invalid or illegal provision were not contained herein.

Exercise

The failure of the Department to exercise or enforce any right or provision of these *Official Rules, Terms and Conditions* shall not constitute a waiver of such right or provision.

Governing Law

All issues and questions concerning the construction, validity, interpretation, and enforceability of these *Official Rules, Terms and Conditions* shall be governed by and construed in accordance with U.S. Federal law as applied in the Federal courts of the District of Columbia if a complaint is filed by any party against the Department, and the laws of the State of New York as applied in the New York state courts in New York City if a complaint is filed by any party against Luminary Labs.

Privacy Policy

By participating in the Challenge, each entrant hereby agrees that occasionally, the Department and Luminary Labs may also use the entrant's information to contact the entrant about Federal Challenge and innovation related activities, and acknowledges that the entrant has read and accepted the privacy policy at: *www.reachhigherchallenge.com/privacy.*

Additional Terms That Are Part Of The Official Rules, Terms and Conditions

Please review the Luminary Lightbox™ Terms of Service at: *www.LuminaryLightbox.com/terms* for additional rules that apply to participation in the Challenge and more generally to use of the Challenge Web page. Such Terms of Service are incorporated by reference into these *Official Rules, Terms and Conditions.* If there is a conflict between the Terms of Service and these *Official Rules, Terms and Conditions,* the latter terms shall control with respect to this Challenge only.

Participation in the Challenge constitutes an entrant's full and unconditional agreement to these *Official Rules, Terms and Conditions.* By entering, an entrant agrees that all decisions related to the Challenge that are made pursuant to these *Official*

Rules, Terms and Conditions are final and binding, and that all such decisions are at the sole discretion of the Department and/or Luminary Labs.

Luminary Labs collects personal information from entrants to the Challenge. The information collected is subject to the privacy policy located here: *www.LuminaryLightbox.com/privacy*.

Winners List/Official Rules/Contact

To obtain a list of finalists and winner(s) (after the conclusion of the Challenge) or a copy of these Official Rules, Terms and Conditions, send a self-addressed envelope with the proper postage affixed to: Luminary Labs, 30 West 22nd St., Floor 6, New York, NY, 10010. Please specify ''Winners List'' or ''Official Rules'' and the name of the specific Challenge in this request.

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section IX of this notice, should you have any comments or questions about these *Official Rules, Terms, and Conditions.*

IX. Agency Contact

FOR FURTHER INFORMATION CONTACT: Albert Palacios, U.S. Department of Education, 550 12th Street SW., Room 11–086, Washington, DC 20202 or by email: *albert.palacios@ed.gov*.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

X. Other Information

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

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

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

Dated: September 29, 2015.

Johan E. Uvin,

Deputy Assistant Secretary, Delegated the Authority of Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2015–25245 Filed 10–6–15; 8:45 am]

BILLING CODE 4000–01–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: EC15–217–000.

Applicants: Passadumkeag Windpark, LLC.

Description: Application of Passadumkeag Windpark, LLC for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action.

Filed Date: 9/29/15.

Accession Number: 20150929–5287.

Comments Due: 5 p.m. ET 10/20/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–133–000.

Applicants: Wake Wind Energy LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Wake Wind Energy LLC.

Filed Date: 9/30/15.

Accession Number: 20150930–5040.

Comments Due: 5 p.m. ET 10/21/15.

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

Docket Numbers: ER10–2265–008; ER12–21–018; ER11–2211–007; ER11–2209–007; ER11–2210–007; ER11–2207–007; ER11–2206–007; ER13–1150–005; ER13–1151–005; ER11–2855–018; ER14–1818–008; ER10–2260–005; ER10–2261–005; ER10–2339–010; ER10–2338–010; ER10–2340–010; ER11–3727–013; ER10–2262–004; ER11–2062–017; ER10–1291–018; ER11–2508–016; ER11–4307–017; ER12–1711–013; ER12–261–016; ER10–2264–005; ER10–1581–015; ER10–2354–007; ER11–2107–008; ER11–2108–008; ER10–2888–017; ER13–1803–009; ER13–1790–009; ER13–1746–010; ER12–1525–013; ER10–2266–004; ER12–2398–012; ER11–3459–012; ER11–4308–017; ER11–2805–016; ER11–2856–018; ER13–2107–008; ER13–2020–008; ER13–2050–008; ER11–2857–018; ER10–2359–006; ER10–2381–006; ER10–2575–006.

Applicants: NRG Power Marketing LLC, Agua Caliente Solar, LLC, Alta Wind I, LLC, Alta Wind II, LLC, Alta Wind III, LLC, Alta Wind IV, LLC, Alta Wind V, LLC, Alta Wind X, LLC, Alta Wind XI, LLC, Avenal Park LLC, Boston Energy Trading and Marketing LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, CP Power Sales Seventeen, L.L.C., CP Power Sales Nineteen, L.L.C., CP Power Sales Twenty, L.L.C., El Segundo Energy Center LLC, El Segundo Power, LLC, Energy Plus Holdings LLC, GenConn Energy LLC, GenOn Energy Management, LLC, Green Mountain Energy Company, High Plains Ranch II, LLC, Independence Energy Group LLC, Long Beach Generation LLC, Long Beach Peakers LLC, Midway-Sunset Cogeneration Company, North Community Turbines LLC, North Wind Turbines LLC, Norwalk Power LLC, NRG California South LP, NRG Delta LLC, NRG Marsh Landing LLC, NRG Solar Alpine LLC, NRG Solar Blythe LLC, NRG Solar Borrego I LLC, NRG Solar Roadrunner LLC, Reliant Energy Northeast LLC, RRI Energy Services, LLC, Sand Drag LLC, Solar Partners I, LLC, Solar Partners II, LLC, Solar Partners VIII, LLC, Sun City Project LLC, Sunrise Power Company, LLC, Walnut Creek Energy, LLC, Watson Cogeneration Company.

Description: Supplement to August 7, 2015 Notice of Change in Status of the NRG CAISO MBR Sellers.

Filed Date: 9/30/15.

Accession Number: 20150930–5130.

Comments Due: 5 p.m. ET 10/21/15.

Docket Numbers: ER10–2507–006.

Applicants: Westar Energy, Inc.

Description: Notice of Non-Material Change in Status of Westar Energy, Inc.

Filed Date: 9/29/15.

Accession Number: 20150929–5286.

Comments Due: 5 p.m. ET 10/20/15.

Docket Numbers: ER15–572–003.

Applicants: New York Transco, LLC.

Description: Motion of the New York Transco, LLC for Temporary and Limited Waiver of the Formula Rate Implementation Protocols.

Filed Date: 9/28/15.

Accession Number: 20150928–5348.

Comments Due: 5 p.m. ET 10/19/15.

Docket Numbers: ER15–2477–000.

Applicants: Golden Hills Wind, LLC.

Description: Amendment to August 18, 2015 Golden Hills Wind, LLC tariff filing.

Filed Date: 9/29/15.

Accession Number: 20150929–5281.

Comments Due: 5 p.m. ET 10/20/15.

Docket Numbers: ER15–2743–000.

Applicants: PacifiCorp.

Description: Notice of Termination of BPA AC Intertie Transmission Agreement RS 370 of PacifiCorp.

Filed Date: 9/29/15.

Accession Number: 20150929–5260.

Comments Due: 5 p.m. ET 10/20/15.

Docket Numbers: ER15–2744–000.

Applicants: Entergy Gulf States Louisiana, L.L.C.

Description: Section 205(d) Rate Filing: EGSL–SRMPA 3rd Extension of Interim Agreement to be effective 10/1/2015.

Filed Date: 9/30/15.

Accession Number: 20150930–5049.

Comments Due: 5 p.m. ET 10/21/15.

Docket Numbers: ER15–2745–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of Service Agreement No. 4041; Queue W3–160 (WMPA) to be effective 9/23/2015.

Filed Date: 9/30/15.

Accession Number: 20150930–5145.

Comments Due: 5 p.m. ET 10/21/15.

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 30, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–25513 Filed 10–6–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: ER10–1946–011; ER11–3861–011; ER10–3310–009; ER10–3286–009; ER10–3299–008; ER13–1485–005; ER10–3253–005; ER14–1777–004; ER10–3237–005; ER10–3240–005; ER10–3230–005; ER10–3231–004; ER15–2722–001; ER10–3232–003; ER10–3233–004; ER10–3239–005; ER14–2871–006; ER10–3243–008; ER10–3244–008; ER10–3245–007; ER10–3249–007; ER10–3250–007; ER10–3251–006; ER14–2382–006; ER15–621–005; ER11–2639–007; ER15–622–005; ER15–463–005; ER15–110–005; ER13–1586–007; ER10–1992–013.

Applicants: Broad River Energy LLC, Empire Generating Co, LLC, New Harquahala Generating Company, LLC, Millennium Power Partners, L.P., New Athens Generating Company, LLC, Wheelabrator Baltimore, L.P., Wheelabrator Bridgeport, L.P., Wheelabrator Falls Inc., Wheelabrator Frackville Energy Company Inc., Wheelabrator North Andover Inc., Wheelabrator Portsmouth Inc., Wheelabrator Ridge Energy Inc., Wheelabrator Saugus Inc., Wheelabrator Shasta Energy Company Inc., Wheelabrator South Broward Inc., Wheelabrator Westchester, L.P., Cameron Ridge, LLC, Chandler Wind Partners, LLC, Coso Geothermal Power Holdings, LLC, Foote Creek II, LLC, Foote Creek III, LLC, Foote Creek IV, LLC, Oak Creek Wind Power, LLC, ON Wind Energy LLC, Pacific Crest Power, LLC, Ridge Crest Wind Partners, LLC, Ridgetop Energy, LLC, San Gorgonio Westwinds II, LLC, Terra-Gen Energy Services, LLC, TGP Energy Management, LLC, Victory Garden Phase IV, LLC.

Description: Notice of Change in Status of the ECP MBR Sellers.

Filed Date: 10/1/15.

Accession Number: 20151001–5337.

Comments Due: 5 p.m. ET 10/22/15.

Docket Numbers: ER13–1860–001.

Applicants: Nevada Power Company.

Description: Compliance filing: Service Agreement No. 15–00049/50/51/52 NPC-Cargill Offer/Settlement to be effective 12/15/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5338.

Comments Due: 5 p.m. ET 10/22/15.

Docket Numbers: ER16–10–000.

Applicants: NRG Chalk Point CT LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 11/30/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5335.

Comments Due: 5 p.m. ET 10/22/15.

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: October 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–25515 Filed 10–6–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF15–12–000]

Southeastern Power Administration; Notice of Filing

Take notice that on September 28, 2015, the Southeastern Power Administration submitted a tariff filing: Cumberland 2015 Rate Adjustment to be effective 10/1/2015.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the

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

Comment Date: 5:00 p.m. Eastern time on October 28, 2015.

Dated: October 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–25516 Filed 10–6–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP15–1310–000]

National Fuel Gas Supply Corporation; Notice of Request for Approval of Settlement

Take notice that on September 29, 2015, National Fuel Gas Supply Corporation seeks approval of the ''Supplemental Stipulation and Agreement'' dated September 25, 2015 and the associated pro forma tariff sheets, all as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. 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. 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 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 St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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 9, 2015.

Dated: October 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–25518 Filed 10–6–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–2742–000]

Panda Patriot 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 Panda Patriot 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 October 20, 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 30, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–25517 Filed 10–6–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

September 30, 2015.

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

Docket Numbers: ER13–1195–000.

Applicants: Entergy Services, Inc.

Description: Entergy Arkansas, Inc. submits tariff filing per 35.19a(b): Refund Report to be effective N/A.

Filed Date: 9/30/15.

Accession Number: 20150930–5191.

Comments Due: 5 p.m. ET 10/21/15.

Docket Numbers: ER15–1498–001.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: Compliance tariff revision—Competitive Entry Exemption Class Years to be effective 2/26/2015.

Filed Date: 9/30/15.

Accession Number: 20150930–5076.

Comments Due: 5 p.m. ET 10/21/15.

Docket Numbers: ER15–2746–000.
Applicants: NorthWestern Corporation.
Description: Section 205(d) Rate Filing: Revised Point-to-Point TSAs with Langford (SA 32–SD) and Bryant (SA 33–SD) to be effective 10/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5155.
Comments Due: 5 p.m. ET 10/21/15.
Docket Numbers: ER15–2747–000.
Applicants: ISO New England Inc. New England Power Company, Public Service Company of New Hampshire.
Description: Section 205(d) Rate Filing: Granite Ridge Energy, LLC—LGIA–ISONE/NEP/EES–15–01 to be effective 8/31/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5162.
Comments Due: 5 p.m. ET 10/21/15.
Docket Numbers: ER15–2748–000.
Applicants: Fair Wind Power Partners, LLC.
Description: Baseline eTariff Filing: Fair Wind Power Partners LLC Certificate of Concurrence Filing to be effective 9/30/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5164.
Comments Due: 5 p.m. ET 10/21/15.
Docket Numbers: ER15–2749–000.
Applicants: PacifiCorp.
Description: Notice of Termination of City of Redding Long Term Power Sales and Exchange Agreement RS 425 of PacifiCorp.
Filed Date: 9/30/15.
Accession Number: 20150930–5180.
Comments Due: 5 p.m. ET 10/21/15.
Docket Numbers: ER15–2750–000.
Applicants: Galt Power Inc. Galt Power Inc. Galt Power, Inc.
Description: Request of Galt Power, Inc. for Limited Tariff Waiver.
Filed Date: 9/30/15.
Accession Number: 20150930–5195.
Comments Due: 5 p.m. ET 10/21/15.

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 30, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–25512 Filed 10–6–15; 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: EC14–112–002.
Applicants: PPL Corporation.
Description: Motion of Talen Energy Corporation to Amend Mitigation Plan and Request for Extended Comment Period and Confidential Treatment.
Filed Date: 9/28/15.
Accession Number: 20150928–5101.
Comments Due: 5 p.m. ET 10/19/15.
Docket Numbers: EC15–213–000.
Applicants: Public Service Company of New Mexico, PNMR Development and Management Corporation.
Description: Joint App for Authorization Pursuant to Section 203 of the Federal Power Act for Acquisition of Jurisdictional Facilities and Request for Expedited Consideration & a Shortened Comment Period of Public Service Company of New Mexico, et al.
Filed Date: 9/25/15.
Accession Number: 20150925–5248.
Comments Due: 5 p.m. ET 11/24/15.
Docket Numbers: EC15–215–000.
Applicants: RPA Energy, Inc.
Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Expedited Consideration and a Shortened Comment Period of RPA Energy, Inc.
Filed Date: 9/25/15.
Accession Number: 20150925–5300.
Comments Due: 5 p.m. ET 10/16/15.
Docket Numbers: EC15–218–000.
Applicants: Oncor Electric Delivery Company LLC, Ovation Acquisition I, L.L.C., Ovation Acquisition II, L.L.C.
Description: Joint Application of Oncor Electric Delivery Company LLC, et al. for Approval of the Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act.
Filed Date: 9/30/15.
Accession Number: 20150930–5279.
Comments Due: 5 p.m. ET 10/21/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–1–000.
Applicants: NRG Chalk Point CT LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 10/1/15.
Accession Number: 20151001–5188.
Comments Due: 5 p.m. ET 10/22/15.

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

Docket Numbers: ER10–2331–036; ER14–630–013; ER10–2319–028; ER10–2317–028; ER14–1468–012; ER13–1351–010; ER10–2330–035.
Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA LLC, KMC Thermo, LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C.
Description: Notice of Non-Material Change in Status of the J.P. Morgan Sellers.
Filed Date: 10/1/15.
Accession Number: 20151001–5256.
Comments Due: 5 p.m. ET 10/22/15.
Docket Numbers: ER13–1939–002.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Order 1000 Interregional Compliance Filing for the SPP–SERTP Process to be effective 1/1/2015.
Filed Date: 10/1/15.
Accession Number: 20151001–5135.
Comments Due: 5 p.m. ET 10/22/15.
Docket Numbers: ER15–359–005.
Applicants: Samchully Power & Utilities 1 LLC.
Description: Notice of Non-Material Change In Status of Samchully Power & Utilities 1 LLC.
Filed Date: 9/30/15.
Accession Number: 20150930–5270.
Comments Due: 5 p.m. ET 10/21/15.
Docket Numbers: ER15–411–002.
Applicants: Arizona Public Service Company.
Description: Compliance filing: Rate Schedule No. 274—Planning Participation Agreement to be effective 10/1/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5235.
Comments Due: 5 p.m. ET 10/21/15.
Docket Numbers: ER15–2751–000.
Applicants: Canadian Hills Wind, LLC.
Description: Section 205(d) Rate Filing: Resubmission of Co-Tenancy and Shared Facilities Agreement to be effective 5/12/2015.
Filed Date: 9/30/15.
Accession Number: 20150930–5212.
Comments Due: 5 p.m. ET 10/21/15.
Docket Numbers: ER15–2752–000.

Applicants: California Independent System Operator Corporation.

Description: Section 205(d) Rate Filing: Interconnection Process Enhancements-Downsizing and Request for Waiver to be effective 10/14/2015.

Filed Date: 9/30/15.

Accession Number: 20150930–5224.

Comments Due: 5 p.m. ET 10/21/15.

Docket Numbers: ER15–2753–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Section 205(d) Rate Filing: 2015–09–30_MISO–MH Seams Operating Agreement to be effective 10/1/2015.

Filed Date: 9/30/15.

Accession Number: 20150930–5230.

Comments Due: 5 p.m. ET 10/21/15.

Docket Numbers: ER15–2754–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Section 205(d) Rate Filing: 2015–09–30_SA 1756 METC-Consumers Energy Amended GIA (G479B) to be effective 10/1/2015.

Filed Date: 9/30/15.

Accession Number: 20150930–5233.

Comments Due: 5 p.m. ET 10/21/15.

Docket Numbers: ER15–2756–000.

Applicants: NorthWestern Corporation.

Description: Notice of Termination of nine transmission service agreements with City of Groton, et al. of NorthWestern Corporation.

Filed Date: 9/30/15.

Accession Number: 20150930–5259.

Comments Due: 5 p.m. ET 10/21/15.

Docket Numbers: ER16–1–000.

Applicants: New England Power Pool Participants Committee.

Description: Section 205(d) Rate Filing: Oct 1 2015 Membership Filing to be effective 9/1/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5011.

Comments Due: 5 p.m. ET 10/22/15.

Docket Numbers: ER16–2–000.

Applicants: Louisville Gas and Electric Company.

Description: Section 205(d) Rate Filing: Ancillary Services Schedules Revision to be effective 12/1/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5100.

Comments Due: 5 p.m. ET 10/22/15.

Docket Numbers: ER16–4–000.

Applicants: NorthWestern Corporation.

Description: Section 205(d) Rate Filing: SA 745 First Rev—EPC Agreement with Express Pipeline LLC to be effective 10/2/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5142.

Comments Due: 5 p.m. ET 10/22/15.

Docket Numbers: ER16–5–000.

Applicants: AEP Texas North Company.

Description: Section 205(d) Rate Filing: TNC (WTU)-National Wind Power Limited IA to be effective 8/17/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5169.

Comments Due: 5 p.m. ET 10/22/15.

Docket Numbers: ER16–6–000.

Applicants: Southwest Power Pool, Inc.

Description: Section 205(d) Rate Filing: 1628R7 Western Farmers Electric Cooperative NITSA to be effective 9/1/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5186.

Comments Due: 5 p.m. ET 10/22/15.

Docket Numbers: ER16–7–000.

Applicants: Southwest Power Pool, Inc.

Description: Section 205(d) Rate Filing: 1166R26 Oklahoma Municipal Power Authority NITSA and NOA to be effective 9/1/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5191.

Comments Due: 5 p.m. ET 10/22/15.

Docket Numbers: ER16–8–000.

Applicants: Duke Energy Ohio, Inc.

Description: Section 205(d) Rate Filing: DEO Revised MBR Tariff to be effective 10/2/2015.

Filed Date: 10/1/15.

Accession Number: 20151001–5199.

Comments Due: 5 p.m. ET 10/22/15.

Docket Numbers: ER16–9–000.

Applicants: Portland General Electric Company.

Description: Section 205(d) Rate Filing: NTTG Funding Agreement 2016–2017 to be effective 1/1/2016.

Filed Date: 10/1/15.

Accession Number: 20151001–5266.

Comments Due: 5 p.m. ET 10/22/15.

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: October 1, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–25514 Filed 10–6–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0287; FRL–9926–96–ORD]

Stormwater Management in Response to Climate Change Impacts: Lessons From the Chesapeake Bay and Great Lakes Regions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period and letter peer review.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a 30-day public comment period for the draft document titled, ''Stormwater Management in Response to Climate Change Impacts: Lessons from the Chesapeake Bay and Great Lakes Regions'' (EPA/600/R–15/087). EPA is also announcing that Versar, Inc., an EPA contractor for external scientific peer review, will select three independent experts from a pool of six to conduct a letter peer review of the same draft document. The document was prepared by the National Center for Environmental Assessment within EPA's Office of Research and Development. This document describes insights gained from a series of EPA and National Oceanic and Atmospheric Administration (NOAA) sponsored workshops with communities in the Chesapeake Bay and Great Lakes regions to address climate change in stormwater adaptation efforts.

EPA intends to forward the public comments that are submitted in accordance with this document to the external peer reviewers for their consideration during the letter peer review. When finalizing the draft documents, EPA intends to consider any public comments received in response to this notice. EPA is releasing this draft document for the purposes of public comment and peer review. This draft document is not final as described in EPA's information quality guidelines and does not represent and should not be construed to represent Agency policy or views.

The draft document is available via the Internet on EPA's Risk Web page under the Recent Additions at *http://www.epa.gov/risk.*

DATES: The 30-day public comment period begins October 7, 2015, and ends

November 6, 2015. Technical comments should be in writing and must be received by EPA by November 6, 2015.

ADDRESSES: The draft document, ''Stormwater Management in Response to Climate Change Impacts: Lessons from the Chesapeake Bay and Great Lakes Regions,'' is available primarily via the Internet on the EPA's Risk Web page under the Recent Additions at *http://www.epa.gov/risk.* A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov.*

For technical information, contact Susan Julius, NCEA; telephone: 703–347–8619; facsimile: 703–347–8694; or email: *julius.susan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Project/Document

Water resources in the United States are affected by a number of climate stressors, including increasing temperatures, changing precipitation patterns, and extreme events. These changing conditions have implications for stormwater management as local decision makers look to improve existing infrastructure and build new stormwater systems. EPA and NOAA have conducted a number of workshops and other community efforts in cities and counties within the Chesapeake Bay and Great Lakes regions to initiate conversations about how projected land use and climate change could impact local water conditions and how adaptation (resiliency) planning can fit into decision-making processes to help meet existing goals. These conversations provided insights into the kinds of information that enable and facilitate communities' incorporation of climate change into local planning and decision making for stormwater management. The report reviews lessons learned from these adaptation planning experiences, including locally identified barriers to addressing climate change, methods to overcome barriers in the short term, and long term information needs to further assist communities in their stormwater adaptation efforts.

II. How To Submit Technical Comments to the Docket at *http://www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD 2015–0287, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. The phone number is 202–566–1752. If you provide comments by mail, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center's 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. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2015–0287. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov*, including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center home page at *http://www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: September 30, 2015.

Mary A. Ross,

Deputy Director, National Center for Environmental Assessment.

[FR Doc. 2015–25590 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9926–03–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, Commonwealth of Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the Commonwealth of

Virginia's request to revise/modify its EPA Administered Permit Programs: The National Pollutant Discharge Elimination System EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov*.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On January 13, 2010, the Virginia Department of Environmental Quality (VA DEQ) submitted an application titled ''Electronic Environmental Data Exchange Reporting System'' for revision/modification to its EPA-approved stormwater program under title 40 CFR to allow new electronic reporting. EPA reviewed VA DEQ's request to revise/modify its EPA-authorized Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision/modification set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Virginia's request to revise/modify its Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program to allow electronic reporting under 40 CFR part 122 is being published in the **Federal Register**.

VA DEQ was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Matthew Leopard,

Director, Office of Information Collection.

[FR Doc. 2015–25528 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0301; FRL–9933–51]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted or denied emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions or denials were issued during the period April 1, 2015 to June 30, 2015 to control unforeseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the emergency exemption or denial.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0301 is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. Background

EPA has granted or denied emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has also listed denied emergency exemption requests in this notice.

Under FIFRA section 18 (7 U.S.C. 136p), EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A ''specific exemption'' authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. ''Quarantine'' and ''public health'' exemptions are emergency exemptions issued for quarantine or public health purposes. These are rarely requested.

3. A ''crisis exemption'' is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of infants and children to residues of the pesticide.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the ''reasonable certainty of no harm standard'' of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document: EPA identifies the State or Federal agency issued the exemption or denial, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, and the duration of the exemption. EPA also gives the **Federal Register** citation for the time-limited tolerance, if any.

III. Emergency Exemptions and Denials

A. U.S. States and Territories

Arkansas

State Plant Board

Specific exemption: EPA authorized the use of anthraquinone on rice seed to repel blackbirds and reduce damage to seedlings; April 1, 2015 to June 15, 2015.

California

Department of Environmental Protection

Crisis exemption: On June 25, 2015 the California Department of Environmental Protection declared a crisis for the use of Aspergillus Flavus AF36 on figs to reduce aflatoxin-producing fungi on dried figs.

Specific Exemption: EPA authorized the use of etofenprox in mushroom cultivation to control phorid and sciarid flies; April 27, 2015 to April 27, 2016.

Connecticut

Department of Energy and Environmental Protection

Specific exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; April 2, 2015 to December 31, 2015.

Delaware

Department of Agriculture

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; April 6, 2015 to October 15, 2015.

EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; May 4, 2015 to December 31, 2015.

Delaware

Department of Health and Social Services

Crisis exemptions: On June 11, 2015 the Delaware Department of Health and Social Services declared crisis exemptions for the use of ethylene oxide, formaldehyde, hydrogen peroxide, paracetic acid, and sodium hypochlorite to inactivate *Bacillus anthracis* (anthrax) spores in laboratories that processed samples originating from Dugway Proving Ground potentially containing viable anthrax spores.

Florida

Department of Agriculture and Consumer Services

Quarantine Exemption: EPA authorized the use of naled in a bait treatment to eradicate non-native and invasive Tephritid fruit flies which are responsive to the attractant, methyl eugenol; June 4, 2015 to June 4, 2016.

Georgia

Department of Agriculture

Denial: On April 15, 2015 EPA denied the use of a pesticide product containing the active ingredient terbufos on cotton to control plant parasitic nematodes. This request was denied because the Agency was unable to conclude that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of infants and children to residues of the pesticide as required under the Food Quality Protection Act (FQPA).

Idaho

Department of Agriculture

Crisis exemption: On March 6, 2015 the Idaho Department of Agriculture declared a crisis for the use of thiabendazole on succulent pea seeds to suppress seed-borne *Ascochyta* blight and protect against *Fusarium* root rot.

Specific Exemption: EPA authorized the use of hexythiazox on sugar beets for control of spider mites; May 1, 2015 to September 30, 2015.

Kansas

Department of Agriculture

Specific exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; April 13, 2015 to December 31, 2015.

Maryland

Department of Agriculture

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; April 6, 2015 to October 15, 2015.

Maine

Department of Agriculture, Conservation and Forestry

Specific Exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; May 4, 2015 to December 31, 2015.

Michigan

Department of Agriculture and Rural Development

Crisis exemption: On April 14, 2015 the Michigan Department of Agriculture and Rural Development declared a crisis for the use of fluensulfone to control plant-parasitic nematodes in carrot fields.

On June 9, 2015 the Michigan Department of Agriculture and Rural Development declared a crisis for the use of fluopicolide on hops to control downy mildew.

Minnesota

Department of Agriculture

Specific Exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; May 22, 2015 to December 31, 2015.

New York

Department of Environmental Conservation

Specific Exemption: EPA authorized the use of potassium salt of hop beta acids in beehives to control varroa mite; April 29, 2015 to December 31, 2015.

North Carolina

Department of Agriculture and Consumer Services

Denial: On April 15, 2015 EPA denied the use of a pesticide product containing the active ingredient terbufos on cotton to control plant parasitic nematodes. This request was denied because the Agency was unable to conclude that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of infants and children to residues of the pesticide as required under the Food Quality Protection Act (FQPA).

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; May 7, 2015 to October 15, 2015.

Oregon

Department of Agriculture

Specific Exemption: EPA authorized the use of hexythiazox on sugar beets for control of spider mites; May 1, 2015 to September 30, 2015.

Pennsylvania

Department of Agriculture

Specific Exemptions: EPA authorized the use of thiabendazole in mushroom cultivation to control *Trichoderma* green mold; March 26, 2015 to March 26, 2016.

EPA authorized the use of etofenprox in mushroom cultivation to control phorid and sciarid flies; April 27, 2015 to April 27, 2016.

EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; May 7, 2015 to October 15, 2015.

South Carolina

Department of Pesticide Regulation

Denial: On April 15, 2015 EPA denied the use of a pesticide product containing the active ingredient terbufos on cotton to control plant parasitic nematodes. This request was denied because the Agency was unable to conclude that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of infants and children to residues of the pesticide as required under the Food Quality Protection Act (FQPA).

Tennessee

Department of Agriculture

Specific exemption: EPA authorized the use of sulfoxaflor on sorghum to control sugarcane aphid; June 8, 2015 to November 30, 2015.

Texas

Department of Agriculture

Denial: On April 15, 2015 EPA denied the use of a pesticide product containing the active ingredient terbufos on cotton to control plant parasitic nematodes. This request was denied because the Agency was unable to conclude that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of infants and children to residues of the pesticide as required under the Food Quality Protection Act (FQPA).

Texas

Department of State Health Services

Crisis exemptions: On June 8, 2015 the Texas Department of State Health Services declared crisis exemptions for the use of ethylene oxide, formaldehyde, hydrogen peroxide, paracetic acid, and sodium hypochlorite to inactivate *Bacillus anthracis* (anthrax) spores in laboratories that processed samples originating from Dugway Proving Ground potentially containing viable anthrax spores.

Utah

Department of Agriculture and Food

Crisis exemption: On June 19, 2015 the Utah Department of Agriculture and Food declared crisis exemptions for the use of sodium hypochlorite to inactivate *Bacillus anthracis* (anthrax) spores in laboratories that processed samples originating from Dugway Proving Ground potentially containing viable anthrax spores.

Virginia

Department of Agriculture and Consumer Services

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; April 6, 2015 to October 15, 2015.

Washington

Department of Agriculture

Specific Exemption: EPA authorized the use of lambda-cyhalothrin on asparagus for control of the European asparagus aphid; June 17, 2015 to October 30, 2015.

West Virginia

Department of Agriculture

Specific Exemption: EPA authorized the use of bifenthrin on apple, peach, and nectarine to control the brown marmorated stinkbug; May 7, 2015 to October 15, 2015.

Wisconsin

Department of Health Services

Crisis exemptions: On June 12, 2015 the Wisconsin Department of Health Services declared crisis exemptions for the use of ethylene oxide, formaldehyde, hydrogen peroxide, paracetic acid, and sodium hypochlorite to inactivate *Bacillus anthracis* (anthrax) spores in laboratories that processed samples originating from Dugway Proving Ground potentially containing viable anthrax spores.

Wyoming

Department of Agriculture

Specific Exemption: EPA authorized the use of diflubenzuron on alfalfa for control of grasshoppers and Mormon crickets; April 14, 2015 to October 31, 2015.

B. Federal Departments and Agencies

Environmental Protection Agency

Office of Emergency Management

Quarantine Exemptions: EPA authorized the uses of ethylene oxide, formaldehyde, hydrogen peroxide, paracetic acid, and sodium hypochlorite for use in contaminated buildings for decontamination from anthrax spores. These exemptions were authorized for the purposes of emergency preparedness so the necessary materials are allowed and available to be used in the event of an anthrax contamination, either deliberate or accidental. June 4, 2015 to June 4, 2018.

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 16, 2016.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2015–25568 Filed 10–6–15; 8:45 a.m.]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0677; FRL–9934–36]

Receipt of Test Data Under the Toxic Substances Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing its receipt of test data submitted pursuant to a test rule issued by EPA under the Toxic Substances Control Act (TSCA). As required by TSCA, this document identifies each chemical substance and/or mixture for which test data have been received; the uses or intended uses of such chemical substance and/or mixture; and describes the nature of the test data received. Each chemical substance and/or mixture related to this announcement is identified in Unit I. under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kathy Calvo, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8089; email address: *calvo.kathy@epa.gov.*

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

1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Chemical Substances and/or Mixtures

Information about the following chemical substances and/or mixtures is provided in Unit IV.:

A. Castor oil, sulfated, sodium salt (CAS RN 68187–76–8)

II. Federal Register Publication Requirement

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under TSCA section 4 (15 U.S.C. 2603).

III. Docket Information

A docket, identified by the docket identification (ID) number EPA–HQ–OPPT–2013–0677, has been established for this **Federal Register** document that announces the receipt of data. Upon EPA's completion of its quality assurance review, the test data received will be added to the docket for the TSCA section 4 test rule that required the test data. Use the docket ID number provided in Unit IV. to access the test data in the docket for the related TSCA section 4 test rule.

The docket for this **Federal Register** document and the docket for each related TSCA section 4 test rule is available electronically at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

IV. Test Data Received

This unit contains the information required by TSCA section 4(d) for the test data received by EPA.

A. Castor oil, sulfated, sodium salt (CAS RN 68187–76–8)

1. *Chemical Uses:* Castor oil and its derivatives are used in a wide variety of industrial applications, including as a raw material for paints, coatings, inks, lubricants, perfume formulations, and adhesives. Sulfated castor oil is a wetting agent used in dyeing and finishing cotton and linen fabrics. Adding sulphuric acid to castor oil also produced an emulsifier for insecticidal oils.

2. *Applicable Test Rule:* Chemical testing requirements for second group of high production volume chemicals (HPV2), 40 CFR 799.5087.

3. *Test Data Received:* The following listing describes the nature of the test data received. The test data will be added to the docket for the applicable TSCA section 4 test rule and can be found by referencing the docket ID number provided. EPA reviews of test data will be added to the same docket upon completion.

a. *Physical/Chemical Properties: Melting Point (A1), Boiling Point (A2).* The docket ID number assigned to this data is EPA–HQ–OPPT–2007–0531.

b. *Mammalian Acute Toxicity Test, Oral (D).* The docket ID number assigned to this data is EPA–HQ–OPPT–2007–0531.

c. *Acute Toxicity Test (Fish, Daphnia, and Plants (Algae)) (C1).* The docket ID number assigned to this data is EPA–HQ–OPPT–2007–0531.

d. *Bacterial Reverse Mutation Test (E1).* The docket ID number assigned to this data is EPA–HQ–OPPT–2007–0531.

e. *Chromosomal Aberration Test (E2).* The docket ID number assigned to this data is EPA–HQ–OPPT–2007–0531.

f. *Combined Repeat Dose Study with the Reproductive/Developmental Toxicity Screening Test (F1).* The docket ID number assigned to this data is EPA–HQ–OPPT–2007–0531.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: September 30, 2015.

Maria J. Doa,

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

[FR Doc. 2015–25591 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0099; FRL–9934–47]

Registration Review Proposed Interim Decisions; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed interim registration review decisions for the pesticides listed in the table in Unit II of this notice, and opens a public comment period on the proposed interim decisions. This notice also opens the dockets and announces the availability of EPA's Preliminary Work Plan and proposed interim registration review decisions for 2H-Cyclopent(d)isothiazol-3(4H)-one, 5,6-dihydro-2-methyl- and *Bacillus thuringiensis,* Plant-incorporated Protectants in Corn, and a Preliminary Work Plan, draft risk assessments and proposed interim decision for Aquashade. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before December 7, 2015.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit II., by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in the table in Unit II.

For general information on the registration review program, contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in the table in Unit II.

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

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

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html*.

II. What action is the agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed interim registration review decisions for the pesticides shown in the following table, and opens a 60-day public comment period on the proposed interim decisions.

TABLE—REGISTRATION REVIEW PROPOSED INTERIM DECISIONS

Registration review case name and No.	Pesticide Docket ID No.	Chemical review manager, email address, and telephone No.
D-Limonene (Case 3083)	EPA–HQ–OPP–2010–0673	Caitlin Newcamp, *newcamp.caitlin@epa.gov,* 703–347–0325.
Hydrogen cyanamide (Case 7005)	EPA–HQ–OPP–2007–1014	Dana Friedman, *friedman.dana@epa.gov,* 703–347–8827.
2H-Cyclopent(d)isothiazol-3(4H)-one, 5,6-dihydro-2-methyl- (Case 5018).	EPA–HQ–OPP–2015–0266	Donna Kamarei, *kamarei.donna@epa.gov,* 703–347–0443.
Aquashade (Case 4010)	EPA–HQ–OPP–2015–0639	Christina Motilall, *motilall.christina@epa.gov,* 703–603–0522.
Bacillus thuringiensis Plant-incorporated Protectants in Corn (Cases 6501 and 6502).	EPA–HQ–OPP–2015–0584	Alan Reynolds, *reynolds.alan@epa.gov,* 703–605–0515.

The registration review final decisions for these cases are dependent on the assessments of listed species under the Endangered Species Act (ESA), determinations on the potential for endocrine disruption, and/or assessments of exposure and risk to pollinators.

D-Limonene (Proposed Interim Decision). D-limonene is a naturally occurring chemical obtained from the rind of citrus fruits. It is registered as an active ingredient for use as an acaricide, insecticide, herbicide, and insect repellent, and is an inert ingredient in other products providing scent and flavoring. D-limonene is currently registered for use in/on terrestrial food (citrus, pome fruits, grapes), feed crops, non-food crops (ornamentals, Christmas trees, fencerows, recreational areas, wood protection) and for residential uses. EPA published draft registration review human health and ecological risk assessments in December 2014. For the human health assessment, no data deficiencies were identified in either the toxicity or exposure databases and the Agency concluded that d-limonene does not pose human health risks. For the ecological risk assessment, the Agency found that, due to its high volatility, low usage, and low toxicity to most taxa, d-limonene is expected to have negligible effects to most taxa. The Agency is proposing modifications to several labels to reduce potential risks to d-limonene for terrestrial plants and mammals.

Hydrogen cyanamide (Proposed Interim Decision). Hydrogen cyanamide is a plant growth regulator used to promote uniform bud break in orchard fruit trees and vines, and does not have any residential uses. It is the only registered plant growth regulator available to induce uniform bud break in U.S. fruit production, and there are significant economic benefits associated with its use in areas where the critical number of chilling hours needed for bud break does not occur or is not consistent. The Agency conducted a comprehensive human health risk assessment and determined that there are potential risks of concern for occupational handlers, as well as spray drift concerns for bystanders. However, the occupational risks identified can be mitigated through modifications to product labels, and spray drift concerns are already addressed by current labels. The Agency also conducted an ecological risk assessment and determined that there are potential risks of concern for terrestrial animals, but current use practices and label mitigation addresses many of these concerns.

2H-Cyclopent(d)isothiazol- 3(4H)-one, 5,6-dihydro-2- methyl- (Combined Preliminary Work Plan and Proposed Interim Decision). There is one EPA-registered product containing 2H-Cyclopent(d)isothiazol-3(4H)-one, 5,6-dihydro-2- methyl-, also known as MTI, as an active ingredient for material preservation of imaging products. The Agency does not anticipate the need to call-in any data in support of MTI's registration review. Additionally, the Agency does not anticipate conducting human health or environmental risk assessments due to the lack of exposure concerns for MTI's registered use. Based on the lack of potential exposure, the Agency is proposing to make a No Effects determination for listed species under the ESA. EPA is announcing the availability for public comment on the combined preliminary work plan and proposed interim registration review decision for MTI. This proposed interim

decision does not cover the EDSP component of this registration review case. The Agency's final registration review decision is dependent upon the evaluation of potential endocrine disruptor risk.

Aquashade (Combined Preliminary Work Plan, Draft Risk Assessments and Proposed Interim Decision). Aquashade is as an aquatic herbicide for which the mode of action is light filtration. It is primarily used in small water bodies such as ornamental ponds and small lakes, fountains and other landscaping water features, swimming holes, aquaculture ponds, and animal watering holes. The Agency conducted an ecological risk assessment and determined there are no risks of concern for any assessed taxa. The Agency also conducted a human health risk assessment and there were no dietary, residential, or occupational risks of concern. The Agency is not proposing any risk mitigation or additional data requirements for Aquashade at this time.

Bacillus thuringiensis Plant-incorporated Protectants in Corn (Combined Preliminary Work Plan and Proposed Interim Decision). Plant-incorporated protectants (PIPs) derived from *Bacillus thuringiensis* (Bt) have been genetically engineered into corn hybrids to provide insecticidal protection against certain pests. One class (case 6501) of Bt corn PIPs targets lepidopteran stalk-boring and ear-feeding insects (*e.g.,* European corn borer, corn earworm, and southwestern corn borer); a second class (case 6502) targets coleopteran root-feeding insects (corn rootworm). EPA has conducted extensive risk assessments addressing human health (including food safety), non-target wildlife, environmental fate, gene flow, and insect resistance management for all registered products. No human health risks of concern or risks of concern to non-listed species (including honey bees and Monarch butterflies) have been identified. In addition, the Agency is proposing to make No Effects determinations under the ESA for all listed species. EPA will update these assessments for the final registration review. No risk mitigation measures for human health or ecological effects are included in the proposed interim decision.

The registration review docket for a pesticide includes earlier documents related to the registration review of the case. For example, the review typically opens with the availability of a Summary Document, containing a Preliminary Work Plan, for public comment. A Final Work Plan typically is placed in the docket following public comment on the initial docket. Following a period for public comment on the proposed interim registration review decisions for products containing the affected active ingredients, the Agency will issue interim registration review decisions for products containing the affected active ingredients.

The registration review program is being conducted under congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. Section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136a(g)) required EPA to establish by regulation procedures for reviewing pesticide registrations, originally with a goal of reviewing each pesticide's registration every 15 years to ensure that a pesticide continues to meet the FIFRA standard for registration. The Agency's final rule to implement this program was issued in the **Federal Register** of August 9, 2006 (71 FR 45720) (FRL–8080–4) and became effective in October 2006, and appears at 40 CFR part 155, subpart C. The Pesticide Registration Improvement Act of 2003 (PRIA) was amended and extended in September 2007. FIFRA, as amended by PRIA in 2007, requires EPA to complete registration review decisions by October 1, 2022, for all pesticides registered as of October 1, 2007.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed interim registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed interim decisions. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the docket for the pesticides included in the table in Unit II. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a ''Response to Comments Memorandum'' in the docket for each of the pesticides included in the table in Unit II. The interim registration review decision will explain the effect that any comments had on the decision and provide the Agency's response to significant comments, as needed.

Background on the registration review program is provided at: *http://www2.epa.gov/pesticide-reevaluation.* Links to earlier documents related to the registration review of the pesticide cases identified in this notice are provided on the Pesticide Chemical Search data base accessible at: *http://iaspub.epa.gov/apex/pesticides/f?p=chemicalsearch:1.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 25, 2015.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–25435 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0601; FRL–9934–20]

Notice of Receipt of Requests for Amendments To Terminate Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of request for amendments by registrants to terminate uses in certain pesticide registrations. FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request in the **Federal Register**.

DATES: Unless a request is withdrawn by November 6, 2015 for registrations for which the registrant requested a waiver of the 180-day comment period, EPA expects to issue orders terminating these uses. The Agency will consider withdrawal requests postmarked no later than November 6, 2015. Comments must be received on or before November 6, 2015, for those registrations where the 180-day comment period has been waived.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0601, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Written Withdrawal Request, ATTN: Information Technology and Resources Management Division (7502P).

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Mark Hartman, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–5440; email address: *hartman.mark@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

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

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html*.

II. What action is the agency taking?

This notice announces receipt by the Agency of applications from registrants to terminate uses in certain pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). These registrations are listed in Table 1 of this unit by registration number, product name, active ingredient, and specific uses terminated.

TABLE 1—REQUESTS FOR AMENDMENTS TO TERMINATE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Registration No.	Product name	Active ingredient	Use to be terminated
5905–566	HM–0210–A Systemic PGR & Fungicide.	Indole-3-butyric acid & Mono- and di- potassium salts of phosphorous acid.	Injection and Basal Bark Application for control of Phytophthora and Pythium and other diseases associated with Stem and Canker Blight, Beech Decline, and general tree decline syndromes in landscapes, nurseries, golf courses, forests and parks.
47000–73	CT–511 Aerosol Insecticide.	MGK 264, Piperonyl butoxide & Pyrethrins.	Beef cattle operations, Poultry operations, Dairy farm use, Dairy animal use, Stanchion barn use & Hog operations.
73385–1	Quimag Quimicos Aguila Copper Sulfate Crystal.	Copper sulfate pentahydrate.	Wood treatment uses.

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, EPA expects to issue orders terminating all of these uses. Users of these pesticides or anyone else desiring the retention of a use should contact the applicable registrant directly during this 30-day period.

Table 2 of this unit includes the names and addresses of record for all registrants of the Products In Table 1 of this unit, in sequence by EPA company number.

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO TERMINATE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company No.	Company name and address
5905	Helena Chemical Company, Agent Name: Helena Products Group, 7664 Smythe Farm Road, Memphis, TN 38120.
47000	Chem-Tech, Ltd., 10 Hopkins Drive, Randolph, WI 53956.
73385	Fabrica De Sulfato El Aguila, S.A. De C.V., Agent Name: Landis International, Inc., P.O. Box 5126, Valdosta, GA 31603–5126.

III. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the EPA Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use termination must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before November 6, 2015, for the requests that the registrants requested to waive the 180-day comment period. This written withdrawal of the request for use termination will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the products have been subject to a previous

use termination action, the effective date of termination and all other provisions of any earlier termination action are controlling.

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 17, 2015.

Mark A. Hartman,

Acting, Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2015–25433 Filed 10–6–15; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 8, 2015, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- September 10, 2015.

B. New Business

- Board Resolution on National Cooperative Month.

C. Reports

- U.S. Agricultural Exports to China: Risks and Rewards.
- Update on Recruitment.

Dated: October 5, 2015.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2015–25668 Filed 10–5–15; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–1209]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 7, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1209.

Title: Section 73.1216, Licensee-Conducted Contests.

Form Number: None. (Complaints alleging violations of the Contest Rule generally are filed on via the Commission's Consumer Complaint Portal entitled General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, Slamming Complaints, Requests for Dispute Assistance and Communications Accessibility Complaints which is approved under OMB control number 3060–0874).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 20,732 respondents; 20,732 responses.

Estimated Time per Response: 0.1–9 hours.

Frequency of Response: On occasion reporting requirement: Third party disclosure requirement and recordkeeping requirement.

Total Annual Burden: 122,854 hours.

Total Annual Costs: $6,219,300.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 1, 4 and 303 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The Commission adopted the Contest Rule in 1976 to address concerns about the manner in which broadcast stations were conducting contests over the air. The Contest Rule generally requires stations to broadcast material contest terms fully and accurately the first time the audience is told how to participate in a contest, and periodically thereafter. In addition, stations must conduct contests

substantially as announced. These information collection requirements are necessary to ensure that broadcast licensees conduct contests with due regard for the public interest.

On September 17, 2015, by Report and Order, FCC 15–118, the Commission amended the Contest Rule to permit broadcasters to meet their obligation to disclose contest material terms on an Internet Web site in lieu of making broadcast announcements. Under the amended Contest Rule, broadcasters are required to (i) announce the relevant Internet Web site address on air the first time the audience is told about the contest and periodically thereafter; (ii) disclose the material contest terms fully and accurately on a publicly accessible Internet Web site, establishing a link or tab to such terms through a link or tab on the announced Web site's home page, and ensure that any material terms disclosed on such a Web site conform in all substantive respects to those mentioned over the air; (iii) maintain contest material terms online for at least thirty days after the contest has ended; and (v) announce on air that the material terms of a contest have changed (where that is the case) within 24 hours of the change in terms on a Web site, and periodically thereafter, and to direct consumers to the Web site to review the changes.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2015–25458 Filed 10–6–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1200]

Information Collection Approved by the Office of the Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission has received Office of Management and Budget (OMB) approval for a revision of a currently approved public information collection pursuant to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid control number. Comments concerning the accuracy of the burden estimates and any suggestions for reducing the burden should be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Nicole Ongele, Office of Managing Director, FCC, at (202) 418–2991, or email: *Nicole.Ongele@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1200.

OMB Approval Date: September 21, 2015.

OMB Expiration Date: September 30, 2018.

Title: Application to Participate in Rural Broadband Experiments and Post-Selection Review of Rural Broadband Experiment Winning Bidders.

Form Number: FCC Form 5620.

Respondents: Business or other for-profit, and Not-for-profit institutions.

Estimated Number of Respondents and Responses: 47 respondents; 135 responses.

Estimated Time per Response: 2–20 hours.

Frequency of Response: One-time; occasional reporting requirements and annual recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154 and 254.

Estimated Total Annual Burden: 1,834 hours.

Total Annual Cost: No cost(s).

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Information collected in FCC Form 5620 will be confidential. Information collected in the November interim progress report and in the build-out milestone certifications will be made publicly available.

Needs and Uses: On January 31, 2014, the Commission released the *Tech Transitions Order,* 79 FR 11327, February 28, 2014, that adopted targeted experiments to explore the impact of technology transitions on rural Americans, including those living on Tribal lands. On July 14, 2014, the Commission released the *Rural Broadband Experiments Order,* 79 FR 45705, August 6, 2014, which established certain parameters and requirements for the rural broadband experiments adopted by the Commission in the *Tech Transitions Order.* Under this information collection, the Commission will collect information to determine whether winning bidders are technically and financially capable of receiving funding for rural broadband experiment projects. To aid in collecting this information regarding the rural broadband experiments, the Commission has created FCC Form 5620, which provisionally selected winning bidders use to demonstrate that they have the technical and financial qualifications to successfully complete the proposed project within the required timeframes. This form is available electronically through the Internet, and electronic filing will be required. The Commission will also collect information through a November interim progress report and build-out milestone certifications accompanied by evidence that will enable the Commission to monitor the progress of the rural broadband experiments and ensure that the support is used for its intended purposes. Finally, under this information collection, rural broadband experiment recipients must retain records required to demonstrate to auditors that the support was used consistent with the terms and conditions for a period of ten years. The Communications Act of 1934, as amended requires the ''preservation and advancement of universal service.'' The information collection requirements reported under this new collection are the result of various Commission actions to promote the Act's universal service goals, while minimizing waste, fraud, and abuse.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–25457 Filed 10–6–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10323 United Americas Bank, N.A., Atlanta, GA

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10323 United Americas Bank, N.A., Atlanta, GA (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of United Americas Bank, N.A. (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases,

discharges, satisfactions, endorsements, assignments and deeds.

Effective October 1, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: October 1, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25420 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10309 Pierce Commercial Bank, Tacoma, WA

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10309 Pierce Commercial Bank, Tacoma, WA (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Pierce Commercial Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective October 01, 2015, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Date: October 2, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25522 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10304, The First National Bank of Barnesville, Barnesville, GA

The Federal Deposit Insurance Corporation (FDIC), as Receiver for The First National Bank of Barnesville, Barnesville, GA (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of The First National Bank of Barnesville (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective October 1, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: October 1, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25422 Filed 10–6–15; 8:45 am]

BILLING CODE P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination: 10309 Pierce Commercial Bank, Tacoma, WA

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10309 Pierce Commercial Bank, Tacoma, WA (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Pierce Commercial Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective October 01, 2015, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: October 2, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25501 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Information Collection; FDIC Small Business Lending Survey; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden and as required by the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to comment on a proposed new collection of information, a Small Business Lending Survey of banks that is proposed to be fielded in May 2016.

DATES: Comments must be submitted on or before December 7, 2015.

ADDRESSES: Interested parties are invited to submit written comments by any of the following methods. All comments should reference ''FDIC Small Business Lending Survey'':

- *http://www.FDIC.gov/regulations/laws/federal/.*
- *Email: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Gary Kuiper (202.898.3877), Counsel, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Interested members of the public may obtain a copy of the survey and related instructions by clicking on the link for the *FDIC Small Business Lending* on the following Web page: *http://www.fdic.gov/regulations/laws/federal/.* Interested members of the public may also obtain additional information about the collection, including a paper copy of the proposed collection and related instructions, without charge, by contacting Gary Kuiper at the address identified above, or by calling 202.898.3877.

SUPPLEMENTARY INFORMATION:

The FDIC proposes to establish the following collection of information:

Title: FDIC Small Business Lending Survey.

OMB Number: New collection.

Frequency of Response: Once.

Affected Public: FDIC-insured depository institutions.

Estimated Number of Respondents: 2,000.

Average time per response: 4 hours per respondent.

Estimated Total Annual Burden: 4 hours × 2,000 respondents = 8,000 hours.

General Description of Collection

Small businesses are an important component of the U.S. economy. According to the Small Business Administration, small firms accounted for almost half of private-sector employment and 63 percent of net new jobs between mid-1993 and 2013.[1] Many small businesses have little or no direct access to capital markets and are thus reliant on bank financing. For banks, small business lending is an important way that they help meet their communities' needs, especially for the many banks that primarily focus on commercial rather than consumer lending.

Due to the importance of small businesses to the U.S. economy and the importance of bank lending to small businesses, the proposed FDIC Small Business Lending Survey, which surveys banks, will provide important data to complement existing sources of data on small business lending. The proposed survey data will not duplicate existing sources of data and will provide additional insight into many aspects of small business lending.

The FDIC Small Business Lending Survey, proposed to begin data collection in May 2016, is designed to yield heretofore unavailable nationally-representative estimates on the volume and details of small business loans extended by FDIC-insured banks. In addition, the survey will provide new information on banks' perceived competition and market area for small business lending. The survey will yield nationally representative estimates of small business lending by banks of several different asset size categories and with different levels of urban or rural presence.

In addition to the questions on small business lending, the new survey will include some questions related to consumer transaction accounts that are directly responsive to the mandate in Section 7 of the Federal Deposit Insurance Reform Conforming Amendments Act of 2005 (''Reform Act'') (Pub. L. 109–173), which calls for the FDIC to conduct ongoing surveys ''on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the 'unbanked') into the conventional finance system.'' Section 7 of the Reform Act further instructs the FDIC to consider several factors in its conduct of the surveys, including: ''what cultural, language and identification issues as well as transaction costs appear to most prevent 'unbanked' individuals from establishing conventional accounts''.

The consumer account-focused questions are designed to provide a factual basis for examining identification issues and transaction costs related to establishing mainstream transaction accounts at banks. These consumer account-focused questions have been added to the Small Business Lending Survey in lieu of fielding a separate second survey to respond to the Congressional mandate. The consolidation of these efforts is expected to reduce the burden on banks relative to fielding two separate surveys.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

The FDIC will consider all comments to determine the extent to which the information collection should be modified prior to submission to OMB for review and approval. After the comment period closes, comments will be summarized and/or included in the FDIC's request to OMB for approval of the collection. All comments will become a matter of public record.

Dated at Washington, DC, this 2nd day of October, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25507 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

[1] *https://www.sba.gov/sites/default/files/FAQ_March_2014_0.pdf,* accessed Sep 15, 2015.

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10157 First Security National Bank, Norcross, Georgia

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10157 First Security National Bank, Norcross, Georgia (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of First Security National Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective October 01, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: October 1, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25418 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10090 Security Bank of North Metro, Woodstock, Georgia

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10090 Security Bank of North Metro, Woodstock, Georgia (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Security Bank of North Metro (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective October 1, 2015 the Receivership Estate has been

terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: October 1, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25417 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10087 Security Bank of Houston County, Perry, Georgia

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10087 Security Bank of Houston County, Perry, Georgia (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Security Bank of Houston County (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective October 1, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: October 1, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25415 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10113, InBank, Oak Forest, Illinois

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10113, InBank, Oak Forest, IL (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of InBank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective October, 01, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: September 30, 2015.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25409 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Information Collection Revision; Comment Request (3064–0189)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a continuing information collection, as required by the Paperwork Reduction Act of 1995. Under the Paperwork Reduction Act, Federal Agencies are required to publish notice in the **Federal Register** concerning proposed information collection revisions and allow 60 days for public comment in response to the notice.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC is soliciting comment concerning its information collection titled, ''Annual Stress Test Reporting Template and Documentation for Covered Banks with Total Consolidated Assets of $10 Billion or More under Dodd-Frank'' (OMB Control No. 3064–0189).

DATES: Comments must be received by December 7, 2015.

ADDRESSES: You may submit written comments by any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: Comments@FDIC.gov*. Include ''Annual Stress Test Reporting'' on the subject line of the message.
- *Mail:* Gary A. Kuiper, Counsel, Legislation, Regulations and Opinions Section, MB–3074, Attention: Comments, FDIC, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/* including any personal information provided.

Additionally, you may send a copy of your comments: By mail to the U.S. OMB, 725 17th Street NW., #10235, Washington, DC 20503 or by facsimile to 202.395.6974, Attention: Federal Banking Agency Desk Officer.

FOR FURTHER INFORMATION CONTACT: You can request additional information from Gary Kuiper, 202.898.3877, Legal Division, FDIC, 550 17th Street NW., MB–3074, Washington, DC 20429. In addition, copies of the templates referenced in this notice can be found on the FDIC's Web site (*http://www.fdic.gov/regulations/laws/federal/*).

SUPPLEMENTARY INFORMATION: The FDIC is requesting comment on the following revision of an information collection:

Annual Stress Test Reporting Template and Documentation for Covered Banks With Total Consolidated Assets of $10 Billion to $50 Billion Under Dodd-Frank

Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) requires certain financial companies, including state nonmember banks and state savings associations, to conduct annual stress tests [2] and requires the primary financial regulatory agency [3] of those financial companies to issue regulations implementing the stress test requirements.[4] A state nonmember bank or state savings association is a ''covered bank'' and therefore subject to the stress

[1] Public Law 111–203 § 165(i)(2), 124 Stat. 1376, 1430 (July 21, 2010) (codified at 12 U.S.C. § 5365(i)(2).

[2] 12 U.S.C. 5365(i)(2)(A).

[3] 12 U.S.C. 5301(12).

[4] 12 U.S.C. 5365(i)(2)(C).

test requirements if its total consolidated assets exceed $10 billion. Under section 165(i)(2), a covered bank is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[5] On October 15, 2012, the FDIC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[6] The final rule, codified as Part 325 Subpart C of the FDIC's rules and regulations,[7] requires covered banks to meet specific reporting requirements under section 165(i)(2). In 2013, the FDIC first implemented the reporting templates for covered banks with total consolidated assets of $10 billion to $50 billion and provided instructions for completing the reports.[8] This notice describes revisions by the FDIC to those reporting templates, the information required, and related instructions. These information collections will be given confidential treatment to the extent allowed by law (5 U.S.C. 552(b)(4)).

Consistent with past practice, the FDIC intends to use the data collected through these revised templates to assess the reasonableness of the stress test results of covered banks and to provide forward-looking information to the FDIC regarding a covered bank's capital adequacy. The FDIC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered bank. The stress test results are expected to support ongoing improvement in a covered bank's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The FDIC recognizes that many covered banks with total consolidated assets of $10 billion to $50 billion are part of a holding company that is also required to submit relevant Dodd Frank Annual Stress Test (DFAST) reports to the Board. The FDIC, Office of Comptroller of the Currency, and Board have coordinated the preparation of stress testing templates in order to make the templates as similar as possible and thereby minimize the burden on affected institutions. These agencies have coordinated in a similar manner regarding these proposed modifications to the stress testing templates. Therefore, the revisions by the FDIC to its reporting requirements will remain consistent with the modifications that the Board proposes to make to the FR Y–16.

Description of Information Collection

The FDIC DFAST 10–50 reporting form collects data through two primary schedules: (1) The Results Schedule (which includes the quantitative results of the stress tests under the baseline, adverse, and severely adverse scenarios for each quarter of the planning horizon) and (2) the Scenario Variables Schedule. In addition, respondents are required to submit a summary of the qualitative information supporting their quantitative projections. The qualitative supporting information must include:

- A description of the types of risks included in the stress test;
- a summary description of the methodologies used in the stress test;
- an explanation of the most significant causes for the changes in regulatory capital ratios, and
- the use of the stress test results.

Results Schedule

For each of the three supervisory scenarios (baseline, adverse, and severely adverse), data are reported on two supporting schedules: (1) The Income Statement Schedule and (2) the Balance Sheet Schedule. Therefore, two supporting schedules for each scenario (baseline, adverse, and severely adverse) are completed. In addition, the Results Schedule includes a Summary Schedule, which summarizes key results from the Income Statement and Balance Sheet Schedules.

Income statement data are collected on a projected quarterly basis showing projections of revenues and losses. For example, respondents project net charge-offs by loan type (stratified by twelve specific loan types), gains and losses on securities, pre-provision net revenue, and other key components of net income (*i.e.,* provision for loan and lease losses, taxes, etc.).

Balance sheet data are collected on a quarterly basis for projections of certain assets, liabilities, and capital. Capital data are also collected on a projected quarterly basis and include components of regulatory capital, including the projections of risk weighted assets and capital actions such as common dividends and share repurchases.

Scenario Variables Schedule

To conduct the stress tests, an institution may choose to project additional economic and financial variables beyond the mandatory supervisory scenarios provided to estimate losses or revenues for some or all of its portfolios. In such cases, the institution would be required to complete the Scenario Variables Schedule for each scenario where the institution chooses to use additional variables. The Scenario Variables Schedule collects information on the additional scenario variables used over the planning horizon for each supervisory scenario.

The proposed revisions to the FDIC DFAST reporting templates for covered banks with assets of $10 billion to $50 billion are described below.

Proposed Revisions to Reporting Templates for Banks With $10 Billion to $50 Billion in Assets

On November 21, 2014, the FDIC approved a final rule[9] that revised Part 325 Subpart C by modifying the 2016 stress test cycle and each annual cycle thereafter to begin on January 1 of the calendar year rather than October 1, as is provided for by the current rule. Additionally, the final rule modified the ''as of'' dates for financial data (that covered banks will use to perform their stress tests) as well as the reporting dates and public disclosure dates of the annual stress tests for both $10 billion to $50 billion covered banks and over $50 billion covered banks.

Specifically, beginning January 1, 2016, the stress testing cycle that, under the previous rule, would have begun on October 1 of a given calendar year, will begin January 1 of a given calendar year. Beginning with the 2016 stress-testing cycle, the final rule requires covered banks to conduct company-run stress tests using financial data as of December 31 of the preceding calendar year, which represents a three-month shift from September 30 in the previous rule. The FDIC will provide the economic scenarios to be used by covered banks in their company-run stress tests no later than February 15, rather than November 15, as is provided under the previous rule.

All $10 billion to $50 billion covered banks will be required to conduct and submit the results of their company-run stress tests to the FDIC by July 31 and publish those results during a period beginning on October 15 and ending October 31.

Due to the timing shift of the Dodd-Frank Act stress test, the FDIC is proposing several changes to conform the data collection to the final rule.

The FDIC proposes to revise the FDIC DFAST 10–50 Summary Schedule by

[5] 12 U.S.C. 5365(i)(2)(B).

[6] 77 FR 62417 (October 15, 2012).

[7] 12 CFR 325.201, *et seq.*

[8] *See* 78 FR 16263 (March 14, 2013) and 78 FR 63470 (October 24, 2013).

[9] 79 FR 69385 (November 21, 2014)

modifying the financial as of date from September 30th to December 31st. This revision is effective for the 2016 stress test cycle (with reporting in July 2016).

In addition, the FDIC proposes to clarify the FDIC DFAST 10–50 reporting form instructions to change the submission date from March 31st to July 31st, to change references to the financial ''as of'' date from September 30th to December 31st, and to update the line items references to the new Call Report Instructions.

Burden Estimates

The FDIC estimates the burden of this collection of information as follows:

Current

Number of Respondents: 22.

Annual Burden per Respondent: 469 hours.

Total Annual Burden: 10,318 hours.

Proposed

Estimated Number of Respondents: 22.

Estimated Annual Burden per Respondent: 469 hours.

Estimated Total Annual Burden: 10,318 hours.

The FDIC does not expect that the changes to the DFAST 10–50 Summary Schedule and reporting form instructions will result in an increase in burden. The burden for each $10 billion to $50 billion covered bank that completes the FDIC DFAST 10–50 Results Template and FDIC DFAST 10–50 Scenario Variables Template is estimated to be 469 hours. The burden to complete the FDIC DFAST 10–50 Results Template is estimated to be 440 hours, including 20 hours to input these data and 420 hours for work related to modeling efforts. The burden to complete the FDIC DFAST 10–50 Scenario Variables Template is estimated to be 29 hours. The total burden for all 22 respondents to complete both templates is estimated to be 10,318 hours.

Comments are invited on all aspects of the proposed changes to the information collection, particularly:

(a) Whether the collection of information is necessary for the proper performance of the functions of the FDIC, including whether the information has practical utility;

(b) The accuracy of the FDIC'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 on respondents, including through the use of automated collection techniques or other forms of information technology;

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information; and

(f) The ability of FDIC-supervised banks and savings associations with assets between $10 billion and $50 billion to provide the requested information to the FDIC by July 31, 2016.

Dated at Washington, DC, this 30th day of September 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25408 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10088 Security Bank of Jones County, Gray, Georgia

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10088 Security Bank of Jones County, Gray, Georgia (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Security Bank of Jones County (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective October 1, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: October 1, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–25416 Filed 10–6–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012155–003.

Title: MSC/Zim South America East Coast Vessel Sharing Agreement.

Parties: Mediterranean Shipping Co. S.A. and Zim Intergrated Shipping Services Ltd.

Filing Party: Mark E. Newcomb; Zim American Integrated Shipping Services Company, LLC; 5801 Lake Wright Drive, Norfolk, VA 23508.

Synopsis: The amendment would revise the vessel contribution of the parties, delineate the allocation of capacity on each sailing, and delete the minimum duration provisions.

Agreement No.: 012297–002.

Title: ECNA/ECSA Vessel Sharing Agreement.

Parties: Hamburg Sud; Alianca Navegacao e Logistica Ltds. e CIA; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; Hapag-Lloyd AG; and Nippon Yusen Kabushiki Kaisha.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The agreement would delete NYK and Compania Libra de Navegacion Uruguay S.A as parties to the agreement and revise the vessel provision, space allocation provisions, and other language in the agreement accordingly.

Agreement No.: 012362.

Title: Hoegh/SC Line S.A. Mexico Jamaica Space Charter Agreement.

Parties: Hoegh Autoliners AS and SC Line S.A.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The agreement authorizes the parties to charter space from/to one another from Mexico to the East and Gulf Coasts of the U.S., and from the East and Gulf Coasts of the U.S. to Jamaica.

Agreement No.: 012363.

Title: The ''K'' Line/SC Line Space Charter and Sailing Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. and SC Line, S.A.

Filing Party: Joe De Braga; Global Maritime Transportation Services, Inc.; 120 Graham Way, Suite 170, Shelburne, VT 05482.

Synopsis: The agreement authorizes ''K'' Line to charter space to SC Line in

the trade between (a) Jacksonville, FL on the one hand, and Mexico, Panama, Colombia, Brazil and Argentina on the other hand; (b) Galveston, TX and Mexico; (c) Eastern Spain and Northern Europe, on the one hand, and Jacksonville, FL and Veracruz, Mexico, on the other hand.

Agreement No.: 012364.

Title: HSDG/YML Space Charter Agreement.

Parties: Hamburg-Sud and Yang Ming Marine Transport Corp.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The agreement would authorize Hamburg-Sud to charter space to Yang Ming in the trade between the ports on the U.S. East Coast and ports in Argentina, Uruguay and Brazil. The parties have requested expedited review.

By Order of the Federal Maritime Commission.

Dated: October 2, 2015.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–25580 Filed 10–6–15; 8:45 am]

BILLING CODE 6731–AA–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 30, 2015.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Midwest Bancorp, Inc.,* Itasca, Illinois; to acquire Peoples Bancorp, Inc., and thereby indirectly acquire The Peoples Bank of Arlington Heights, both in Arlington Heights, Illinois.

Board of Governors of the Federal Reserve System, October 1, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–25442 Filed 10–6–15; 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 October 22, 2015.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Richard H. Thut,* Orrville, Ohio; to acquire voting shares of Premara Financial, Inc., and thereby indirectly acquire voting shares of Carolina Premier Bank, both in Charlotte, North Carolina.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Paul D. Easter, Des Moines, Iowa, individually, and the Easter Family Control Group which consists of Paul D. Easter, Sandra Easter, L. Donald Easter Trust, and as Co-Trustees: Paul Easter, Jane Bahls, David Easter, and Martha Easter-Wells; Estate of the Marian W. Easter Trust, all of Des Moines, Iowa, Jane Bahls, Rock Island, Illinois; David and Maud Easter, Delmar, New York; Martha Easter-Wells and Kriss Wells, both of LeClaire, Iowa; Ken Easter, Des Moines, Iowa; Jeremy Easter, West Des Moines, Iowa; Greg Easter, Minneapolis, Minnesota; Matt Easter, DPO, AP; Jeff Easter, San Francisco, California; Austin Wells, Mentor, Ohio; Linda Wells, Minneapolis, Minnesota; Jan Stump, West Des Moines, Iowa; Daniel Bahls, Springfield, Massachusetts; Timothy Bahls, Madison, Wisconsin; Angela Cummins, Tucson, Arizona, and Paul Easter as Executor;* as a group acting in concert, to retain voting shares of Easter Enterprises, Inc., and thereby indirectly retain voting shares of Farmers Trust and Savings Bank, both in Spencer, Iowa.

C. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Toinette Rossi, the Toinette Rossi Bank Trust, Valerie Rossi, the Valerie Rossi Bank Trust, all of Modesto, California; Terry R. Gutierrez, Ripon, California; Troy R. Gutierrez, Manteca, California; and A. Rossi, Inc.,* Manteca, California; to acquire voting shares of Delta National Bancorp, and thereby indirectly acquire voting shares of Delta Bank, National Association, both in Manteca, California.

2. *Selwyn Isakow, LaJolla,* California; to acquire voting shares of Private Bancorp of America, Inc., LaJolla, California, and thereby indirectly acquire voting shares of San Diego Private Bank, Coronado, California.

Board of Governors of the Federal Reserve System, October 2, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–25530 Filed 10–6–15; 8:45 am]

BILLING CODE 6210–01–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 November 2, 2015.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Capital Bank Holdings, Inc.,* Tulsa, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Freedom Bank of Oklahoma, Tulsa, Oklahoma.

In connection with this application, Essay Bank Holdings, LLC, Tulsa, Oklahoma, has applied to become a bank holding company by acquiring 20 percent of the voting shares of Capital Bank Holdings, Inc., Tulsa, Oklahoma.

Board of Governors of the Federal Reserve System, October 2, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–25529 Filed 10–6–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0027; Docket 2015–0055; Sequence 22]

Information Collection; Value Engineering Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Value Engineering Requirements.

DATES: Submit comments on or before December 7, 2015.

ADDRESSES: Submit comments identified by Information Collection 9000–0027, Value Engineering Requirements, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0027, Value Engineering Requirements''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0027, Value Engineering Requirements'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0027, Value Engineering Requirements.

Instructions: Please submit comments only and cite Information Collection 9000–0027, Value Engineering Requirements, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Contract Policy Division, GSA, 202–501–1448 or email at *curtis.glover@gsa.gov.*

A. Purpose

Per Federal Acquisition Regulation Part 48, value engineering is the technique by which contractors (1) voluntarily suggest methods for performing more economically and share in any resulting savings or (2) are required to establish a program to identify and submit to the Government methods for performing more economically. These recommendations are submitted to the Government as value engineering change proposals (VECP's) and they must include specific information. This information is needed to enable the Government to evaluate the VECP and, if accepted, to arrange for an equitable sharing plan.

B. Annual Reporting Burden

Respondents: 1,934.
Responses per Respondent: 2.
Annual Responses: 3,868.
Hours per Response: 15.
Total Burden Hours: 58,020.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0027, Value Engineering Requirements, in all correspondence.

Edward Loeb,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2015–25455 Filed 10–6–15; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[Notice–MA–2015–05; Docket No. 2015–0002, Sequence No. 27]

Federal Management Regulations; Date Change for Annual Mail Management Reporting

AGENCY: Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Notice of a bulletin.

SUMMARY: The General Services Administration has issued Federal Management Regulation (FMR) Bulletin G–06, which provides guidance to large Executive Branch Federal agencies of the annual mail management reporting

requirement. The bulletin provides agencies with information on the reporting instructions and training information in the Simplified Mail Accountability Reporting Tool (SMART). FMR Bulletin G–06 and all other FMR bulletins are located at *http://www.gsa.gov/fmrbulletins.*

DATES: *Effective Date:* October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia Patterson, Office of Government-wide Policy (MAF), Office of Asset and Transportation Management, General Services Administration at 703–589–2641 or via email at *cynthia.patterson@gsa.gov.* Please cite FMR Bulletin G–06.

SUPPLEMENTARY INFORMATION: FMR Bulletin G–06 provides large Federal agencies with reporting instructions and training information in SMART and is consistent with the Federal Management Regulation.

Dated: September 28, 2015.

Christine Harada,

Associate Administrator, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2015–25460 Filed 10–6–15; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0061; Docket 2015–0055; Sequence 9]

Federal Acquisition Regulation; Submission for OMB Review; Transportation Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Transportation Requirements. A notice was published in the **Federal Register** at 80 FR 34159, on June 15, 2015. No Comments were received.

DATES: Submit comments on or before November 6, 2015.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov*: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting the OMB Control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0061, Transportation Requirements''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0061, Transportation Requirements'' on your attached document.
- *Mail*: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0061, Transportation Requirements.

Instructions: Please submit comments only and cite Information Collection 9000–0061, Transportation Requirements, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA 202–501–1448 or via email at *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR Part 47 contains policies and procedures for applying transportation and traffic management considerations in the acquisition of supplies. The FAR part also contains policies and procedures when acquiring transportation or transportation-related services. Generally, contracts involving transportation require information regarding the nature of the supplies, method of shipment, place and time of shipment, applicable charges, marking of shipments, shipping documents and other related items.

Contractors are required to provide the information in accordance with the following FAR Part 47 clauses: 52.247–29 through 52.247–44, 52.247–48, 52.247–52, and 52.247–64. The information is used to ensure that: (1) Acquisitions are made on the basis most advantageous to the Government and; (2) supplies arrive in good order and condition, and on time at the required place.

B. Annual Reporting Burden

Respondents: 65,000.
Responses per Respondent: 22.
Annual Responses: 1,430,000.
Hours per Response: .05.
Total Burden Hours: 71,500.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0061, Transportation Requirements, in all correspondence.

Edward Loeb,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2015–25456 Filed 10–6–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Developmental Disabilities Protection and Advocacy Statement of Goals and Priorities

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration on Intellectual and Developmental Disabilities (AIDD), Administration for Community Living (ACL) is announcing an opportunity to comment on the

proposed collection of information by the agency. 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 of an existing collection of information, and to allow for public comment in response to the notice. This notice collects comments on the information collection requirements relating to an existing collection: Developmental Disabilities Protection and Advocacy Statement of Goals and Priorities (0985–0034).

DATES: Submit written comments on the collection of information by November 6, 2015.

ADDRESSES: Submit written comments on the collection of information by fax 202.395.5806 or by email to *OIRA_submission@omb.eop.gov,* Attn: Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Clare Barnett, Administration for Community Living, Administration on Intellectual and Developmental Disabilities, Office of Program Support, One Massachusetts Avenue NW., Room 4204, Washington, DC 20201, 202–357–3426.

SUPPLEMENTARY INFORMATION: Federal statute and regulation require each State Protection and Advocacy (P&A) System annually prepare for public comment a Statement of Goals and Priorities (SGP) for the P&A for Developmental Disabilities (PADD) program for each coming fiscal year. Following the required public input for the coming fiscal year, the P&A is required by Federal statute and regulation to submit the final version of the SGP to the Administration on Intellectual and Developmental Disabilities (AIDD). AIDD reviews the SGP for compliance and will aggregate the information in the SGPs into a national profile of programmatic emphasis for P&A Systems in the coming year to provide an overview of program direction, and permit AIDD to track accomplishments against goals and formulate areas of technical assistance and compliance with Federal requirements. ACL estimates the burden of this collection of information as follows:

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PADD SGP	57	1	44	2,508

Estimated Total Annual Burden Hours: 2,508.

Dated: October 1, 2015.

Kathy Greenlee,

Administrator & Assistant Secretary for Aging.

[FR Doc. 2015–25592 Filed 10–6–15; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Gastroenterology and Urology Devices Panel of the Medical Devices 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: Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Dates and Times: The meeting will be held on November 18, 2015, from 8 a.m. to 6 p.m. and November 19, 2015, from 8 a.m. to 11 a.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900.

Contact Person: Patricio G. Garcia, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1535, Silver Spring, MD 20993–0002, *Patricio.Garcia@fda.hhs.gov*, 301–796–6875, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On November 18, 2015, the committee will discuss, make recommendations and vote on information regarding the premarket approval application (PMA) for the TransMedics® Organ Care System™ (OCS)—Heart, by TransMedics, Inc. The proposed Indication for Use for the TransMedics® Organ Care System™ (OCS)—Heart, as stated in the PMA, is as follows:

The TransMedics® Organ Care System™ (OCS)—Heart is a portable, ex vivo organ perfusion system intended to preserve a donor heart in a near-normothermic and beating state from retrieval until the eventual transplantation into a suitable recipient.

On November 19, 2015, the committee will discuss and make recommendations regarding the classification of the product code ''LKX'', and the associated device classification name, ''Device, Thermal, Hemorrhoids''. The product code LKX represents a category of devices intended to apply controlled cooling and conductive heating to hemorrhoids. These devices are considered preamendments devices since they were in commercial distribution prior to May 28, 1976, when the Medical Devices Amendments became effective. Some examples of the means by which these devices perform these functions and their respective Indications for Use (IFU)/Intended Use (IU) statements are as follows:

- Uses an aluminum probe that contains a temperature sensitive element to regulate temperature within 2 degrees (between 37 and 46 degrees centigrade).
  - IFU/IU: The apparatus is intended to apply controlled, conductive heating to hemorrhoids.
- Uses a heat applicator inserted into the rectum, applicator contains a battery

operated heater and a sensor which provides temperature control/feedback.

○ IFU/IU: Intended to provide temporary relief of the symptoms of hemorrhoids through the application of mild heating.

• Uses speculum like plastic container containing liquid to cool hemorrhoidal veins

○ IFU/IU: Treatment of external hemorrhoids by applying cold therapy (cryotherapy) directly to swollen hemorrhoidal veins.

The committee will also discuss and make recommendations regarding the classification of the product code ''LRL'', and the associated device classification name, ''Cushion, Hemorrhoid''. The product code LRL represents a category of devices intended to temporarily relieve pain and pressure caused by hemorrhoids. These devices are considered preamendments devices since they were in commercial distribution prior to May 28, 1976, when the Medical Devices Amendments became effective. Some examples of the means by which these devices perform these functions and their respective IFU/IU statements are as follows:

• Uses an injection molded polypropylene copolymer plastic seat attached to a toilet seat (the product is adjustable and is available in round and elongated versions).

○ IFU/IU: For the temporary relief from the pain and pressure of hemorrhoids. The device is for external use only.

• Uses a cushion with an inflatable vinyl exterior and a foam center. An air chamber, when filled, prevents the cushion from compressing the foam. A urethane foam center adds comfort.

○ IFU/IU: Intended for the home convalescent patient with perineal discomfort.

• Uses a cushion that contains two internal molded structures that conform to the patient's shape. Exerts ''slight'' pressure on hemorrhoid. IFU/IU not provided.

The committee will also discuss and make recommendations regarding the classification of the product code ''LKN'', and the associated device classification name, ''Separator, automated, blood cell and plasma, therapeutic''. The product code LKN represents a category of centrifuge-type devices intended to separate blood components and perform therapeutic plasma exchange for the management of serious medical conditions in adults and children. These devices are considered preamendments devices since they were in commercial distribution prior to May 28, 1976, when the Medical Devices Amendments became effective. Some examples of the means by which these devices perform these functions and their respective IFU/IU statements are as follows:

• Utilizes a continuous flow centrifuge (max speed 3000 rpm) to separate source blood from a subject into blood components.

○ IFU/IU: May be used to perform therapeutic plasma exchange.

○ IFU/IU: May be used to perform Red Blood Cell Exchange procedures for the transfusion management of Sickle Cell Disease in adults and children.

• Uses continuous flow access to a rotating centrifuge to separate blood components.

○ IFU/IU: May be used to harvest cellular components from the blood of certain patients where the attending physician feels the removal of such component may benefit the patient.

○ IFU/IU: May be used to remove plasma components and/or fluid selected by the attending physicians.

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 November 10, 2015. Oral presentations from the public will be scheduled on November 18, 2015, between approximately 1 p.m. and 2 p.m. and on November 19, 2015, between approximately 8:30 a.m. and 9:30 a.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 November 2, 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 November 3, 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 Artair Mallett at *artair.mallett@fda.hhs.gov*, or 301–796–9638, 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: October 1, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–25466 Filed 10–6–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0007]

Fee for Using a Rare Pediatric Disease Priority Review Voucher in Fiscal Year 2016; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting a notice entitled ''Fee for Using a Rare Pediatric Disease Priority Review Voucher in Fiscal Year 2016'' that appeared in the **Federal Register** of September 28, 2015 (80 FR 58262). The document announced the fee rate for using a rare pediatric disease priority review voucher for fiscal year 2016. The document was published with the incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Lisa Granger, Food and Drug Administration, Bldg. 32, Rm. 3330, Silver Spring, MD 20993, 301–796–9115, *Lisa.Granger@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In FR Doc. 2015–24508, appearing on page 58262 in the **Federal Register** of Monday, September 28, 2015, the following correction is made:

On page 58262, in the third column, in the headings section of the document, ''FDA–2014–N–0007'' is corrected to read ''FDA–2015–N–0007''.

Dated: October 2, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–25525 Filed 10–6–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health IT Policy Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS

ACTION: Notice of meeting.

This notice announces updated dates for meetings of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). These meetings will be open to the public.

Name of Committee: Health IT Policy Committee.

General Function of the Committee: To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

2015 Meeting Dates and Times:

- October 6, 2015, from 9:30 a.m. to 3:00 p.m./Eastern Time
- November 10, 2015, from 9:30 a.m. to 3:00 p.m./Eastern Time
- December 8, 2015, from 9:30 a.m. to 3:00 p.m./Eastern Time

For meeting locations, web conference information, and the most up-to-date information, please visit the calendar on the ONC Web site, *http://www.healthit.gov/FACAS/calendar.*

Contact Person: Michelle Consolazio, email: *michelle.consolazio@hhs.gov.* Please email Michelle Consolazio for the most current information about meetings. 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.

Agenda: The committee will hear reports from its workgroups/task forces and updates from ONC and other federal agencies. ONC intends to make background material available to the public no later than 24 hours prior to the meeting start time. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://www.healthit.gov/FACAS/health-it-policy-committee.*

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 prior to the meeting date. Oral comments from the public will be scheduled prior to the lunch break and at the conclusion of each meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing wireless access or access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Michelle Consolazio at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.healthit.gov/facas/* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: September 30, 2015.

Michelle Consolazio,

FACA lead, Office of Policy, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2015–25562 Filed 10–6–15; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health IT Standards Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces updated dates for meetings of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). These meetings will be open to the public.

Name of Committee: Health IT Standards Committee.

General Function of the Committee: To provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the Health IT Policy Committee.

2015 Meeting Dates and Times:

- October 6, 2015, from 9:30 a.m. to 3:00 p.m./Eastern Time
- November 3, 2015, from 9:30 a.m. to 3:00 p.m./Eastern Time
- December 10, 2015, from 9:30 a.m. to 12:30 p.m./Eastern Time

For meeting locations, Web conference information, and the most up-to-date information, please visit the calendar on the ONC Web site, *http://www.healthit.gov/FACAS/calendar*

Contact Person: Michelle Consolazio, email: *michelle.consolazio@hhs.gov.* Please email Michelle Consolazio for the most current information about meetings. 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.

Agenda: The committee will hear reports from its workgroups/task forces and updates from ONC and other federal agencies. ONC intends to make background material available to the public no later than 24 hours prior to the meeting start time. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://www.healthit.gov/facas/health-it-standards-committee.*

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 prior to the meeting date. Oral comments from the public will be scheduled prior to the lunch break and at the conclusion of each meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing wireless access or access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Michelle Consolazio at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.healthit.gov/facas/* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: September 30, 2015.

Michelle Consolazio,

FACA lead, Office of Policy, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2015–25558 Filed 10–6–15; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Town Hall Meeting on the Federal Policy for the Protection of Human Subjects Notice of Proposed Rulemaking; Notice

AGENCY: Department of Health and Human Services, Office of the Assistant Secretary for Health, Office for Human Research Protections.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS), Office of the Assistant Secretary for Health, Office for Human Research Protections (OHRP), is announcing a public Town Hall Meeting to respond to questions related to the Federal Policy for the Protection of Human Subjects Notice of Proposed Rulemaking (NPRM) that HHS and fifteen other federal departments and agencies published in the **Federal Register** on September 8, 2015, (80 FR No. 173, pp. 53933–54061). The goal of the NPRM is to modernize, strengthen, and make more effective the Federal Policy for the Protection of Human Subjects that was promulgated as a Common Rule in 1991. The NPRM seeks comments on proposals to better protect human subjects involved in research, while facilitating valuable research and reducing burden, delay, and ambiguity for investigators. To be assured consideration, comments on the NPRM must be received no later than December 7, 2015.

The purpose of the public Town Hall meeting is for OHRP, HHS agencies, and other Common Rule departments and agencies to provide responses to questions from the public about the NPRM during the open public comment period in order to clarify the NPRM proposals and better inform public comment on the NPRM. The public will be able to ask questions during the Town Hall Meeting, and to submit questions before the meeting. Details about how to submit questions before the Town Hall Meeting are provided below.

DATES: The public Town Hall Meeting will be held on October 20, 2015, from 9 a.m. to 5 p.m.

Deadline for Registration To Attend the Town Hall Meeting: The deadline to register to attend the town hall meeting and requests for special accommodations must be received no later than 5:00 p.m. on October 13, 2015.

Deadline for Submission of Written Questions Prior to the Town Hall Meeting: Written questions on the NPRM must be received no later than 5 p.m. on October 13, 2015, in order to be responded to at the October 20, 2015, Town Hall Meeting.

ADDRESSES: Meeting Location: The Town Hall Meeting will be held at the Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Ave. SW., Great Hall, Washington, DC 20201; Metro: Federal Center SW station. In addition, we are providing an alternative to attending the meeting in person—the public may view the meeting via webcast. Information on that option is provided in section D of this notice. An archived version of the webcast will be posted on OHRP's Web site after the meeting.

Registration and Special Accommodations: While there is no registration fee, individuals planning to attend the public Town Hall Meeting in person must register to attend. Registration may be completed by sending an email to *OHRP@hhs.gov*, with the subject line ''Registration for OHRP Town Hall Meeting;'' or a request to register may be sent to: Registration for OHRP Town Hall Meeting, Office for Human Research Protections, Department of Health and Human Services, 1101 Wootton Parkway, Suite 200; Rockville, MD 20852. Please include your name, address, telephone number, email address, and fax number.

Registration to attend the Town Hall Meeting will be accepted on a first-come, first-served basis. If seating capacity has been reached, you will be notified that the meeting has reached capacity.

Individuals who need special accommodations should contact staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Submission of Questions for the Public Town Hall Meeting

Submit electronic questions about the NPRM, identified with docket number HHS–OPHS–2015–0009 to: *http://www.regulations.gov.* Submit written questions about the NPRM to: Questions for OHRP Public Town Hall Meeting, Office for Human Research Protections, Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Dr. Irene Stith-Coleman, Director, Division of Policy and Assurances, Office for Human Research Protections, Department of Health and Human Services, 1101 Wootton Parkway, Suite 200; Rockville, MD 20852, phone 240–453–6900; email *Irene.Stith-Coleman@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Town Hall Meeting

A. Purpose of the Meeting

The public Town Hall Meeting is intended to provide an opportunity for the public to obtain responses from federal government representatives on a range of questions related to the Federal Policy for the Protection of Human Subjects NPRM that HHS and fifteen other federal departments and agencies published in the **Federal Register** on September 8, 2015, (80 FR No. 173, pp. 53933–54061), in order to clarify the NPRM proposals and better inform public comment on the NPRM.

B. Format of the Town Hall Meeting

The meeting will be conducted by a panel of HHS officials. In addition, other federal government officials will be available to respond to relevant

questions. The majority of the meeting will be reserved for responding to questions from the public, including questions submitted in advance of the meeting and during the meeting. Depending on the nature and number of questions received in advance of the meeting, it may not be possible to respond to all of the questions that were submitted, or to respond individually to each of the submitted questions.

C. Security and Building Guidelines

Because the public Town Hall Meeting will be located on federal property, for security reasons, any persons wishing to attend this meeting must register by the date specified in the **DATES** section of this notice. Please allow sufficient time to go through the security checkpoints. It is suggested that you arrive at the Hubert H. Humphrey Building no later than 8:30 a.m. if you are attending the public meeting.

Security measures include the following:

• Presentation of government-issued photographic identification to the Federal Guard Service personnel.

• Passing through a metal detector and inspection of items brought into the building. We note that all items brought to HHS are subject to inspection.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting in person. The public may not enter the building earlier than 45 minutes prior to the convening of the meeting. All visitors must be escorted while in the building.

D. Webcast Information

Information on the option to view the meeting by webcast will be posted at a later time on the OHRP Web site at *http://www.hhs.gov/ohrp.* Please continue to check the OHRP Web site for updates. An archived version of the webcast will be posted on OHRP's Web site after the meeting.

II. Transcripts

As soon as a transcript of the public meeting is available, it will be accessible on the OHRP Web site, *http://www.hhs.gov/ohrp.* A transcript also will be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the PHS FOIA Office, 7700 Wisconsin Avenue, Suite #920, Bethesda, MD 20857; telephone (301) 492–4800; fax (301) 492–4848; email *FOIARequest@psc.hhs.gov.*

Dated: October 2, 2015.

Karen B. DeSalvo,

Acting Assistant Secretary for Health.

[FR Doc. 2015–25564 Filed 10–6–15; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Office of AIDS Research Advisory Council.

Date: November 12, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: The next meeting of the Office of AIDS Research Advisory Council (OARAC) will be devoted to presentations and discussions on ''HIV/AIDS Vaccine Research''. In addition, an update will be provided on the new OAR processes and the latest changes made to the HHS treatment and prevention guidelines by the OARAC Working Groups responsible for the guidelines.

Place: National Institutes of Health, 5601 Fishers Lane, First Floor, Room 1D13, Rockville, MD 20852.

Contact Person: Amelia Hall, M.A., Program Analyst, Office of AIDS Research, Office of the Director, NIH, 5601 Fishers Lane, Room 2E63, Rockville, MD 20852, (301) 435–4732; *hallam@mail.nih.gov.*

Any interested person may file written comments with the Council by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation. Information is also available on the OAR's home page: *http://www.oar.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: October 2, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25480 Filed 10–6–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Classification of Pro- and Anti-Aging Proteins RFA.

Date: November 3, 2015.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 2, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25483 Filed 10–6–15; 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: Genes, Genomes, and Genetics Integrated Review Group; Therapeutic Approaches to Genetic Diseases Study Section.

Date: October 27–28, 2015.

Time: 5:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Richard Panniers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Innovative Therapies and Tools for Screenable Disorders in Newborns.

Date: October 28, 2015.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Richard Panniers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 14–226: Limited Competition: National Primate Research Centers (P51).

Date: November 8–10, 2015.

Time: 5:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Atlanta Decatur Downtown/Emory, 130 Clairemont Ave. Decatur, GA 30030.

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Clinical Studies and Epidemiology Study Section.

Date: November 9–10, 2015.

Time: 8:00 a.m. to 6:00 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: Hilary D Sigmon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 357–9236, *sigmonh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–345: Development of Appropriate Pediatric Formulations.

Date: November 9, 2015.

Time: 2:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cristina Backman, Ph.D., Scientific Review Officer, ETTN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7846, Bethesda, MD 20892, *cbackman@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Integrative Neuroscience.

Date: November 10, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–118: Shared Instrumentation: High-End Instrumentation.

Date: November 10, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Donald Scott Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@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: October 2, 2015.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25585 Filed 10–6–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Training and Workforce Development Subcommittee—D.

Date: November 2–3, 2015.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott-Residence Inn Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rebecca H. Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18C, Bethesda, MD 20892, 301–594–2771, *johnsonrh@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Training and Workforce Development Subcommittee—B.

Date: November 16–17, 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: Lisa A. Newman, SCD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12L, Bethesda, MD 20892, 301–594–2704, *newmanla2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 2, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25481 Filed 10–6–15; 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, Systems Biology and Antibacterial Resistance (U01).

Date: November 2–3, 2015.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, Montrose Meeting Room, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G62A, National Institute of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20899823, (240) 669–5081, *ecohen@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Peer Review Meeting.

Date: November 12, 2015.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: Doubletree Hotel Bethesda, Harmony Room, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lynn Rust, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, room 3G42A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5069, *lrust@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 1, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25441 Filed 10–6–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, NIAAA AA–1 Member Conflict Applications [ZAA1 GG (01)].

Date: November 23, 2015.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, NIH, 5635 Fishers Lane, CR2098, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Richard Rippe, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, NIH, 5635 Fishers Lane; Room 2019, Rockville, MD 20852, (301) 443–8599, *rippera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 92.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Supports Awards, National Institutes of Health, HHS)

Dated: October 2, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25482 Filed 10–6–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, September 25, 2015, 09:00 a.m. to September 25, 2015, 12:00 p.m., National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD, 20892 which was published in the **Federal Register** on September 08, 2015, Vol. 80, No. 173.

This meeting is being amended to reflect a date and time change. The meeting will be held on December 15, 2015, from 04:00 p.m. until 06:00 p.m. The meeting is closed to the public.

Dated: October 1, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25440 Filed 10–6–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Nominations to the Report on Carcinogens and Office of Health Assessment and Translation; Request for Information

SUMMARY: National Toxicology Program (NTP) Office of the Report on Carcinogens (ORoC) and Office of Health Assessment and Translation (OHAT) request information on nine substances, mixtures, and exposure circumstances (collectively referred to as ''substances''). Six substances are nominated for possible review for future editions of the Report on Carcinogens (RoC). Three substances are being considered by OHAT for evaluation of non-cancer health outcomes.

DATES: Deadline for receipt of information is November 6, 2015.

ADDRESSES: Information on substances for possible review for the RoC should be submitted electronically on the ORoC nominated substances page (*http://ntp.niehs.nih.gov/go/rocnom*) or to *lunn@niehs.nih.gov*. Information on OHAT nominations can be submitted electronically on the OHAT nominated topics page (*http://ntp.niehs.nih.gov/go/763346*) or to *thayer@niehs.nih.gov*.

FOR FURTHER INFORMATION CONTACT: *RoC Nominations:* Dr. Ruth Lunn, Director, ORoC; telephone (919) 316–4637; *lunn@niehs.nih.gov*. *OHAT Nominations:* Dr. Kristina Thayer, Director, OHAT, telephone (919) 541–5021; *thayer@niehs.nih.gov*. Address for Dr. Lunn and Dr. Thayer: DNTP, NIEHS, 111 T.W. Alexander Drive, P.O. Box 12233, Research Triangle Park, NC 27709.

SUPPLEMENTARY INFORMATION: Request for Information: The NTP requests information on nine substances: Six substances have been nominated for possible review for future editions of the RoC (see *http://ntp.niehs.nih.gov/go/rocnom*) and three are under consideration by OHAT for evaluation of non-cancer health outcomes. (see *http://ntp.niehs.nih.gov/go/763346*). Specifically, NTP requests information on each substance regarding: (1) Data on current production, use patterns, and human exposure; (2) published, ongoing, or planned studies related to evaluating adverse health outcomes (*e.g.,* cancer, development, reproductive, or immunological disorders); (3) scientific issues important for prioritizing and assessing adverse health outcomes; and (4) names of scientists with expertise or knowledge about the substance—please include any bibliographic citations when available. NTP will use this information in determining which substances to propose for formal health hazard evaluations.

Six Substances Nominated for Possible Review for the RoC *

Flame Retardants

- Pentabromodiphenyl ether mixture (DE–71)
- Tetrabromobisphenol A, CASRN 79–94–7

Water Disinfection Byproducts

- Dibromoacetonitrile, CASRN 3252–43–5
- Di- and tri-haloacetic acids (as a class); specifically, those haloacetic acids with similar functional or structural properties that may cause similar health hazards

Other

- Fluoride, CASRN 7681–49–4
- Vinylidene chloride, CASRN 5–35–4

* Evaluations for the RoC may seek to list a new substance in the report, reclassify the listing status of a substance already listed, or remove a listed substance.

Three substances are being considered for OHAT evaluation of non-cancer health outcomes.

- Mountaintop removal mining (health impacts on surrounding communities)
- Neonicotinoid pesticides
- Fluoride (developmental neurotoxicity and endocrine disruption)

Information on RoC nominations should be submitted electronically on the ORoC nomination page (*http://ntp.niehs.nih.gov/go/rocnom*) or by email to *lunn@niehs.nih.gov*. Information on OHAT nominations should be submitted electronically on the OHAT nominated topics page (*http://ntp.niehs.nih.gov/go/763346*) or to *thayer@niehs.nih.gov*. Public comments should include the submitter's name, affiliation, sponsoring organization (if any) along with appropriate contact information (telephone and email). Written information received in response to this notice will be posted on the NTP Web site, and the submitter identified by name, affiliation, and/or sponsoring organization.

Responses to this request for information are voluntary. This request for information is for planning purposes only and is not a solicitation for applications or an obligation on the part of the U.S. Government to provide support for any ideas identified in response to it. Please note that the U.S. Government will not pay for the preparation of any information submitted or for its use. No proprietary, classified, confidential, or sensitive information should be included in your response.

Background Information on ORoC: On behalf of NTP, ORoC manages preparation of the RoC following an established, four-part process (*http://ntp.niehs.nih.gov/go/rocprocess*). The RoC is a congressionally mandated, science-based, public health report that identifies agents, substances, mixtures, or exposures (collectively called ''substances'') in our environment that pose a cancer hazard for people in the United States. Published biennially, each edition of the RoC is cumulative and consists of substances newly reviewed in addition to those listed in previous editions. Newly reviewed substances with their recommended listing are reviewed and approved by the Secretary of Health and Human Services. The 13th RoC, the latest edition, was published on October 2, 2014 (available at *http://ntp.niehs.nih.gov/go/roc13*). The 14th RoC is under development.

Background Information on OHAT: On behalf of NTP, OHAT conducts literature-based evaluations to assess the evidence that environmental chemicals, physical substances, or mixtures (collectively referred to as ''substances'') cause adverse non-cancer health outcomes. As part of these evaluations, NTP may also provide opinions on whether these substances might be of concern for causing adverse effects on human health given what is known about toxicity and current human exposure levels.

Dated: October 1, 2015.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2015–25434 Filed 10–6–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Look AHEAD Brain MRI–2.

Date: December 1, 2015.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 1, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25439 Filed 10–6–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: National Outcomes Evaluation of the Garrett Lee Smith Suicide Prevention Program—Revision

The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) is requesting clearance for the revision of data collection associated with the previously-approved cross-site evaluation of the Garrett Lee Smith (GLS) Youth Suicide Prevention and Early Intervention Program (GLS Suicide Prevention Program), now entitled National Outcomes Evaluation (NOE). The NOE is a proposed redesign of the currently-approved cross-site evaluation (OMB No. 0930–0286; Expiration, January 2017) that builds on prior published GLS evaluation proximal and distal training and aggregate findings from program activities (*e.g.,* Condron et al., 2014; Walrath et al., 2015). As a result of the vast body of information collected and analyzed through the cross-site evaluation of the two GLS Suicide Prevention Programs components—the GLS State/Tribal Program and the GLS Campus Program—SAMHSA has identified areas for additional investigation and the types of inquiry needed to move the evaluation into its next phase.

The NOE aims to address the field's need for additional evidence on the impacts of the GLS Suicide Prevention Program in three areas: (1) Suicide prevention training effectiveness, (2) early identification and referral on subsequent care follow-up and adherence, and (3) suicide safer care practices within health care settings. The evaluation comprises three distinct, but interconnected core studies—Training, Continuity of Care (COC), and Suicide Safer Environment (SSE). The Training and SSE studies also have ''enhanced'' study components. Core study data align with required program activities across the State/Tribal and Campus programs and provide continuity with and utility of data previously collected (implementation and proximal outcomes). Enhanced components use experimental and quasi-experimental methods (randomized controlled trial [RCT] and retrospective cohort study designs) to truly assess program impacts on distal outcomes (*e.g.,* identifications and referrals, hospitalizations, and suicide attempts and deaths) without undue burden on grantees and youth. This outcome- and impact-focused design reflects SAMHSA's desire to assess the implementation, outcomes, and impacts of the GLS program.

The NOE builds on information collected through the four-stage cross-site evaluation approach (context, product, process, and impact) to further the field of suicide prevention and mental health promotion. Of notable importance, the design now accounts for differences in State/Tribal and Campus program grant funding cycles (*i.e.,* 5-year State/Tribal and 3-year Campus programs), while also establishing continuity with and maximizing utility of data previously collected. Further, the evaluation meets the legislative requirements outlined in the GLSMA to inform performance and implementation of programs.

Eleven data collection activities compose the NOE—two new instruments, three previously-approved instruments, and six previously-approved and improved instruments. As GLS program foci differ by grantee type, some instruments will apply to either State/Tribal or Campus programs only. Of the 11 instruments, 2 will be administered with State/Tribal and Campus grantees (tailored to grantee type), 6 are specific to State/Tribal grantees, and 3 pertain only to Campus grantees.

Instrument Removals

Due to the fulfillment of data collection goals, six currently-approved instruments and their associated burden will be removed. The combined estimated annual burden for these instruments is 4,300 hours. These include the *State/Tribal* Training Utilization and Preservation Survey.

(TUP–S) Adolescent Version, Coalition Profile, and Coalition Survey, and the *Campus* Training Exit Survey (TES) Interview Forms, Life Skills Activities Follow-up Interview, and the Student Awareness Intercept Survey

Instrument Continuations

Three instruments will be administered only in OMB Year 1 to finalize data collection for the current cross-site evaluation protocol. Each instrument was previously approved as part of the four-stage approach (OMB No. 0930–0286; Expiration, January 2017) and no changes are being made. These include the State/Tribal Referral Network Survey (RNS), TUP–S Campus Version, and Campus Short Message Service Survey (SMSS). Each instrument will be discontinued once the associated data collection requirement has been fulfilled.

Instrument Revisions

Six currently-approved instruments will be revised for the NOE. Each of the instruments, or an iteration thereof, has received approval through multiple cross-site evaluation packages cleared by OMB. As such, the information gathered has been, and will continue to be, crucial to this effort and to the field of suicide prevention and mental health promotion.

- Prevention Strategies Inventory (PSI): The PSI has been updated to enhance the utility and accuracy of the data collected. Changes capture different strategies implemented and products distributed by grantee programs, the population of focus for each strategy, total GLS budget expenditures, and the percent of funds allocated by the activity type.
- Training Activity Summary Page (TASP): New items on the TASP gather information about the use of behavioral rehearsal and/or role-play and resources

provided at trainings—practices that have been found to improve retention of knowledge and skills posttraining. In addition, understanding how skills can be maintained over time with materials provided at trainings (*e.g.,* video reminders, wallet cards, online and phone applications) is an area suggested for further study (Cross et al., 2011).

- Training Utilization and Preservation Survey (TUP–S) 3 and 6-month follow up: The TUP–S has been improved to examine posttraining behaviors and utilization of skills by training participants—factors known to improve understanding of the comprehensive training process and the impact of training on identifications, referrals, and service use. The survey now requests information about training resources received, practice components, trainee participation in role play, and previous suicide prevention trainings attended; experience intervening with a suicidal individual (from QPR evaluation tool), intended use of the training, and referral behaviors; and previous contact and quality of relationships with youth. Broad items about training others, the use/intended use of skills, and barriers/facilitators have been removed. The consent-to-contact form has been modified to add brief items about the trainee and previous identifications/referrals. The TUP–S will be administered at 3 and 6 months post-training to a random sample of training participants via CATI (2000 ST TUP–S 3-mo/600 ST TUP–S 6-mo per year).
- Early Intervention, Referral, and Follow-up Individual Form (EIRF–I): The EIRF–I has been improved to gather initial follow-up information about youth identified as being at risk as a result of the State/Tribal GLS program (whether or not a service was received after referral). In addition, EIRF–I (1) data elements have been expanded to include screening practices, screening tools, and screening results of youth identified as at-risk for suicide; (2) response options have been expanded/refined (*i.e.,* setting/source of identification, mental health and non-mental health referral locations, and services received); (3) tribal-specific data elements have been added; and (4) sources of information used has been removed.
- EIRF Screening Form (EIRF–S): Data elements have been added to indicate whether State/Tribal screenings were performed at the individual- or group-level. New response options have been added under ''screening tool'' and ''false positive'' has been removed.
- Student Behavioral Health Form (SBHF): The SBHF (formerly entitled the MIS) has been expanded and renamed. The Campus form has been enhanced to include referral and follow-up procedure questions (rather than simply counts); numbers screened, identified at risk, receiving suicide-specific services, referred, and receiving follow-up; and age and gender breakdowns of suicide attempts and deaths. Student enrollment/retention items have been removed; these will be obtained through the Integrated Postsecondary Education Data System. The SBHF will require closer involvement with campus behavioral health/health providers to gather data on procedural questions and screenings, risk assessment, services, referrals, and follow-ups.

Instrument Additions

Four instruments will augment the evaluation—two are newly developed instruments and two represent new versions of existing instruments.

- TUP–S RCT (Baseline and 12-Month versions): The TUP–S RCT refers to versions administered as part of the Training Study RCT. The RCT collects TUP–S data at baseline (pre-training) and 3, 6, and 12 months after training. Because the surveys are conducted at different times, each version refers the participant to a specific time period. All trainees from States/Tribes participating in the RCT and who consent to be contacted will be surveyed until the desired sample size of 1332 respondents is achieved. The consent-to-contact form will describe the RCT and the 4 assessment periods. The consent-to-contact form will describe the RCT and the 4 assessment periods.
- Behavior Health Provider Survey (BHPS): The BHPS is a new State/Tribal data collection activity and the first to specifically target behavioral health providers partnering with GLS grantees. Data will include information about referrals for at-risk youth, SSE care practices implemented, and client outcomes (number of suicide attempts and deaths). A total of 1–10 respondents from each State/Tribal grantee's partnering behavioral health provider will participate annually.

The estimated response burden to collect this information associated with the redesigned National Outcomes Evaluation is as follows annualized over the requested 3-year clearance period is presented below:

TOTAL AND ANNUALIZED AVERAGES: RESPONDENTS, RESPONSES AND HOURS

Type of respondent	Instrument	Number of respondents	Responses per respondent	Total number of responses	Burden per response (hours)	Annual burden (hours)
STATE/TRIBAL INSTRUMENTS						
Project Evaluator	PSI	43	4	172	0.750	129
Project Evaluator	TASP	43	4	172	0.250	43
Project Evaluator	EIRF-Individual Form	43	4	172	0.750	129
Project Evaluator	EIRF Screening Form	43	4	172	0.750	129
Provider Trainee	TUP–S Consent to Contact	6,000	1	6000	0.167	1000
Provider Trainee	TUP–S 3 Month Version	2,000	1	2000	0.500	1000
Provider Trainee	TUP–S 6 Month Version	600	1	600	0.417	250
Provider Trainee	TUP–S RCT BL Version	444	1	444	0.417	185
Provider Trainee	TUP–S RCT 3 Month Version.	444	1	444	0.500	222
Provider Trainee	TUP–S RCT 6 Month Version.	444	1	444	0.417	185
Provider Trainee	TUP–S RCT 12 Month Version.	444	1	444	0.417	185
Provider Stakeholder	RNS	26	1	26	0.667	17
Behavioral Health Provider	BHPS	407	1	407	0.750	305

TOTAL AND ANNUALIZED AVERAGES: RESPONDENTS, RESPONSES AND HOURS—Continued

Type of respondent	Instrument	Number of respondents	Responses per respondent	Total number of responses	Burden per response (hours)	Annual burden (hours)
CAMPUS INSTRUMENTS						
Project Evaluator	PSI	56	4	224	0.750	168
Project Evaluator	TASP	56	4	224	0.250	56
Project Evaluator	SBHF	56	1	56	0.667	37
Student	TUP–S Campus Version	167	1	167	0.167	28
Student	SMSS	734	1	734	0.083	61
Total	12,050		12,902		4,129	

* Rounded to the nearest whole number.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *OR* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by December 7, 2015.

Summer King,

Statistician.

[FR Doc. 2015–25472 Filed 10–6–15; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No.]

Agency Information Collection Activities: Submission for Review; Information Collection Request for the Department of Homeland Security (DHS), Science and Technology, Project 25 Compliance Assessment Program (P25 CAP)

AGENCY: Science and Technology Directorate, DHS.

ACTION: 60-day notice and request for comment.

SUMMARY: The Department of Homeland Security (DHS) invites the general public to comment on the renewal of existing data collection forms for the DHS Science and Technology Directorate's Project 25 (P25) Compliance Assessment Program (CAP): Supplier's Declaration of Compliance (SDoC) (DHS Form 10044 (6/08)) and Summary Test Report (DHS Form 10056 (9/08)). The attacks of September 11, 2001, and the destruction of Hurricane Katrina made apparent the need for emergency response radio systems that can interoperate, regardless of which organization manufactured the equipment. In response, and per congressional direction, DHS and the National Institute of Standards and Technology (NIST) developed the P25 CAP to improve the emergency response community's confidence in purchasing land mobile radio (LMR) equipment built to P25 LMR standards. The P25 CAP establishes a process for ensuring that equipment complies with P25 standards and is capable of interoperating across manufacturers. The Department of Homeland Security needs to be able to collect essential information from manufacturers on their products that have met P25 standards as demonstrated through the P25 CAP. Equipment suppliers will provide information to publicly attest to their products' compliance with a specific set of P25 standards. Accompanied by a Summary Test Report that substantiates this declaration, the SDoC constitutes a company's formal, public attestation of compliance with the standards for the equipment. In providing this information, companies will consent to making this information public. In turn, the emergency response community will use this information to identify P25-compliant communications systems. The P25 CAP Program Manager will perform a simple administrative review to ensure the documentation is complete and accurate in accordance with the current P25 CAP processes. This notice and request for comments is required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Comments are encouraged and will be accepted until December 7, 2015.

ADDRESSES: Interested persons are invited to submit comments, identified by docket number, by *one* of the following methods:

- Email: *John.Merrill@hq.dhs.gov.* Please include docket number DHS- in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: John Merrill (202) 254–5604 (Not a toll free number).

SUPPLEMENTARY INFORMATION: The SDoC and Summary Test Report forms will be posted on the FirstResponder.gov Web site at *http://www.firstresponder.gov.* The forms will be available in Adobe PDF format. The supplier will complete the forms electronically. The completed forms may then be submitted via Internet to the FirstResponder.gov Web site.

The Department is committed to improving its information collection and urges all interested parties to suggest how these materials can further reduce burden while seeking necessary information under the Act.

DHS is particularly interested in comments that:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Suggest ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Renewal of information collection.

(2) *Title of the Form/Collection:* Science and Technology, Project 25 (P25) Compliance Assessment Program (CAP).

(3) *Agency Form Number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Department of Homeland Security, Science &

Technology Directorate— (1) Supplier's Declaration of Compliance (SDoC) (DHS Form 10044 (6/08)) (2) Summary Test Report (DHS Form 10056 (9/08)).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Businesses; the data will be gathered from manufacturers of radio systems who wish to declare that their products are compliant with P25 standards for radio systems.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

a. *Estimate of the total number of respondents:* 12.

b. *Estimate of number of responses per respondent:* 144.

c. *An estimate of the time for an average respondent to respond:* 4 burden hours (2 burden hour for each form).

d. *An estimate of the total public burden (in hours) associated with the collection:* 576 burden hours.

Dated: September 29, 2015.

Rick Stevens,

Chief Information Officer for Science and Technology.

[FR Doc. 2015–25554 Filed 10–6–15; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0114]

Agency Information Collection Activities: Application for Civil Surgeon Designation Registration, Form I–910; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on July 1, 2015 at 80 FR 37648, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 6, 2015. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806 (This is not a toll-free number). All submissions received must include the agency name and the OMB Control Number 1615–0114.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number. Comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2013–0002 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Civil Surgeon Designation Registration.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–910; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Section 212(a)(1)(A) of the Immigration and Nationality Act (Act) renders individuals inadmissible if the individual is afflicted with the statutorily mentioned diseases or medical conditions. In order to establish that the individual is admissible when seeking adjustment of status to a legal permanent resident (and in certain cases other aliens seeking an immigration benefit), the individual must submit Form I–693 (OMB Control Number 1615–0033), Report of Medical Examination and Vaccination Record, that is completed by a civil surgeon, a USCIS designated physician.'' To be selected as a civil surgeon, the physician has to demonstrate that he or she is a licensed physician with no less than 4 years of professional experience.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–910 is 725 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,450 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $3,625.

Dated: October 1, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–25594 Filed 10–6–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5800–FA–18]

Announcement of Funding Awards for the Delta Community Capital Initiative Fiscal Year 2014

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Delta Community Capital Initiative. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Jackie L. Williams, Ph.D., Director, Office of Rural Housing and Economic Development, Office of Community Planning and Development, 451 Seventh Street SW., Room 7240, Washington, DC 20410–7000; telephone (202) 708–2290 (this is not a toll free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Funds used for the Delta Community Capital Initiative were appropriated to the Office of Rural Housing and Economic Development in annual appropriations between 1999 and 2009 (Pub. L. 105–276; 106–74; 106–377; 107–73; 108–7; 108–199; 108–447; 109–115; 110–5; 110–161; and/or 111–8) and subsequently recaptured from or surrendered by underperforming or nonperforming grantees.

The competition was announced in the **Federal Register** (FR Doc. No FR–5800–N–18) on Thursday, September 4, 2014. Applications were rated and selected for funding on the basis of selection criteria contained in that notice.

The Catalog of Federal Domestic Assistance number for this Delta Community Capital Initiative program is 14.271. The Delta Community Capital Community Initiative is designed to increase access to capital for business lending and economic development in the chronically underserved and undercapitalized Lower Mississippi Delta Region. Specifically, it will provide direct investment and technical assistance to community development lending and investing institutions that focus on business lending and economic development to benefit the residents of the Lower Mississippi Region. Eligible applicants for the Delta Community Capital Initiative are Federally recognized Indian tribes and local rural nonprofit organizations having a 501(c)(3) status with the IRS. The funds made available under this program were awarded competitively through a selection process conducted by HUD.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987. 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A to this document.

Dated: October 1, 2015.

Harriet Tregoning,

Principal Deputy Assistant, Secretary for Community Planning and Development.

APPENDIX A

FY 2014 DELTA COMMUNITY CAPITAL INITIATIVE GRANTEES

Grantee	State	Amount awarded
Communities Unlimited, Inc.	AR	$228,040.00
Southern Bancorp Capital Partners.	AR	250,000.00
LiftFund, Inc	TX	1,000,000.00
Total	.....	1,478,040.00

[FR Doc. 2015–25536 Filed 10–6–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5800–FA–19]

Announcement of Funding Awards for the Appalachia Economic Development Initiative Fiscal Year 2014

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Appalachia Economic Development Capital Initiative. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Jackie L. Williams, Ph.D., Director, Office of Rural Housing and Economic Development, Office of Community Planning and Development, 451 Seventh Street SW., Room 7240, Washington, DC 20410–7000; telephone (202) 708–2290 (this is not a toll free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Funds used for the Appalachia Economic Development Initiative were appropriated to the Office of Rural Housing and Economic Development in annual appropriations between 1999 and 2009 (Public Laws 105–276; 106–74; 106–377; 107–73; 108–7; 108–199; 108–447; 109–115; 110–5; 110–161; and/or 111–8) and subsequently recaptured from or surrendered by underperforming or nonperforming grantees.

The competition was announced in the **Federal Register** (FR Doc. No. FR–5800–N–19) on Thursday, September 4, 2014. Applications were rated and selected for funding on the basis of selection criteria contained in that notice.

The Catalog of Federal Domestic Assistance number for this Appalachia Economic Development Initiative program is 14.270. The Appalachia Economic Development Community Initiative is designed to increase access to capital for business lending and economic development in the chronically underserved and undercapitalized Appalachian region. Eligible applicants for the Appalachia Economic Development Initiative are State community and/or economic development agencies. The funds made available under this program were awarded competitively through a selection process conducted by HUD.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987. 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A to this document.

Dated: October 1, 2015.

Harriet Tregoning,

Principal Deputy Assistant, Secretary for Community Planning and Development.

Appendix A

FY 2014 APPALACHIA ECONOMIC DEVELOPMENT INITIATIVE GRANTEES

Grantee	State	Amount awarded
Kentucky Department of Local Government.	KY	$200,000.00
State of Maryland—Department of Housing and Community Development.	MD	350,000.00
Total	.....	550,000.00

[FR Doc. 2015–25535 Filed 10–6–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2015–N177; FXES11120800000–156–FF08ECAR00]

Low-Effect Habitat Conservation Plan for Seven Covered Species, Los Angeles Department of Water and Power Land, Inyo and Mono Counties, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application for a 10-year incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended (Act), from the Los Angeles Department of Water and Power (applicant). The application includes the draft habitat conservation plan (draft HCP) for the Los Angeles Department of Water and Power's operations, maintenance, and management activities on its land in Mono and Inyo Counties, California, pursuant to the Act. We invite public comment on the permit application, draft HCP, and draft Environmental Action Statement/Low Effect Screening Form. The Service is considering the issuance of a 10-year ITP for seven covered species in a 314,000-acre permit area. The permit is needed because take of species could occur as a result of the proposed covered activities.

DATES: To ensure consideration, please send your written comments by November 6, 2015.

ADDRESSES: You may obtain copies of the draft HCP and Environmental Action Statement/Low Effect Screening Form online at *http://www.fws.gov/carlsbad/HCPs/HCP_Docs.html*. You may request copies of the documents by email, fax, or U.S. mail (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Please send your requests or written comments by any one of the following methods, and specify ''LADWP HCP'' in your request or comment.

Submitting Request for Documents/Comments: You may submit comments or requests for more information by any of the following methods:

Email: fw8cfwocomments@fws.gov. Include ''LADWP HCP'' in the subject line of your message. If you choose to submit comments via email, please ensure that the file size does not exceed 10 megabytes. Emails that exceed the maximum file size may not be properly transmitted to the Service.

Telephone: Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760–322–2070.

Fax: Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760–322–4648, Attn.: LADWP HCP.

U.S. Mail: Kennon A. Corey, Palm Springs Fish and Wildlife Office, Attn.: LADWP HCP, U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.

In-Person Viewing or Pickup of Documents, or Delivery of Comments: Call 760–322–2070 to make an appointment during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kennon A. Corey, Assistant Field Supervisor, Palm Springs Fish and Wildlife Office; telephone 760–322–2070. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

The applicant, the Los Angeles Department of Water and Power, requests an ITP under section 10(a)(1)(B) of the Act. If approved, the applicant anticipates the taking of five federally listed species and two unlisted species as a result of activities undertaken or authorized on lands held by the Los Angeles Department of Water and Power in Inyo and Mono Counties. These activities are associated with water conveyance, agriculture, recreation, road maintenance, habitat restoration, and other land management activities. Take of listed species would be incidental to the applicant's performance or authorization of these activities on lands they manage.

Background

Section 9 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the ''take'' of fish and wildlife species federally listed as endangered or threatened. Take of federally listed fish or wildlife is defined under the Act as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct'' (16 U.S.C. 1538). ''Harm'' includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3(c)). Under limited circumstances, we may issue permits to authorize incidental take, which is defined under the Act as take that is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively. All species included on the incidental take permit, if issued, would receive assurances under the Service's ''No Surprises'' regulation (50 CFR 17.22(b)(5) and 17.32(b)(5)).

Applicant's Proposal

To comply with the requirements of the Act, the draft HCP defines biological goals and objectives, evaluates the effects of covered activities on covered species, describes a conservation strategy, describes a monitoring and adaptive management program, identifies changed circumstances and responsive actions, identifies funding sources, and identifies alternative actions to the proposed impacts. The draft HCP is intended to be a document that will facilitate regional species conservation and assist the applicant to better meet its legal obligations to provide water and power to the citizens of Los Angeles while managing its non-urban lands. The draft HCP will also provide a coordinated process for permitting and mitigating the incidental take of covered species as an alternative to activity-by-activity review.

The draft HCP addresses seven covered species, including three fish species and four bird species. The permit would provide take authorization for all covered species

identified by the draft HCP. Take authorized for listed covered species would be effective upon permit issuance. Take authorization for currently unlisted covered species would become effective concurrent with listing, should the species be listed under the Act during the permit term.

The proposed permit would include the following five federally listed animal species: Owens tui chub (*Siphateles bicolor snyderi*), Owens pupfish (*Cyprinodon radiosus*), yellow-billed cuckoo (western distinct population segment) (*Coccyzus americanus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and least Bell's vireo (*Vireo bellii pusillus*). The unlisted species proposed for coverage under the draft HCP are the greater sage-grouse (bi-state distinct population segment) (*Centrocercus urophasianus*) and the Long Valley/Owens speckled dace (*Rhinichthys osculus* ssp.).

The applicant is requesting coverage for incidental take resulting from ongoing water and power operations and maintenance activities and land management activities (collectively referred to as covered activities) in the following categories:

1. Water gathering and distribution,
2. Power production and transmission,
3. Livestock grazing,
4. Irrigated agriculture,
5. Outdoor recreation,
6. Road maintenance and use,
7. Weed management,
8. Fire management, and
9. Habitat enhancement, habitat creation, and monitoring.

The proposed 314,000-acre permit area is the area where incidental take of covered species resulting from covered activities could occur. The permit area is non-urban land held by the City of Los Angeles in Mono and Inyo Counties; it includes part of the watershed for Mono Lake in Mono County and the Owens River, including several of its tributaries and much of its watershed in Mono and Inyo Counties.

The applicant has developed a conservation strategy that includes measures to avoid, minimize, and mitigate take of covered species associated with the covered activities as well as enhance and/or create habitat for covered species. The conservation strategy includes biological goals and objectives at the landscape, habitat, and species levels. The conservation actions to implement the biological goals and objectives are habitat based. The rationale for this habitat-based approach is that by enhancing/creating habitat, the HCP implementation would benefit a broader range of species in addition to the covered species.

Proposed Habitat Conservation Plan Alternatives

In the draft HCP, the applicant considers four alternatives to the proposed action: ''Status Quo,'' ''No Action or Avoid Take,'' ''Activity by Activity Permitting,'' and ''Reduced Species.'' Under the ''Status Quo'' alternative, the Service would not issue an ITP, but the Los Angeles Department of Water and Power would continue its operations and maintenance activities to provide water and power to the citizens of Los Angeles and manage City-owned land in Inyo and Mono Counties. The Los Angeles Department of Water and Power would potentially be in violation of the Act should incidental take of a listed species occur as a result of their operations and maintenance and land management activities. Therefore, the applicant rejected this alternative.

Under the ''No Action'' or ''Avoid Take'' alternative, no permit would be issued and the Los Angeles Department of Water and Power would cease all activities that may result in the incidental take of a federally listed species. Ceasing these activities would thereby adversely affect its ability to provide water and power to its customers and properly manage its lands. This alternative was rejected because it does not allow the Los Angeles Department of Water and Power to complete its mission.

The Los Angeles Department of Water and Power evaluated obtaining incidental take permits for individual covered activities or an ''Activity by Activity'' alternative. This alternative would require the applicant to prepare multiple habitat conservation plans. It would require the Service to prepare multiple environmental documents to analyze the issuance of multiple incidental take permits, complete multiple public review processes, and then prepare multiple incidental take permits. This alternative was rejected because it is inefficient, less effective in conserving covered species (*i.e.,* does not provide a landscape approach to conservation and management), and more costly.

Under the ''Reduced Species'' alternative, the applicant considered covered species as only the five animal species listed under the Act whose ranges substantially overlapped City of Los Angeles land at the beginning of the HCP development process, as the applicant would need a permit to incidentally take these species. With this alternative, if additional species were listed during the term of the permit, the applicant would need to develop additional habitat conservation planning documents for these newly listed species to obtain incidental take coverage and request new incidental take permits or major permit amendments. Based upon input from the public and its desire to have incidental take coverage for species that might become listed during the permit term, the applicant rejected the ''Reduced Species'' alternative.

Our Preliminary Determination Under the National Environmental Policy Act

The Service's proposed permit issuance triggers the need for compliance with the National Environmental Policy Act. In our analysis of the impacts of the proposed permit issuance, we completed a draft Environmental Action Statement/Low Effect Screening Form and made a preliminary determination that the applicant's proposal will have a minor or negligible effect on the covered species, and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (November 1996). We invite comments on our preliminary determination. Three criteria form the basis for this determination: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. Our preliminary determination is that HCP approval and ITP issuance qualify for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), as provided by the Department of the Interior Manual (516 DM 2.3(A) and 516 DM 8; however, we may revise our determination based upon review of public comments received in response to this notice (see Public Comments section).

Public Comments

The Service invites the public to comment on the permit application, draft HCP, and draft Environmental Action Statement/Low Effect Screening Form during the public comment period (see **DATES**). Please direct written comments to the contacts listed in the **ADDRESSES** section. Please direct questions regarding the draft HCP to the

Service contacts listed in the **FOR FURTHER INFORMATION CONTACT** section.

Public Availability of Comments

All comments and materials we receive, including names and addresses, will become part of the administrative record and may be released to the public. 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.

Next Steps

We provide this notice under section 10(a) of the Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). We will evaluate the permit application, associated documents, and comments we receive to make a final determination regarding whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of a section 10(a)(1)(B) ITP would comply with section 7 of the Act by conducting an intra-service consultation. We will use the results of our intra-Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the ITP. If the requirements and issuance criteria are met under section 10(a), we will issue the ITP to the applicant to authorize incidental take of the covered species. We will make a permit decision no sooner than 30 days after the date of this notice.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

G. Mendel Stewart,

Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

[FR Doc. 2015–25521 Filed 10–6–15; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2015–N140; 1265–0000–10137–S3]

Hanford Reach National Monument, Adams, Benton, Franklin and Grant Counties, WA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of request for comments and public meetings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), will hold a 30-day comment period, including two public meetings, to obtain comments on providing public access to the Rattlesnake Mountain Unit, including the summit of Rattlesnake Mountain, within the Hanford Reach National Monument (Monument). In Section 3081 of the Howard P. ''Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015, the Service is directed to ensure public access to the summit of Rattlesnake Mountain (a.k.a., Laliik) for educational, recreational, historical, scientific, cultural, and other purposes, including motor vehicle access, and pedestrian and other nonmotorized access.

DATES: The public may submit comments from October 15 through November 13, 2015. Two public meetings will be held on October 14, 2015, at 2 p.m. and 7 p.m., see the location under **ADDRESSES**.

ADDRESSES: More information on public access can be found on our Web site: *http://www.fws.gov/refuge/Hanford_Reach/.* The two public meetings will be held at the Hanford Reach Interpretive Center, 1943 Columbia Park Trail, Richland, WA 99352. Submit comments on public access to the Rattlesnake Mountain Unit, by any of the following methods:

Email: mcriver@fws.gov. Include ''Public Access to Rattlesnake Mountain'' in the subject line of the message.

Fax: (509) 546–8303.

U.S. Mail: U.S. Fish and Wildlife Service, Rattlesnake Mountain Access, 64 Maple Street, Burbank, WA 99323.

FOR FURTHER INFORMATION CONTACT: Dan Haas, at (509) 546–8333 (phone), or *mcriver@fws.gov* (email).

SUPPLEMENTARY INFORMATION: The purpose of the public comment period is to obtain comments and ideas from the public and other interested parties on providing public access to the Monument's Rattlesnake Mountain Unit in a manner that protects unique and sensitive natural, scenic, and cultural resources.

We are furnishing this notice in compliance with the Service's National Wildlife Refuge System planning policy, and the National Environmental Policy Act of 1969 as amended (NEPA; 42 U.S.C. 4321 *et seq.*), and its implementing regulations. This notice serves to advise other agencies, Tribal governments, and the public of our meetings; initiate the public scoping comment period; and request public comments and information on issues, opportunities, and access alternatives we should consider.

We will consider the comments we receive and issue a scoping report that discusses the issues and opportunities identified during the public comment period, the issues we may or may not further analyze, and the next steps in our process to examine what public access opportunities may be compatible with the purposes of the Monument.

Public Availability of Comments

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.

Reasonable Accommodations

The U.S. Fish and Wildlife Service is committed to providing access to this meeting for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Dan Haas, (509) 546–8333 (phone); or *mcriver@fws.gov* (email); or 800–877–8339 (TTY); by close of business on September 30, 2015.

Dated: September 2, 2015.

Richard R. Hannan,

Acting Regional Director, Pacific Region, Portland, OR.

[FR Doc. 2015–24193 Filed 10–6–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2015–N182]; [FXES11130800000–154–FF08E00000]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing recovery permits to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before November 6, 2015.

ADDRESSES: Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

Applicants

Permit No. TE–200340–2

Applicant: Andrew Hatch, South Lake Tahoe, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County Distinct Population Segment (DPS) and Sonoma County DPS) (*Ambystoma californiense*), Sierra Nevada yellow-legged frog (*Rana sierrae*), and mountain yellow-legged frog (northern California DPS) (*Rana muscosa*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–837760

Applicant: Kendall Osborne, Riverside, California

The applicant requests a permit renewal to take (survey by pursuit) the El Segundo blue butterfly (*Euphilotes battoides allyni*), Quino checkerspot butterfly (*Euphydryas editha quino*), Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*), Laguna Mountains skipper (*Pyrgus ruralis lagunae*), Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) and take (survey by pursuit, handle, and live-capture) the Casey's June beetle (*Dinacoma caseyi*) in conjunction with surveys and population monitoring throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–72119B

Applicant: Seth Dallmann, San Francisco, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–084606

Applicant: David Moskovitz, Diamond Bar, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–67570A

Applicant: Brett Hanshew, Oakland, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–72275B–0

Applicant: Meghan Bishop, Moraga, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County DPS and Sonoma County DPS) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–820658

Applicant: William Bean, Arcata, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, collect genetic samples, and release) the giant kangaroo rat (*Dipodomys ingens*) in conjunction with surveys, population monitoring, and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–820658

Applicant: Jason Mintzer, Fountain Valley, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the Santa Ana sucker (*Catostomus santaanae*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–181713

Applicant: Cynthia Hartley, Ventura, California

The applicant requests a permit renewal to take (harass by survey, locate and monitor nests, and erect fence and nest exclosures) the western snowy

plover (Pacific Coast population DPS) (*Charadrius nivosus nivosus*) and take (harass by survey and locate and monitor nests) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with surveys and population monitoring within Ventura County, California, for the purpose of enhancing the species' survival.

Permit No. TE–45776A

Applicant: Matt Coyle, Rocklin, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), vernal pool tadpole shrimp (*Lepidurus packardi*); and take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County DPS and Sonoma County DPS) (*Ambystoma californiense*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–022333

Applicant: USFWS, Sacramento Fish and Wildlife Office, Sacramento, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, and release) the mountain yellow-legged frog (northern California DPS) (*Rana muscosa*) and Sierra Nevada yellow-legged frog (*Rana sierrae*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–72637B

Applicant: Carolynn Daman, Folsom, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the giant kangaroo rat (*Dipodomys ingens*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–797267

Applicant: H.T. Harvey and Associates, Los Gatos, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, mark, collect hair, and release) the salt marsh harvest mouse (*Reithrodontomys raviventris*) in conjunction with surveys, population monitoring, and research activities throughout the range of the species for the purpose of enhancing the species' survival.

Permit No. TE–749872–7

Applicant: David Germano, Bakersfield, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, mark, and release) the Fresno kangaroo rat (*Dipodomys nitratoides exilis*) and giant garter snake (*Thamnophis gigas*); take (harass by survey, capture, handle, mark, fit with radio transmitters, and release) the giant kangaroo rat (*Dipodomys ingens*) and Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*); take (harass by survey, capture, handle, and release) the blunt-nosed leopard lizard (*Gambelia silus*), and take (harass by survey, capture, handle, and release) the Pacific pocket mouse (*Perognathus longimembris pacificus*) in conjunction with surveys, population monitoring, and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–217148

Applicant: Patrick Del Pizzo, Cooper City, California

The applicant requests a permit renewal to take (harass by survey and locate and monitor nests) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with surveys and population monitoring throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–60218B–0

Applicant: James Hickman, San Bernardino, California

The applicant requests a permit amendment to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–136973

Applicant: Judi Tamasi, Malibu, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Riverside fairy shrimp (*Streptocephalus woottoni*) in conjunction with the surveys within the Tierra Rejada Vernal Pool Preserve in Ventura County, California, for the purpose of enhancing the species' survival.

Permit No. TE–136973

Applicant: Richard Arnold, Pleasant Hill, California

The applicant requests a permit renewal to take (survey by pursuit, capture, handle, and release) the Behren's silverspot butterfly (*Speyeria zerene behrensii*), El Segundo blue butterfly (*Euphilotes battoides allyni*), and Lotis blue butterfly (*Lycaeides argyrognomon lotis*); take (survey by pursuit, capture, handle, release, and conduct habitat restoration activities for) the Zayante band-winged grasshopper (*Trimerotropis infantilis*); take (survey by pursuit, capture, mark, handle, release, and conduct habitat restoration activities for) the Mount Hermon June beetle (*Polyphylla barbata*); take (survey by pursuit, capture, hold, handle, mark, remove from the wild, rear in the laboratory, release, and collect vouchers) the Ohlone tiger beetle (*Cicindela ohlone*); take (survey by pursuit, capture, hold, translocate, release, and collect vouchers) the Smith's blue butterfly (*Euphilotes enoptes smithi*); and take (survey by pursuit) the Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*) in conjunction with surveys, population monitoring, habitat restoration, and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–744878

Applicant: Institute for Wildlife Studies, Arcata, California

The applicant requests a permit amendment to take (harass by survey, locate and monitor nests, capture, handle, band, release, conduct predator control activities, collect carcasses, conduct camera monitoring, and float eggs) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with surveys, population monitoring, and research activities within U.S. Marine Corps Base, Camp Pendleton, California, for the purpose of enhancing the species' survival.

Permit No. TE–74393B

Applicant: University of Nevada, Las Vegas, Nevada

The applicant requests a permit renewal to take (capture, handle, measure, hold, release) the Devils Hole

pupfish (*Cyprinodon diabolis*), Warm Springs pupfish (*Cyprinodon nevadensis pectoralis*), and Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes*) in conjunction with the research activities within the Ash Meadows National Wildlife Refuge, Nevada, for the purpose of enhancing the species' survival.

Permit No. TE–39142A

Applicant: David Kingsley, Stanford, California

The applicant requests a permit renewal to take (capture and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) and tidewater goby (*Eucyclogobius newberryi*) in conjunction with the research activities within Del Norte, Humboldt, San Mateo, and Sonoma Counties, California, for the purpose of enhancing the species' survival.

Permit No. TE–053672

Applicant: Lawrence Livermore National Laboratory, Livermore, CA

The applicant requests a permit amendment to remove/reduce to possession the *Amsinckia grandiflora* (large-flowered fiddleneck) in conjunction with surveys, population monitoring, and implementing land management activities on the Lawrence Livermore National Laboratory, California, for the purpose of enhancing the species' survival.

Permit No. TE–018180

Applicant: Point Reyes National Seashore, Point Reyes Station, California

The applicant requests a permit renewal to remove/reduce to possession the *Alopecurus aequalis var. sonomensis* (Sonoma alopecurus), *Lupinus tidestromii* (clover lupine), *Layia carnosa* (beach layia), *Chorizanthe valida* (Sonoma spineflower), and *Chorizanthe robusta* var. *robusta* (robust spineflower) in conjunction with implementing land management strategies on Point Reyes National Seashore, California, for the purpose of enhancing the species' survival.

Permit No. TE–74753B

Applicant: Stefanie Nisich, San Luis Obispo, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County DPS and Sonoma County DPS) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–161512

Applicant: Darrin Doyle, Redding, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California and in Jackson County, Oregon, for the purpose of enhancing the species' survival.

Permit No. TE–74803B

Applicant: Daniel Rosie, Carlsbad, California

The applicant requests a new permit to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*); and take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys and population monitoring throughout the range of the species in California for the purpose of enhancing the species' survival.

Public Comments

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of 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 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.

Michael Long,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2015–25508 Filed 10–6–15; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LNM9300000 L12200000 XX0000]

Renewal of Approved Information Collection; OMB Control No. 1004–0165

AGENCY: Bureau of Land Management, Interior.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) has submitted an information collection request to the Office of Management and Budget (OMB) to continue the collection of information that is necessary to implement two provisions of the Federal Cave Resources Protection Act—one which requires Federal agencies to consult with interested parties to develop a listing of significant caves, and another under which Federal and State governmental agencies and bona fide educational and research institutions may request confidential information regarding significant caves. The Office of Management and Budget (OMB) previously approved this information collection activity, and assigned it control number 1004–0165.

DATES: The OMB is required to respond to this information collection request within 60 days but may respond after 30 days. For maximum consideration, written comments should be received on or before November 6, 2015.

ADDRESSES: Please submit comments directly to the Desk Officer for the Department of the Interior (OMB #1004–0165), Office of Management and Budget, Office of Information and Regulatory Affairs, fax 202–395–5806, or by electronic mail at *oira_docket@omb.eop.gov.* Please provide a copy of your comments to the BLM. You may do so via mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: To Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0165'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: James Goodbar, at 575–234–5929. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to leave a message for Mr. Goodbar. You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act (44 U.S.C. 3501–3521) and OMB regulations at 5 CFR part 1320 provide that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond. In order to obtain and renew an OMB control number, Federal agencies are required to seek public comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)).

As required at 5 CFR 1320.8(d), the BLM published a 60-day notice in the **Federal Register** on June 18, 2012 (77 FR 36290), and the comment period ended August 17, 2012. The BLM received no comments. The BLM now requests comments on the following subjects:

1. Whether the collection of information is necessary for the proper functioning of the BLM and other collecting agencies, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Please send comments as directed under **ADDRESSES** and **DATES**. Please refer to OMB control number 1004–0165 in your correspondence. 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.

The following information is provided for the information collection.

Title: Cave Management: Cave Nominations and Confidential Information (43 CFR part 37).

Forms: None.

OMB Control Number: 1004–0165.

Abstract: The information covered in this Information Collection Request applies to caves on Federal lands administered by the BLM, National Park Service, U.S. Fish and Wildlife Service, and Bureau of Reclamation. These agencies collect information from parties who are knowledgeable about caves, in order to update a list of significant caves that are under the jurisdiction of the agencies listed above. They also process requests for confidential information regarding significant caves. The information collected enables the agencies to comply with the Federal Cave Resources Protection Act (16 U.S.C. 4301–4310).

Frequency of Collection: On occasion.

Obligation to Respond: Required to obtain or maintain benefits.

Estimated Number and Description of Respondents Annually: 14 individuals and households.

Estimated Reporting and Recordkeeping ''Hour'' Burden Annually: 114 hours.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: None.

The following table details the individual components and respective hour burdens of this information collection request:

A. Type of response	B. Number of responses	C. Hours per response	D. Total hours (column B × column C)
Cave Nomination	10	11	110
Request for Confidential Cave Information	4	1	4
Totals	14		114

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2015–25551 Filed 10–6–15; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR936000.L14400000.ET0000. 15XL1109AF; HAG 15–0074; OR–67640]

Public Land Order No. 7842; Withdrawal of Public Lands for the New River Area of Critical Environmental Concern; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,140.82 acres of public lands from location and entry under the United States mining laws, but not from leasing under the mineral or geothermal leasing laws, for a period of 20 years to protect the geological, cultural, botanical, recreational, and biological resources within the New River Area of Critical Environmental Concern. The withdrawal will protect a $2.8 million investment for facilities and roads.

DATES: *Effective Date:* October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Michael L. Barnes, BLM Oregon/Washington State Office, 503–808–6155, or Paul J. Rodriguez, BLM Coos Bay District Office, 541–751–4462. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to reach either of the contacts stated above. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with either of the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This order replaces expired Public Land Order Nos. 6967 (58 FR 25948 (1993)) and 7170 (60 FR 57192 (1995)).

Order

By virtue of the authority vested in the Secretary of the Interior by Section

204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from location and entry under the United States mining laws, but not from leasing under the mineral or geothermal leasing laws, for a period of 20 years to protect the geological, cultural, botanical, recreational, and biological resources within the New River Area of Critical Environmental Concern, including a Federal investment of $2.8 million for facilities and roads on the lands:

Willamette Meridian

T. 29 S., R. 15 W.,
Sec. 35, N½NE¼NE¼;
Sec. 36, lot 1, and NW¼NW¼; SAVING AND EXCEPTING that part subject to the right-of-way of Berg Road.
T. 30 S., R. 15 W.,
Sec. 2, W½SW¼, and a portion of lots 3 and 4 described as follows: Beginning at a point on the north line of said sec. 2, said point being 967.37 ft. westerly of the north quarter corner of said sec. 2; thence S. 9°29′14″ W., 192.13 ft.; thence S. 30°54′ 40″ W., 270.93 ft.; thence N. 83°13′00″ W., 594.73 ft.; thence S. 28° 19′14″ W., 190.01 ft.; thence S. 0°19′14″ W., 422 ft. more or less to the north bank of Four Mile Creek; thence running northwesterly along the north bank of said creek to the north line of said sec. 2; thence easterly along said north line to a point, 1230 ft. more or less to the point of beginning;
Sec. 3, lots 3 and 4;
Sec. 10, lots 1 to 4, inclusive, E½NE¼, and SW¼SE¼;
Sec. 11, lots 3 to 7, inclusive, excluding an easement 20 feet wide along northerly and easterly boundary of lots 5 and 7;
Sec. 15, lots 1 to 4, inclusive, and NW¼NE¼;
Sec. 21, lots 1 and 2;
Sec. 22, lots 1 and 2, and NW¼SW¼;
Sec. 28, lots 2, 3, and 4, and SE¼NE¼;
Sec. 32, lot 1;
Sec. 33, lot 2.
T. 31 S., R. 15 W.,
Sec. 7, lot 1;
Sec. 8, lots 3, 4, 7, and 8.

The areas described aggregate 1,140.82 acres in Coos and Curry Counties.

2. The withdrawal made by this order does not alter the applicability of the public land laws other than the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: September 20, 2015.

Janice M. Schneider,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 2015–25541 Filed 10–6–15; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[15X LLAKF02000.L16100000. DS0000.LXSILCYK0000]

Notice of Planning Area Boundary Changes for Bureau of Land Management Resource Management Plans in Alaska; Amendment to Notices of Intent To Prepare Resource Management Plans for Central Yukon and Bering Sea-Western Interior Planning Areas and Associated Environmental Impact Statements

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The administrative boundaries between the Anchorage District Office and Fairbanks District Office have been changed. The administrative boundary adjustments affect two ongoing Bureau of Land Management (BLM) planning efforts by shifting 2.8 million acres of the Central Yukon Planning Area, managed by the Fairbanks District Office, into the Bering Sea-Western Interior Planning Area, managed by the Anchorage District Office; and by removing three islands from the Bering Sea-Western Interior Planning Area.

DATES: These boundary changes were effective on January 9, 2015.

FOR FURTHER INFORMATION CONTACT: Bridget Psarianos or Serena Sweet, BLM Alaska State Office, 907–271–4208 and 907–271–4543, respectively. 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: On January 9, 2015, the BLM Director approved administrative boundary adjustments between the Fairbanks District Office and the Anchorage District Office. The primary purposes for these administrative boundary changes are to improve service to the public, and to improve coordination efforts with local, Federal, and State agencies, tribal governments, and Alaska Native Claims Settlement Act (ANCSA) corporations. The changes create a contiguous management block of land in Western Alaska, facilitate better tribal consultation and coordination, and provide for improved landscape management planning for key habitats. The district offices conducted public outreach meetings with affected communities, ANCSA corporations, and other organizations and entities, and have received support for the proposed changes.

The BLM issued notices of intent on June 14, 2013, and July 18, 2013, respectively, to prepare resource management plans (RMPs) for the Central Yukon and Bering Sea-Western Interior planning areas. The administrative boundary adjustments will shift 2.8 million acres of the Central Yukon Planning Area into the Bering Sea-Western Interior Planning Area. The 2.8 million-acre area of land is referred to as the ''Nulato Hills.'' The boundary adjustment transferred the eastern portion of the Nulato Hills, including all of those lands within the boundary of the NANA Corporation, an ANCSA corporation, from the Fairbanks District Office to the Anchorage Field Office.

Three islands located off the coast of Alaska will also be removed from the Bering Sea-Western Interior Planning Area. Saint Lawrence Island is removed from the planning area as the few remaining acres of BLM-managed land have been selected by two ANCSA village corporations, effectively leaving no public lands for the BLM to manage. Saint Mathew Island is removed from the planning area because all of the lands on the island are managed by the U.S. Fish and Wildlife Service and designated as ''Wilderness.'' Oil and gas development is prohibited on lands designated as Wilderness. Nunivak Island is also removed from the planning area. There are portions of the island that are not designated Wilderness and would be subject to BLM-administration of oil and gas leasing. However, these lands have a very low likelihood of oil and gas potential. Should future BLM oil and gas potential studies (or industry) indicate otherwise, oil and gas leasing would need to be found to be in the national interest and compatible with the purpose of the Nunivak Island National Wildlife Refuge. If this occurs, in compliance with the National Environmental Protection Act process, an amendment would be necessary for both the Bering Sea-Western Interior Resource Management Plan, and the U.S. Fish and Wildlife Service's Yukon

Delta National Wildlife Refuge final Comprehensive Conservation Plan (1988).

Authority: 43 CFR 1601.2.

Ted A. Murphy,

Associate State Director.

[FR Doc. 2015–25538 Filed 10–6–15; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTM01000.L12320000.FV0000.LVRDMT 110000XXX MO#4500080082]

Notice of Intent To Collect Fees at the Zortman Ranger Station and Buffington Day Use Area on Public Land in Phillips County Near Zortman, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the Federal Lands Recreation Enhancement Act (REA), the Bureau of Land Management (BLM), Malta Field Office, Malta, Montana, intends to collect fees at the Zortman Ranger Station, a historic U.S. Forest Service Ranger Station now administered by the BLM in Zortman, Montana, and expand the amenity reservation fee at the Buffington Day Use Area at the Camp Creek Recreation Area.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the proposed rental fees by November 6, 2015. Effective April 7, 2015, the BLM Malta Field Office will begin charging expanded amenity fees for the recreational rental of the Zortman Ranger Station and reservation of Buffington Day Use Area, unless the BLM publishes a **Federal Register** notice to the contrary. The Central Montana Resource Advisory Council reviewed these proposed fees in May 2014.

ADDRESSES: Comments may be mailed or hand delivered to the BLM Malta Field Office, Attn: Field Manager, 501 South 2nd Street East, Malta, MT 59538. You may also submit comments via email to *BLM_MT_Malta_FO@blm.gov* or fax to 406–654–5150. Copies of the fee proposal are available at the BLM Malta Field Office, 501 South 2nd Street East, Malta, MT 59538 or on-line at: *http://www.blm.gov/mt/st/en/fo/malta_field_office.html.*

FOR FURTHER INFORMATION CONTACT: Kathy Tribby, BLM Outdoor Recreation Planner, at the above address, or by calling 406–654–5124. 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: By this Notice, the BLM Malta Field Office is proposing to collect an expanded amenity fee for the rental of the Zortman Ranger Station and historic site and the Buffington Day Use Area. Proposed rental fees and day use fees would be identified and posted on the Malta Field Office Web site, at the Malta Field Office, and distributed in the local media. Fees would be collected as outlined in the field office's existing Camp Creek Campground, Montana Gulch Campground, Buffington Day Use Area, Zortman Ranger Station and Special Recreation Permits Business Plan.

The Zortman Ranger Station, built in 1905, was part of the Lewis and Clark National Forest until 1965 when management of public lands in the area was transferred to the BLM. The site includes the four-room main building, a storage shed and amphitheater which was built for the Lewis and Clark Bicentennial celebration. The main building is eligible for listing on the National Register of Historic Places. In 2013, the BLM partnered with the Forest Service's historic preservation team to repair the outside of the main building and landscape the yard to divert runoff which was undermining the foundation. The interior of the building has been inventoried and abated for asbestos and lead paint. The site also features an amphitheater which is used for interpretive presentations.

Buffington Day Use Area is located within the Camp Creek Recreation Area just northeast of Zortman, Montana. Buffington Day Use Area is utilized by individuals and groups as a parking site for day hikes, family and group gatherings such as picnics, reunions, church group outings and birthday parties. The BLM receives several inquiries each year about reserving the site for weddings and other large gatherings. Since this site has never been designated as a fee area, use is on a first come first serve basis and the facilities cannot be reserved for exclusive use. Establishing the site as a fee area will provide the opportunity for groups to reserve Buffington Day Use Area facilities for day use and allow the BLM to collect fees to cover the additional administrative and maintenance costs.

The Zortman Community and surrounding rural areas are trying to increase economic and recreational opportunities for local and regional populations by promoting the Little Rocky Mountains area and surrounding public lands south to the Missouri River as a destination for eco-tourism groups and families. The BLM is committed to providing and receiving fair value for the use of developed recreation facilities and services in a manner that meets public use demands, provides quality experiences, and protects important resources. In an effort to meet increasing demands for services and maintenance of the existing historic structure, the BLM would collect fees to offset those ongoing costs. In September 1994, the BLM completed the Record of Decision (ROD) and Approved Phillips Resource Area Resource Management Plan (RMP) which provides for the maintenance and/or enhancement of the recreational quality of BLM land and resources to ensure enjoyable recreation experiences. Collecting expanded amenity fees for the Zortman Ranger Station and Buffington Day Use Area would provide a reliable source of funding to ensure the long-term maintenance of these facilities for future recreational use. The collection of user fees was also addressed in the Business Plan, prepared pursuant to the REA and BLM recreation fee program policy. This Business Plan establishes the rationale for charging recreation fees. In accordance with BLM recreation fee program policy, the Business Plan explains the fee collection process and outlines how the fees with be used within the Malta Field Office. The BLM has notified and involved the public at each stage of the public participation process addressed by REA, including the proposal to collect fees, through the Central Montana Resource Advisory Council and other public scoping avenues.

Fee amounts will be posted on the BLM Malta Field Office Web site and at the Malta Field Office. Copies of the Business Plan are available at the Malta Field Office and the BLM Montana State Office.

Pursuant to the REA (16 U.S.C. 6801 *et seq.*), the Secretary may establish, modify, charge and collect recreation fees at Federal recreation lands and waters. Specifically, pursuant to Section 6802(g)(2)(C) of the REA, the Secretary may charge an expanded amenity recreation fee, either in addition to a standard amenity fee, or by itself, for the

rental of day use areas, cabins or historic structures.

Comments may be mailed or hand delivered to the BLM Malta Field Office, Attn: Field Manager, 501 South 2nd Street East, Malta, MT 59538. You may also submit comments via email to *BLM_MT_Malta_FO@blm.gov* or fax to 406–654–5150. The BLM welcomes public comments on this Notice and on the proposed expanded amenity recreation fees at the Zortman Ranger Station and Buffington Day Use Area. Comments on the proposal of fees should be specific, should be confined to issues pertinent to the proposals, and should explain the reason for any recommended change. Where possible, your comments should reference the specific section or paragraph of the proposed fee that you are addressing.

Before including your address, phone number, email address or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 16 U.S.C. 6803(b); 43 CFR 2932.31.

Vinita Shea,

Field Manager.

[FR Doc. 2015–25537 Filed 10–6–15; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO600000.L18200000.XP0000]

Renewal of Approved Information Collection; OMB Control No. 1004–0204

AGENCY: Bureau of Land Management, Interior.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) has submitted an information collection request to the Office of Management and Budget (OMB) to continue the collection of information from applicants for Resource Advisory Councils. The Office of Management and Budget (OMB) has assigned control number 1004–0204 to this information collection.

DATES: The OMB is required to respond to this information collection request within 60 days but may respond after 30 days. For maximum consideration, written comments should be received on or before November 6, 2015.

ADDRESSES: Please submit comments directly to the Desk Officer for the Department of the Interior (OMB #1004–0204), Office of Management and Budget, Office of Information and Regulatory Affairs, fax 202–395–5806, or by electronic mail at *OIRA_submission@omb.eop.gov*. Please provide a copy of your comments to the BLM. You may do so via mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0204'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Mark Purdy at 202–912–7635. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Mr. Purdy. You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain*.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act (44 U.S.C. 3501–3521) and OMB regulations at 5 CFR part 1320 provide that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond. In order to obtain and renew an OMB control number, Federal agencies are required to seek public comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)).

As required at 5 CFR 1320.8(d), the BLM published a 60-day notice in the **Federal Register** on July 13, 2015 (80 FR 40084). The comment period closed on September 11, 2015. The BLM received no comments in response to the notice. The BLM now requests comments on the following subjects:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Please send comments as directed under **ADDRESSES** and **DATES**. Please refer to OMB control number 1004–0204 in your correspondence. 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.

The following information pertains to this request:

Title: Bureau of Land Management Resource Advisory Council Application (43 CFR Subpart 1784).

OMB Control Number: 1004–0204.

Summary: This control number includes only one information collection activity. In an application form, the BLM seeks to collect information to determine education, training, and experience related to possible service on advisory committees established under the authority of Section 309 of the Federal Land Policy and Management Act (43 U.S.C. 1739), the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 43 CFR Subpart 1784. The BLM refers to such advisory committees as ''Resource Advisory Councils'' (RACs). The information that the BLM collects is necessary to ensure that each RAC is structured to provide fair membership balance, as prescribed by each RAC's charter.

Frequency of Collection: On occasion.

Forms: Form 1120–19, Bureau of Land Management Resource Advisory Council Application.

Estimated Number and Description of Respondents: 200 applicants annually for possible service on RACs.

Estimated Annual Responses: 200.

Estimated Annual Burden Hours: 800.

Estimated Annual Non-Hour Costs: None.

Jean Sonneman

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2015–25550 Filed 10–6–15; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC01000 L16600000.XZ0000 15XL1109AF LXSIOVHD0000]

Notice of Public Meeting of the Central California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Central California Resource Advisory Council (RAC) will meet as indicated below.

DATES: A business meeting will be held Thursday, Oct. 29, 2015, at the Mendocino Hotel, 45080 Main St., Mendocino, CA, from 8 a.m. to 2 p.m. Time for public comment is reserved from 9 a.m. to 10 a.m. Following the business meeting, the RAC will tour the Campbell-Hawthorne Timber Company property to begin preliminary discussion of possible transfer of portions of the property to BLM for off-highway vehicle use.

On Friday, Oct. 30, the RAC is scheduled to leave the Mendocino Hotel at 8 a.m. to tour the Point Arena-Stornetta Unit of the California Coastal National Monument. Members of the public are welcome to attend the meeting and tours.

FOR FURTHER INFORMATION CONTACT: BLM Central California District Manager Este Stifel, (916) 978–4626; or BLM Public Affairs Officer David Christy, (916) 941–3146.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in the Central California District, which includes the Bishop, Bakersfield, Central Coast, Ukiah and Mother Lode Field Offices. At this meeting, agenda topics will include a field manager updates on resource management issues including the Berryessa-Snow Mountain National Monument and wildfires. Additional ongoing business will be discussed by the council. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: September 23, 2015.

Ruben Leal,

Associate District Manager.

[FR Doc. 2015–25523 Filed 10–6–15; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO3200000–L19900000.PP0000]

Renewal of Approved Information Collection; Control Number 1004–0025

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-day notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) invites public comments on its plans to seek renewal of its authorization under the Paperwork Reduction Act regarding applications for fee title to Federal lands embraced in hardrock mineral claims. The Office of Management and Budget (OMB) has assigned control number 1004–0025 to this information collection.

DATES: Please submit comments on the proposed information collection by December 7, 2015.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: To Jean Sonneman at 202–245–0050.

Electronic mail: Jesonnem@blm.gov.

Please indicate ''Attn: 1004–0025'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Sonia Santillan, at 202–912–7123. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Ms. Santillan.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

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.

The following information pertains to this request:

Title: Mineral Patent Applications (43 CFR part 3860) and Adverse Claims, Protests and Conflicts (43 CFR part 3870).

OMB Control Number: 1004–0025.

Summary: On its face, the Mining Law (30 U.S.C. 29, 30, and 39) authorizes a holder of an unpatented claim for hardrock minerals to apply for fee title (patent) to the Federal land (as well as minerals) embraced in the claim. Since 1994, a rider on the annual appropriation bill for the Department of the Interior has prevented the BLM from processing mineral patent applications unless the applications were grandfathered under the initial legislation. The most recent rider is at Public Law 113–235, 128 Stat. 2443, at Section 404. While grandfathered applications are rare at present, the approval to collect the information continues to be necessary because of the possibility that the moratorium will be lifted.

Frequency of Collection: Once.

Form: Certificate of Title on Mining Claims (Form 3860–2) and Application

for Survey on Mining Claim (Form 3860–5).

Description of Respondents: Owners of unpatented mining claims and mill sites upon the public lands, and of reserved mineral lands of the United States, National Forests, and National Parks.

Estimated Annual Responses: 10 responses.

Estimated Annual Burden Hours: 496 hours.

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2015–25545 Filed 10–6–15; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR0810000, 15XR0680A1, RY.1541CH20.1430001]

Announcement of Requirements and Registration for a Prize Competition Seeking Methods or Devices That can Quantify Drift Invertebrates in River and Estuary Systems

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, in collaboration with other federal agencies (National Oceanic and Atmospheric Administration-National Marine Fisheries Service, U.S. Geological Survey, U.S. Fish and Wildlife Service, and U.S. Army Corps of Engineers) is announcing a prize competition for seeking a way to economically detect, count, and identify zooplankton and drift invertebrates in river and estuary systems. Problems identified that prevent the simple transfer of oceanographic techniques to rivers and streams are higher water velocities, turbidity, higher surface/depth ratio, and costs (time and money).

DATES: Listed below are the specific dates pertaining to this prize competition:

1. Submission period begins on October 7, 2015.

2. Submission period ends on November 16, 2015.

3. Judging period ends on January 15, 2016.

4. Winners announced by January 29, 2016.

ADDRESSES: The *Quantifying Drift Invertebrates in River and Estuary Systems* Prize Competition will be posted on the following crowd-sourcing platforms where Solvers can register for this prize competition:

1. The Water Pavilion located at the InnoCentive Challenge Center: *https://www.innocentive.com/ar/challenge/browse*.

2. U.S. Federal Government Challenge Platform: *www.Challenge.gov*.

3. The Nature Open Innovation Pavilion at *http://www.nature.com/openinnovation/index.html*.

4. The Scientific American Citizen Science Center at *http://www.scientificamerican.com/citizen-science/*.

InnoCentive, Inc. is administering this challenge under a challenge support services contract with the Bureau of Reclamation. These Web sites will re-direct the Solver community to the InnoCentive Challenge Center as the administrator for this prize competition. Additional details for this prize competition, including the Challenge Agreement specific for this prize competition, can be accessed through any of these prize competition web addresses. The Challenge Agreement contains more details of the prize competition rules and terms that Solvers must agree with to be eligible to compete.

FOR FURTHER INFORMATION CONTACT: Challenge Manager: Dr. David Raff Science Advisor, Bureau of Reclamation, (202) 513–0516, *draff@usbr.gov*; or Mr. Chuck Hennig, (303) 445–2134, *chennig@usbr.gov*.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation is announcing this prize competition in compliance with 15 U.S. Code 3719, Prize Competitions. Habitat restoration, improvement, and creation in rivers, streams, and estuaries are key elements for the recovery of salmon, trout, and other critical fish species in the United States. Millions of dollars are spent annually on activities such as manipulating flow regimes, adding structural elements such as wood or rock, reconnecting rivers with their floodplains, and restoring wetlands. A critical aspect in evaluating the effectiveness of these habitat manipulations is understanding how they influence the food resources available to critical fish species targeted for recovery and protection. Yet despite its importance, quantification of food resources has proven difficult.

A solution is being pursued through a prize competition because the Bureau of Reclamation and the collaborating Federal agencies want to seek innovative solutions from those beyond the usual sources of potential solvers and experts that commonly work in the fish recovery management domain. We find ourselves often wondering if somebody, somewhere may know a better way to quantify the availability of food sources for threatened and endangered fish. The prize competition approach enables us to reach new sources of potential solvers to discover other technologies that could be adopted for this purpose; or generate new solutions that would not likely be accomplished by standard contractual methods.

Challenge Summary: Accurate food counts, such as zooplankton and drift invertebrates, are instrumental in fish habitat evaluation and restoration in our rivers and streams. Although technology has been developed for automated detection and identification of zooplankton and drift invertebrates in oceanographic settings, they have not been developed for the unique environmental conditions in rivers and estuaries. High flow rates and turbidity cause problems with automated visual systems used today. The main obstacle in estuaries is turbidity while the main obstacle in river systems is flow velocity. In addition, the horizontal nature of rivers invokes problems not encountered in deep ocean waters (*e.g.,* sunlight effects at the surface of water and the mixing of food sources throughout the water column in rivers due to turbulence as opposed to more stratified food webs in ocean waters). We would like to identify devices/methods that can detect, count, and identify zooplankton and drift invertebrates in an economical way in rivers and estuary systems. There is potential for future collaboration with the Seeker in developing and testing winning solutions.

This is a Theoretical Challenge that requires only a written proposal to be submitted. The Challenge award will be contingent upon theoretical evaluation of the proposal by the Bureau of Reclamation (Seeker). The Seeker has a total prize pool budget of $30,000 to pay the top three submission(s) that meet or exceed the criteria below, an award of $10,000 each. No awards are guaranteed unless they meet or exceed the criteria, and more than one award is not guaranteed. If only a single submission meets or exceeds the criteria, the prize award may be as high as $15,000.

To receive an award, the Solvers will not have to transfer their exclusive intellectual property rights to the Seeker. Instead, they will grant to the Seeker a non-exclusive license to practice their solutions.

The Seeker believes there might be a potential for future collaboration with awarded Solver(s), although such collaboration is not guaranteed. The Seeker may also encourage Solver(s) to

further develop and test their winning submissions through subsequent round(s) of competition. Solvers should mention if they have the ability for subsequent design and development phases and would be willing to consider future collaborations and/or subsequent competitions.

Background: Habitat restoration is considered a key element of fish recovery, and the quality of habitat and food resources available to fish often needs to be evaluated before and after restoration actions. Habitats are often designed to provide increased foraging and rearing habitats at appropriate spatial and temporal scales. Abundance of key food resources for fish such as zooplankton and drift invertebrate (1 mm to 20 mm in size) is time-intensive and expensive to measure, especially for juvenile salmon in a highly dynamic and complex system such as the Sacramento-San Joaquin Delta (California).

Traditional sampling methods involve the use of towed nets (for slow-moving water) or stationary nets (for fast-moving water) that collect organisms from the water column. Both the field collection of samples and the subsequent sorting and identification of collected invertebrates are time-intensive and expensive, and agencies lacking technical expertise must often rely on outside experts to process samples. Because of the high costs associated with these traditional methods, the spatial and temporal extent of sampling is often inadequate to characterize food availability at scales that are biologically relevant.

In the marine science community, significant advances have been made in plankton monitoring through the use of devices that capture high-resolution images of particles (≤100 μm) and invertebrates. These devices produce a catalog of time-stamped images that can be processed to various taxonomic levels with image analysis software, allowing the abundance of organisms in a known volume of water to be quantified. Examples can be found in the following links: *http://jaffeweb.ucsd.edu/node/317*, *http://www.artynet.fr/hydropticREDIRIDEM/uvp.html*.

Analogous technologies for freshwater environments do not exist, but could be developed to continuously monitor the prey abundances and dynamics in key locations for migrating and rearing fishes. Pilot systems have been tested in the freshwater environment, but there have been problems with image capture, leading to poor image quality (blurred) and poor identification (low probability of differentiating target organisms from drift algae, detritus and other materials). The difficulties during the pilot were likely caused by

- High water velocity
- Low water clarity (turbidity)
- Small target size (1–20 mm)

Another big difference between the marine ocean environment and the freshwater and estuarine environment is that ocean monitoring tends to be vertical (in the water column) and items on the surface are not a large percentage of the whole so they can be ignored. In a stream, items on the surface are a high percentage of the overall water column, and sunlight at the surface affects the imaging equipment considerably. It is difficult to get accurate measurements if targeted items on the surface are ignored.

The Challenge: A device/method is sought that could be deployed to collect data continuously (over hours, preferably days) to capture tidal and day/night variation in prey abundance in rivers and streams. By simultaneously deploying multiple units, scientists could measure important spatial and temporal variation such as depth stratification and source/sink food web dynamics.

The device/method must detect, count, and identify drift invertebrates automatically in a size range of 1 to 20 mm in a cost-effective method.

Our goal is to identify ideas and help promote their testing and manufacture for use in the industry. There is potential for awarded Solvers who are interested to continue in the development of these ideas for a commercial product.

Multiple government agencies would likely be interested in this solution (Bureau of Reclamation, U.S. Geological Survey, National Oceanic and Atmospheric Administration-National Marine Fisheries Service, U.S. Army Corps of Engineers, State Fish and Wildlife agencies, and others).

Things To Avoid

1. Equipment made today for oceanographic study—although a good place to start, we are familiar with what exists and our Challenge is to go beyond what exists for our particular problems in freshwater systems.

2. A simple list of equipment without explanation of how they work in concert will not suffice as a description of the system.

Any Proposed Solution Should Address the Following Technical Requirements

Must Haves

1. The device/method should be able to:

a. Detect representative samples of drift invertebrates (1–20 mm). This should include those targeted items floating on the surface to a high degree as well as those in the water column. Representative samples of drift invertebrates in California and other localities are available at the California Department of Fish and Wildlife's Aquatic Bioassessment Laboratory digital reference collections (*http://www.dfg.ca.gov/abl/Lab/referencecollection.asp*).

b. Count the targeted items in samples (sort out debris from targeted zooplankton and invertebrates to minimize false positives).

c. Identify the number and taxonomic family (or groups of morphologically similar families) of specimens detected (**Note:** exact identification of each species is not as critical as identification of the total amount of food available to fish).

2. Requirement no. 1 must be done under the following conditions:

a. Velocities between 0 and 1.5 meters per second.

b. Turbidity between 0 and 100 Nephelometric Turbidity Units.

c. Function in shallow water (less than 1 m) and deep water (up to 20m).

d. Function over a long period of continuous deployment (greater than 24 hours but preferably many days).

e. Operate without natural light (at night or dark spaces, provides own light source as needed).

f. Operate under bright light conditions near the surface in the daytime.

3. If the device is submersible in water, it should be durable enough to be deployable when towed off a boat.

4. If optical, it should be able to capture images without a blur.

5. The device/method must be able to accurately sample and image available drift invertebrates (food) with 95 percent accuracy.

6. The device/method must measure the size of each target item within 0.5 mm or 10 percent of item size.

7. The total cost of the equipment should be targeted to not exceed $100K when produced in larger quantities.

8. The proposed system should offer the Seeker client ''freedom to practice.'' There should be no third-party patent art preventing the use of specific equipment and materials for their commercial application.

Nice to Have

Include ability to measure flow entering device, such that number of food particles per volume of water is estimable.

Project Deliverables: This is a Theoretical Challenge that requires only

a written proposal to be submitted. The Challenge award will be contingent upon theoretical evaluation of the proposal by the Seeker. The submitted proposal should include the following:

1. Detailed description of a method/device that can detect, count, and identify drift invertebrates in fresh water rivers and streams. The Solver must describe with a high level of technical detail as to how the system would meet or not meet each of the ''must have'' and ''nice to have'' attributes in Technical Requirements described above. The Solver should expect that their submittal will be reviewed by experts in the field of biology and multiple fields of engineering.

2. Rationale as to why the Solver believes that the proposed method/device will work. This rationale should address each of the Technical Requirements described in the Detailed Description and should be supported with relevant examples.

3. The active principle applied for detection and quantification shall be described in detail. The detecting technology shall be described in detail. Potential technology suppliers shall be identified.

4. Sufficient data to support claims, if available.

5. List of equipment required with cost estimates.

6. The Solver needs to describe how deployable and workable the system would be under a wide variety of environmental conditions including water depths, light, turbidity, salinity, velocities, and turbulence such as those found in small to large streams in the western United States.

The proposal should not include any personal identifying information (name, username, company, address, phone, email, personal Web site, resume, etc.).

The Challenge award will be contingent upon theoretical evaluation of the proposal by the Seeker against the Technical Requirements.

Solutions that meet the requirements will also be judged on the following items in order of priority:

- Practical feasibility;
- Detection precision;
- Manufacturing cost;
- Required power source; and
- Extra weight/space;
- Time to market.

Judging: After the Challenge deadline, the Seeker will evaluate the submissions and make a decision with regards to the winning solution(s). All Solvers that submitted a proposal will be notified on the status of their submissions. However, no detailed evaluation of individual submissions will be provided. Decisions by the Seeker cannot be contested.

Submitted solutions will be evaluated by a Judging Panel composed of scientists, engineers, and other related technical experts. The Judging Panel will also have consultation access to technical experts outside of their expertise, as determined necessary, to evaluate specific submissions.

Eligibility Rules: To be able to win a prize under this competition, an individual or entity must:

1. Agree to the rules of the competition (15 U.S. Code 3719(g)(1));

2. Be an entity that is incorporated in and maintains a primary place of business in the United States, or (b) in the case of an individual, a citizen or permanent resident of the United States (15 U.S. Code 3719(g)(3));

3. Not be a Federal entity or Federal employee acting within the scope of their employment; (15 U.S. Code 3719(g)(4));

4. Assume risks and waive claims against the Federal Government and its related entities (15 U.S. Code 3719(i)(1)(B)); and,

5. Not use Federal facilities, or consult with Federal employees *during the competition* unless the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

The following individuals or entities are not eligible regardless of whether they meet the criteria set forth above:

1. Any individual who employs an evaluator on the Judging Panel or otherwise has a material business relationship or affiliation with any Judge.

2. Any individual who is a member of any Judge's immediate family or household.

3. The Seeker, participating organizations, and any advertising agency, contractor or other individual or organization involved with the design, production, promotion, execution, or distribution of the prize competition; all employees, representatives and agents thereof; and all members of the immediate family or household of any such individual, employee, representative, or agent.

4. Any individual or entity that uses Federal funds to develop the proposed solution now or any time in the past, unless such use is consistent with the grant award, or other applicable Federal funds awarding document. NOTE: Submissions that propose to improve or adapt existing federally funded technologies for the solution sought in this prize competition are eligible.

Consultation: Fish recovery program managers and technical specialists from across the Bureau of Reclamation, U.S. Geological Survey, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration-National Marine Fisheries Service, and U.S. Army Corps of Engineers were consulted in identifying and selecting the topic of this prize competition. Direct and indirect input from various stakeholders and partners associated with the fish recovery program efforts by these agencies were also considered. In addition, the Bureau of Reclamation maintains an open invitation to the public to suggest prize competition topics at *www.usbr.gov/research/challenges*.

Public Disclosure: InnoCentive, Inc. is administering this challenge under a challenge support services contract with the Bureau of Reclamation. Participation is conditioned on providing the data required on InnoCentive's online registration form. Personal data will be processed in accordance with InnoCentive's Privacy Policy which can be located at *http://www.innocentive.com/privacy.php*. Before including your address, phone number, email address, or other personal identifying information in your proposal, you should be aware that the Seeker is under no obligation to withhold such information from public disclosure, and it may be made publicly available at any time. Neither InnoCentive nor the Seeker is responsible for human error, theft, destruction, or damage to proposed solutions, or other factors beyond its reasonable control. Solver assumes any and all risks and waives any and all claims against the Seeker and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

Dated: September 30, 2015.

David Raff,

Science Advisor.

[FR Doc. 2015–25319 Filed 10–6–15; 8:45 am]

BILLING CODE 4332–90– P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 1205–12]

Commission Recommendations to the President To Modify the Tariff Nomenclature in Chapters 3, 44, and 63 of the Harmonized Tariff Schedule

AGENCY: United States International Trade Commission.

ACTION: Notice of institution of investigation.

SUMMARY: Following adoption by the World Customs Organization (WCO) of certain recommended modifications to the Harmonized System on June 11, 2015, the Commission has instituted investigation No. 1205–12, *Commission Recommendations to the President to Modify the Tariff Nomenclature in Chapters 3, 44, and 63 of the Harmonized Tariff Schedule,* pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) (19 U.S.C. 3005).

The WCO recommendation calls upon the Contracting Parties to the International Convention on the Harmonized Commodity Description and Coding System (Convention) to amend their tariff nomenclature to make certain corrections to Chapters 3 and 63, and to make further amendments to their nomenclature relating to Chapter 44 that were inadvertently omitted from the Council Recommendation of June 27, 2014. The amendments to Chapters 3 and 63 are expected to enter into force on January 1, 2017, and the amendments to Chapter 44, on January 1, 2018. The amendments to Chapters 3 and 63 relate to the text of certain subheadings of headings 03.01 and 03.03 (certain fish), and Subheading Note 1 to Chapter 63 and subheading 6304.20 (certain textiles). The amendments to Chapter 44 relate to several subheadings for certain wood and wood products.

DATES:

October 7, 2015: Posting of the WCO's Recommendation of June 11, 2015, on the Commission Web site.

February 12, 2016: Posting of the Commission's proposed recommendations on the Commission's Web site.

March 18, 2016: Deadline for interested Federal agencies and the public to file written views on the Commission's proposed recommendations.

July 22, 2016: Transmittal of the Commission's report to the President.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm*.

FOR FURTHER INFORMATION CONTACT: Daniel P. Shepherdson, Attorney-Advisor, Office of Tariff Affairs and Trade Agreements (202–205–2598, or *Daniel.Shepherdson@usitc.gov*) or Cynthia Wilson, Nomenclature Analyst, Office of Tariff Affairs and Trade Agreements (202–205–3052, or *Cynthia.Wilson@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819, or *Margaret.OLaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information about the Commission may be obtained by accessing the Commission Web site at *www.usitc.gov*. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: Section 1205(a) of the 1988 Act requires that the Commission keep the Harmonized Tariff Schedule of the United States (Harmonized Tariff Schedule or HTS) under continuous review and periodically recommend to the President such modifications in the HTS as the Commission considers necessary or appropriate, including to conform the HTS with amendments made to the International Convention on the Harmonized Commodity Description and Coding System (Convention), which contains the Harmonized System nomenclature in the Annex to the Convention.

The Harmonized System nomenclature provides uniform product architecture for the customs tariffs and statistical nomenclatures of all major trading countries of the world, including the United States. The Harmonized System establishes the general arrangement or structure of product categories, set forth in chapters, 4-digit headings and 6-digit subheadings. It also includes the general rules of interpretation, and section and chapter legal notes that define the scope of sections, chapters, 4-digit headings and 6-digit subheadings. The Harmonized Tariff Schedule is based on the Harmonized System nomenclature. In addition, however, the HTS includes national subdivisions (8-digit subheadings and 10-digit statistical annotations), as well as additional U.S. chapter notes, and other national provisions that facilitate the administration of U.S. customs, tariff and statistical programs.

The Commission will recommend such modifications in the HTS as it considers necessary or appropriate to conform the HTS with amendments recommended in the WCO Council Recommendation of June 11, 2015. In that recommendation the WCO Council recommended that the Contracting Parties to the Convention amend their tariff nomenclature to make certain corrections that were inadvertently omitted from the Council Recommendation of June 27, 2014. The amendments to Chapters 3 and 63 relate to the text of certain subheadings of headings 03.02 and 03.03 (certain fish), and Subheading Note 1 to Chapter 63 and subheading 6304.20 (certain textiles); and the amendments to Chapter 44 relate to several subheadings for certain wood and wood products. The amendments to Chapters 3 and 63 are expected to enter into force on January 1, 2017, and the amendments to Chapter 44, on January 1, 2018.

The Commission expects to transmit its report to the President containing its recommendations in July 2016. The Commission's report will include, in addition to its recommendations, a summary of the information on which the recommendations were based, a statement of the probable economic effect of each recommended change on any industry in the United States, a copy of all written views submitted by interested Federal agencies, and a copy or summary of the views of all other interested parties.

Proposed Recommendations, Opportunity To Comment: Before making recommendations to the President, the Commission will provide notice of its ''proposed recommendations'' and will afford opportunity for interested Federal agencies and the public to present their views in writing on those proposed recommendations in accordance with the procedures in the following paragraphs. The Commission expects to post those proposed recommendations on its Web site by February 12, 2016.

Written Submissions: Following publication of the Commission's ''proposed recommendations,'' all interested parties, including interested Federal agencies, are invited to file written submissions concerning the recommendations the Commission

should make to the President. All such written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., March 18, 2016. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Office of the Secretary (202–205–2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR. The Commission will not otherwise publish any confidential business information in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: October 2, 2015.

William R. Bishop,

Supervisory Information and Hearings Officer.

[FR Doc. 2015–25546 Filed 10–6–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Woven Textile Fabrics and Products Containing Same, DN 3088;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of AAVN, Inc. on October 1, 2015. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain woven textile fabrics and products containing same. The complaint names as respondents AQ Textiles, LLC of Greensboro, NC and Creative Textile Mills Pvt. Ltd. of India. The complainant requests that the Commission issue a permanent general exclusion order, a permanent cease and desist order, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register.** There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3088'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[4] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: October 1, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–25470 Filed 10–6–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–548 and 731–TA–1298 (Preliminary)]

Welded Stainless Steel Pressure Pipe From India Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–548 and 731–TA–1298 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of welded stainless steel pressure pipe from India, provided for in subheadings 7306.40.50 and 7306.40.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of India and are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by November 16, 2015. The Commission's views must be transmitted to Commerce within five business days thereafter, or by November 23, 2015.

DATES: *Effective Date:* September 30, 2015.

FOR FURTHER INFORMATION CONTACT: Joanna Lo (202–205–1888), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on September 30, 2015, by Bristol Metals, LLC, Bristol, TN; Felker Brothers Corp., Marshfield, WI; Marcegaglia USA, Munhall, PA; and Outokumpu Stainless Pipe, Inc., Wildwood, FL.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on October 21, 2015, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *william.bishop@usitc.gov* and *sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before October 19, 2015. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 26, 2015, a written brief

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (October 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (October 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov*.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Dated: October 1, 2015.

William R. Bishop,

Supervisory Information Hearing Officer.

[FR Doc. 2015–25469 Filed 10–6–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Federal Air Pollution Prevention and Control Act (Clean Air Act)

On September 30, 2015 the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of the District of Columbia in the lawsuit entitled *United States* v. *Tractor Supply Company, Inc. and Tractor Supply Company of Texas, L.P.,* Civil Action No. 1:15-cv-01589.

The United States' complaint, filed simultaneously with the proposed Consent Decree, seeks civil penalties and injunctive relief for violations of the Clean Air Act and its implementing regulations that govern the importation, sale, offering for sale, or otherwise introducing into commerce, of recreational vehicles and small non-road spark-ignition engines. The complaint alleges that the defendants imported and then offered for sale, sold, or otherwise introduced into commerce, 28,265 recreational vehicles and small non-road spark ignition engines between 2006 and 2009 that were not properly certified as compliant with the Clean Air Act's applicable regulations, and failed to provide complete and accurate information in response to an EPA request for information. The proposed Consent Decree requires the defendants to pay a civil penalty of $775,000, to implement a project to mitigate the effects of air pollution emissions arising from the sale of the allegedly noncompliant vehicles and engines, and to implement a corporate compliance plan including inspections, emissions and catalyst testing, and training and reporting requirements for both imported and domestically-produced products.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Tractor Supply Company, Inc. and Tractor Supply Company of Texas, L.P.,* D.J. Ref. No. 90–5–2–1–10153. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $21.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the appendices and signature pages, the cost is $8.25.

Karen Dworkin,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–25419 Filed 10–6–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On September 29, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Central District of California in the lawsuit entitled *United States* v. *Shell Oil Company,* Civil Action No. 2:15–cv–07619–R (AGRx).

The United States, on behalf of the U.S. Environmental Protection Agency (''EPA''), filed this lawsuit under CERCLA for performance of response action to address Operable Unit 1 of the Del Amo Superfund Site, and for cost recovery. The Site, the location of a former synthetic rubber plant, is in Los Angeles County, California.

On September 29, 2015, the California Department of Toxic Substances Control (''DTSC'') also filed a complaint against the United States of America and Shell Oil Company under CERCLA for cost recovery with regard to Del Amo Superfund Site Operable Unit 1. *California Department of Toxic Substances Control* v. *United States of America, et al.* (C.D. Cal.), Civil Action No. 2:15–cv–07636.

The proposed consent decree would resolve the claims alleged in the complaint of the United States and in the complaint of the DTSC, and provides for the implementation of a remedy that EPA and DTSC will oversee. The Consent Decree requires Shell Oil Company to implement the remedy selected by EPA for Operable Unit 1. EPA's selected remedy for Operable Unit 1, which addresses soil and non-aqueous phase liquid, includes capping and implementation of soil vapor extraction, building engineering controls, in-situ chemical oxidation, and institutional controls. The settlement further provides for Shell Oil Company to pay EPA $1,200,000 for past response costs, and to pay DTSC $63,993.81 for past response costs, and also to pay EPA and DTSC future response costs of overseeing the implementation of the remedial action. The proposed settlement includes the U.S. General Services Administration as a settling federal agency as the successor to the former federal government owners of the plant, and provides that the United States will reimburse Shell Oil Company for a portion of the costs.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney

General, Environment and Natural Resources Division, and should refer to *United States* v. *Shell Oil Co.,* D.J. Ref. No. 90–11–2–933/4. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $103.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits, the cost is $32.50.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–25531 Filed 10–6–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Two Proposed Consent Decrees Under the Resource Conservation and Recovery Act

On September 30, 2015, the Department of Justice lodged two proposed Consent Decrees with two United States District Courts, the Middle District of Florida and the Eastern District of Louisiana, in lawsuits both entitled *United States* v. *Mosaic Fertilizer, LLC,* Civil Action No. 15–cv–02286 in the Middle District of Florida and Civil Action No. 15–cv–04889 in the Eastern District of Louisiana.

The United States filed these two lawsuits under the Resource Conservation and Recovery Act (RCRA). The United States' complaints name Mosaic Fertilizer, LLC, as defendant. Mosaic produces phosphorus-based fertilizer that is commonly applied to corn, wheat and other crops across the country. Sulfuric acid is used to extract phosphorus from mined rock, which produces large quantities of a solid material called phosphogypsum and wastewater that contains high levels of acid. Phosphogypsum is stored in large piles, tanks, ditches and ponds; the piles can reach 500 feet high and cover more than 600 acres, making them some of the largest manmade waste piles in the United States. The piles can also contain several billion gallons of highly acidic wastewater, which can threaten human health and cause severe environmental damage if it reaches groundwater or waterways.

The alleged violations in this case stem from storage and disposal of waste from the production of phosphoric and sulfuric acids, key components of fertilizers, at Mosaic's facilities in Bartow, Lithia, Mulberry and Riverview, Florida and St. James and Uncle Sam, Louisiana. Mosaic allegedly failed to properly treat, store and dispose of hazardous waste, and also allegedly failed to provide adequate financial assurance for closure of its facilities.

The complaints seek injunctive relief and civil penalties for violations of the RCRA statute and its implementing regulations that govern the identification, treatment, storage, and disposal of hazardous waste, at six Florida facilities and two facilities in Louisiana.

The two consent decrees require the defendant to perform substantial injunctive relief and to pay a $5 million civil penalty to the United States and $1.55 million to Louisiana and $1.45 million to Florida, who are state co-plaintiffs in these cases. EPA estimates that Mosaic will spend approximately $170 million on projects to ensure the proper treatment, storage, and disposal of more than 60 billion pounds of hazardous waste and reduce the environmental impact of its manufacturing and waste management programs. Mosaic also will establish a $630 million trust fund—which will be invested to grow until it reaches full funding of $1.8 billion—the cost to cover phosphygypsum stack closure, including the treatment of hazardous process wastewater, at four of its operating facilities, and long-term care of all of its Florida and Louisiana facilities. The Mosaic Company, Mosaic Fertilizer's parent company, will provide financial guarantees for this work, and the settlement also requires Mosaic Fertilizer to submit a $50 million letter of credit.

In addition, Mosaic will spend $2.2 million on two local environmental projects: A $1.2 million environmental project in Florida to mitigate and prevent certain potential environmental impacts associated with an orphaned industrial property located in Mulberry, Florida; and a $1 million project in Louisiana to fund studies regarding statewide water quality issues and the development of watershed nutrient management plans to be utilized by beef cattle, dairy and poultry producers.

The publication of this notice opens a period for public comment on the Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Mosaic Fertilizer, LLC,* D.J. Ref. No. 90–7–1–08388. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decrees may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/consent-decrees.*

We will provide a paper copy of the Consent Decrees upon written request and payment of reproduction costs (25 cents per page). Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

If you would like a copy of the Consent Decree lodged with the Middle District of Florida, please enclose a check or money order, payable to the United States Treasury, for $162.50 (or $20.50 for a paper copy without the exhibits). If you would like a copy of the Consent Decree lodged with the Eastern District of Louisiana, the cost is $124.50 (or $21.25 for a paper copy without the exhibits). If you would like a copy of both Consent Decrees, the cost is $287.00 (or $41.75 for paper copies without the exhibits).

Maureen M. Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–25511 Filed 10–6–15; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (15–088)]

NASA Advisory Council; Science Committee; Earth Science Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Earth Science Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Wednesday, October 28, 2015, 8:30 a.m.–5 p.m., and Thursday, October 29, 2015, 9 a.m.–3 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 9H40, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, fax (202) 358–2779, or *ann.b.delo@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically. Any interested person may call the USA toll free conference call number 888–989–6420 to participate in this meeting by telephone, passcode 2857137. The telephone number and passcode will be used both days.

The agenda for the meeting includes the following topics:

—Earth Science Program Status Update
—Earth System Modeling
—Ad Hoc Task Force on Big Data

Attendees will be requested to sign a register and to comply with NASA security requirements including the presentation of a valid picture ID to Security before access to NASA Headquarters. Due to the Real ID Act, Public Law 109–13, any attendees with drivers licenses issued from non-compliant states/territories must present a second form of ID [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on Form I–9]. Non-compliant states/territories are: American Samoa, Arizona, Idaho, Louisiana, Maine, Minnesota, New Hampshire, and New York. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Ann Delo via email at *ann.b.delo@nasa.gov* or by fax at (202) 385–2779. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation no less than 3 working days prior to the meeting to Ann Delo.

It is imperative that the meeting be held on these dates to the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–25559 Filed 10–6–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (15–089)]

International Space Station Advisory Committee; Charter Renewal

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of renewal and amendment of the charter of the International Space Station Advisory Committee.

SUMMARY: Pursuant to sections 14(b)(1) and 9(c) of the Federal Advisory Committee Act (Pub. L. 92–463), and after consultation with the Committee Management Secretariat, General Services Administration, the NASA Administrator has determined that renewal and amendment of the charter of the International Space Station Advisory Committee is in the public interest in connection with the performance of duties imposed on NASA by law. The renewed charter is for a one-year period ending September 30, 2016. It is identical to the previous charter, except for an update to the description of Designated Federal Official (DFO) responsibilities which includes ethics language consistent with other NASA Federal advisory committee charters.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Finley, (202) 358–5684, Office of International and Interagency Relations, NASA Headquarters, Washington, DC 20546.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2015–25560 Filed 10–6–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CAPITAL PLANNING COMMISSION

Public Comment on the Comprehensive Plan for the National Capital: Federal Elements

AGENCY: National Capital Planning Commission.

ACTION: Notice of 60 day public comment period.

SUMMARY: The National Capital Planning Commission (NCPC) has released a draft of the Federal Elements of the *Comprehensive Plan for the National Capital: Federal Elements* for public review. The Comprehensive Plan for the National Capital: Federal Elements addresses matters relating to Federal Properties and Federal Interests in the National Capital Region, and provides a decision-making framework for actions the NCPC takes on specific plans and proposals submitted by Federal government agencies for the NCPC review required by law. The eight Federal Elements in the Comprehensive Plan include Urban Design (new element), Federal Workplace, Foreign Missions & International Organizations, Transportation, Parks & Open Space, Federal Environment, Historic Preservation, and Visitors & Commemoration. The *Comprehensive Plan for the National Capital: Federal Elements* provide a statement of principles, goals, and planning policies for the growth and development of the national capital during the next 20 years. The draft update of the Federal Elements will be available online at *http://www.ncpc.gov/compplan.*

DATES: The public comment period closes on December 7, 2015.

ADDRESSES: Mail written comments or hand deliver comments on the released

draft to Comprehensive Plan Public Comment, National Capital Planning Commission, 401 9th Street NW., Suite 500N, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Angela Dupont at (202) 482–7232 or *compplan@ncpc.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing Addresses:

You may submit comments electronically at the public comment portal at *http://www.ncpc.gov/compplan.*

Authority: 40 U.S.C. 8721(e)(2).

Dated: September 29, 2015.

Anne R. Schuyler,

General Counsel.

[FR Doc. 2015–25453 Filed 10–6–15; 8:45 am]

BILLING CODE 7520–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247–LR and 50–286–LR ASLBP No. 07–858–03–LR–BD01]

Atomic Safety and Licensing Board; In the Matter of Entergy Nuclear Operations, Inc.; Before Administrative Judges: Lawrence G. McDade, Chairman; Dr. Michael F. Kennedy; Dr. Richard E. Wardwell; (Indian Point Nuclear Generating Units 2 and 3)

October 1, 2015.

Notice

(Track 2 Hearing Venue)

As announced in the April 23, 2015, Notice of Hearing, the Board will receive oral testimony on the pre-filed evidentiary submissions for three contentions between November 16 and 20, 2015.[1]

The venue for this evidentiary hearing will be the DoubleTree Hotel located at 455 South Broadway, Tarrytown, NY 10591. The hearing will commence at 12 p.m. on Monday, November 16, 2015. The start time for each subsequent day will be announced at the hearing itself. The contentions will be heard in numerical order.

Parties are reminded that any motion for cross-examination shall be filed via the Electronic Information Exchange and served on all other parties no later than October 9, 2015, and that proposed question and cross-examination plans shall be filed *in camera* by that same date.[2]

The Board will hold a pre-hearing conference via telephone during either the week of October 25 or the week of November 1, 2015. Counsel shall notify the Board of any date and time during that period when they would not be available for a conference. Such notice shall include the reason why counsel would not be available.

All parties, and interested governmental entities, shall notify the Board of who will be representing them at the hearing and also provide notice of the number of seats they will need at or near counsel table for attorneys, paralegals, and other support personnel. This notice should be made promptly, but in no event later than October 22, 2015.

In addition, if any witness for whom written testimony was submitted will not be available at the hearing, notice shall be provided to the Board immediately upon learning of witness's unavailability.

All notifications to the Board, including pre-hearing conference availability, representation at the hearing, and witness unavailability, shall be sent by email to the Board's law clerks, Alana Wase and Julie Reynolds-Engel, at *alana.wase@nrc.gov* and *julie.reynolds-engel@nrc.gov.*

Parties wishing to reserve conference-room space in the hotel for the duration of the hearing must contact the hotel directly at 914–631–5700.

Dated: Rockville, Maryland, October 1, 2015.

For the Atomic Safety and Licensing Board.

Lawrence G. McDade,

Chairman, Administrative Judge.

[FR Doc. 2015–25565 Filed 10–6–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–00235; NRC–2015–0216]

AAR Site, Livonia, Michigan

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of completion of remediation; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is noticing the completion of remediation activities at the Brooks and Perkins Site at 12633 Inkster Road, in Livonia, Michigan.

DATES: This notice is effective as of September 23, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0216 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–2015–0216. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Theodore Smith, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6721, email: *Theodore.Smith@nrc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Atomic Energy Commission (AEC) issued License STB–0362 to Brooks and Perkins on January 17, 1957, and the license was terminated by the AEC on May 17, 1971. This license authorized Brooks and Perkins to conduct licensed activities at the site using thorium master alloy and thorium magnesium alloy.

In 1981, the AAR Corporation (AAR) purchased Brooks and Perkins and obtained ownership of the land. On February 23, 1994, an NRC inspector conducted an inspection of the AAR site, and subsequently notified AAR by letter dated March 29, 1994, that the NRC had ''concluded that thorium was improperly disposed of at the site and certain areas of the building and grounds were in excess of the NRC

[1] Licensing Board Notice of Hearing (Scheduling Track 2 Hearing) (April 23, 2015) at 1 (unpublished).

[2] This deadline is set 30 days after New York submitted its Supplemental Testimony and Statements of Position. *See* Licensing Board Scheduling Order (July 1, 2010) at 15–16 (unpublished).

release criteria for release of the facility for unrestricted use.'' The AAR Corporation was directed to schedule and plan to characterize the extent of the contamination and to decontaminate the area to current NRC release criteria (ADAMS Accession No. ML110670259).

The AAR site was subsequently legally divided into the Eastern and Western Parcels. The NRC staff had previously evaluated the Eastern Parcel of the AAR site, and in December 2009, determined that the potential dose from the Eastern Parcel was in conformance with the dose criteria for unrestricted use (ADAMS Accession No. ML093490979).

In 2013, the NRC approved a plan to remediate the Western Parcel of the site in accordance with an AAR proposed Site Remedial Action Work Plan (Work Plan) as amended (letters dated August 7, 2013, and October 30, 2013; ADAMS Accession Nos. ML13220A447 and ML13308A323, respectively). The Work Plan proposed that soil within 32 specified grids containing thorium be excavated to a depth of 1 meter (m) and transported offsite for disposal at a facility in Belleville, Michigan, known as the Wayne Disposal Facility. The excavated areas were to be backfilled with clean fill.

As part of the review of the Work Plan, the NRC staff independently evaluated the dose using a dose assessment that staff performed in 2009 (ADAMS Accession No. ML093490979), as a basis for determining dose for the expected concentrations that would remain at the AAR site. The maximum dose determined by the NRC staff for these expected concentrations is 14 mrem/yr, projected to occur at time around 600 years.

From April to July 2014, AAR conducted remediation of the 32 grids at the site. On May 21, 2015 (ADAMS Package Accession No. ML15148A656), AAR submitted a ''Project Completion Report and Request for Approval of Unrestricted Use Designation, AAR Corporation, 12633 Inkster Road, Livonia, Michigan, 48150, Western Parcel, Strategic Waste Excavation and Site Restoration Project'' (Completion Report). The Completion Report states that the grids specified in the Work Plan were excavated.

The NRC staff and its contractor observed and inspected work at the AAR site several times during the remediation. During the final NRC staff's visit in July 2014, the NRC staff walked the site with a survey instrument and confirmed that the 32 specified grids were excavated per the Work Plan commitment.

The NRC Region III Inspectors performed an inspection at the AAR facility during part of the remediation activities. Results of the inspection are documented in NRC Inspection Report 040–00235/2013–001 (DNMS), dated February 24, 2015, (ADAMS Accession No. ML15056A162). The report concluded that AAR conducted the remediation in accordance with the Work Plan. The report also concluded that the licensee (Solutient, AAR's contractor) had complied with NRC and Department of Transportation regulations for shipments of radioactive waste.

The NRC staff concludes that AAR met the commitments to excavate the 32 specified grids and to dispose the excavated material offsite at an appropriate facility.

Based on the considerations discussed above, the NRC staff concluded that: (1) Radioactive material above release limits has been properly disposed for both Eastern and Western Parcels of the site; (2) reasonable effort has been made to eliminate residual radioactive contamination; and (3) final site surveys and associated documentation demonstrate that the entire site is suitable for unrestricted release in accordance with the criteria in 10 CFR part 20, subpart E.

Therefore, the AAR site at 12633 Inkster Road, Livonia, Michigan, is suitable for unrestricted use.

Dated at Rockville, Maryland, this 23rd day of September, 2015.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2015–25532 Filed 10–6–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8943; ASLBP No. 08–867–02–OLA–BD01]

Atomic Safety and Licensing Board; In the Matter of Crow Butte Resources, Inc. (License Renewal for the In Situ Leach Facility, Crawford, Nebraska); Notice of Supplemental Hearing

September 25, 2015.

Before Administrative Judges: Michael M. Gibson, Chair, Dr. Richard E. Wardwell, Brian K. Hajek, Alan S. Rosenthal (Special Assistant to the Board).

The Atomic Safety and Licensing Board (Board) hereby gives notice that it will convene a supplemental evidentiary hearing to receive testimony regarding Crow Butte Resources' (Crow Butte) contested application to renew its U.S. Nuclear Regulatory Commission (NRC) license to operate an in-situ uranium leach recovery facility near Crawford, Nebraska.[1]

I. Background of Proceeding

On May 27, 2008, notice of the Crow Butte License Renewal Application was published in the **Federal Register**.[2] Three groups petitioned to intervene as parties in the proceeding and requested an evidentiary hearing be held on the application.[3] On November 21, 2008, the Board granted two of the petitions,[4] admitting the Oglala Sioux Tribe and Consolidated Intervenors[5] as parties.[6] At that time, the Board admitted nine contentions proposed by the intervenors.[7] Shortly thereafter, on December 10, 2008, the Board admitted a tenth contention.[8] The NRC Staff and Crow Butte appealed the Board's admission of the contentions.[9] On appeal, the Commission affirmed the intervenors' standing, and affirmed the admissibility of four of the ten contentions.[10] On January 5, 2015, the Oglala Sioux Tribe and Consolidated Intervenors moved to admit new contentions based on the Environmental

[1] Application for 2007 License Renewal USNRC Source Materials License SUA–1534 Crow Butte License Area (Nov. 2007) (ADAMS Accession No. ML073480264) [hereinafter License Renewal Application]. ''ADAMS'' refers to the NRC's public document management system, and is discussed more below.

[2] Notice of Opportunity for Hearing, Crow Butte Resources, Inc., Crawford, NE., *In Situ* Leach Recovery Facility, 73 FR 30,426 (May 27, 2008).

[3] Oglala Delegation of the Great Sioux Nation Treaty Council Request for Hearing and Petition for Leave to Intervene (July 30, 2008) (ADAMS Accession No. ML082170263); Oglala Sioux Tribe Request for Hearing and/or Petition to Intervene (July 29, 2008) (ADAMS Accession No. ML082170264); Consolidated Request for Hearing and Petition for Leave to Intervene (July 28, 2008) (ADAMS Accession No. ML082170525).

[4] *See* LBP–08–24, 68 NRC 691, 760 (2008).

[5] *Id.* Although originally named Consolidated Petitioners, the Board now refers to Beatrice Long Visitor Holy Dance, Debra White Plume, Thomas Kanatakeniate Cook, Loretta Afraid of Bear Cook, Afraid of Bear/Cook Tiwahe, Joe American Horse, Sr., American Horse Tiospaye, Owe Aku/Bring Back the Way, and the Western Nebraska Resources Council as Consolidated Intervenors.

[6] The Board denied a request to intervene by the Oglala Delegation of the Great Sioux Nation Treaty Council, but admitted the delegation as an interested local government body. *Id.*

[7] *Id.* at 760–61.

[8] *See* LBP–08–27, 68 NRC 951, 957 (2008).

[9] NRC Staff's Notice of Appeal of LBP–08–24, Licensing Board's Order of November 21, 2008, and Accompanying Brief (Dec. 10, 2008) (ADAMS Accession No. ML083450781); Crow Butte Resources' Notice of Appeal of LBP–08–24 (Dec. 10, 2008) (ADAMS Accession No. ML083450359).

[10] *See* CLI–09–9, 69 NRC 331, 366 (2009).

Assessment,[11] which the NRC Staff made available on October 27, 2014.[12] The Board admitted five new contentions, and supplemented one of the four previously admitted contentions.[13]

From August 24 through August 28, 2015, the Board held an evidentiary hearing under 10 CFR part 2, subpart L procedures. During this evidentiary hearing the parties submitted new exhibits in response to witness testimony and questions from the Board. These exhibits have been admitted,[14] and the Board has determined that some of the new exhibits raise questions regarding admitted contentions that need to be addressed through additional testimony. As a result, the parties are submitting additional pre-filed testimony to the Board, and a supplemental hearing limited to these new matters will be held on October 23, 2015.

II. Matters To Be Considered

At the supplemental evidentiary hearing the Board will receive testimony on the following topics:

- Whether the water levels in the Brule aquifer have lowered due to mining activities;
- What is the available head in the Basal Chadron/Chamberlain Pass formation and the maximum anticipated drawdown during Crow Butte's operation and restoration of its mining facility;
- Whether the results from the four pump tests [15] demonstrate a hydraulic connection between the Brule and Basal Chadron/Chamberlain Pass formations;
- Whether the Basal Chadron/Chamberlain Pass formation exists beneath the Pine Ridge reservation and its connection (if any) to the Basal Chadron/Chamberlain Pass formation beneath the license renewal area;
- To what degree (if any) do the additional exhibits that were admitted after the hearing commenced affect the conclusions regarding the structure of the White River feature and the NRC Staff's maximum likelihood modeling; and
- To what degree (if any) do the additional exhibits that were admitted after the hearing commenced illustrate the groundwater flow directions in the Arikaree and Brule aquifers underlying the Pine Ridge reservation and the license renewal area.

III. Date, Time, and Location of the Supplemental Evidentiary Hearing

The supplemental hearing will commence on Friday, October 23, 2015, at 10:00 a.m. Eastern Time, 8:00 a.m., Mountain Time, and will continue until complete.[16] The parties have the opportunity to participate in this supplemental hearing either in person, through video conference, or by telephone. The judges will be present in the Atomic Safety and Licensing Board Panel's Rockville Hearing Room, with a video conference link set up to the Scottsbluff Room of the student center of Chadron State College, 1000 Main Street, Chadron, Nebraska 69337. An Information Technology specialist from the Atomic Safety and Licensing Board Panel will be present in the Scottsbluff Room to assist with the video conference link. Any parties or witnesses unable to attend the hearing either in Rockville or in Chadron will be provided with a call in number and may participate in the hearing by telephone.

Members of the public and media are welcome to attend and observe the evidentiary hearing either in the Rockville Hearing Room or in Chadron State College's Scottsbluff Room. The Scottsbluff Room will open at 7:30 a.m. Mountain Time on the day of the hearing. A telephone bridge line will also be provided for members of the public who are unable to travel to either location, but nevertheless wish to listen to the proceeding. The dial in number for this bridge line is (888) 603–7019, and the passcode for listen-only access to the hearing is 7856326. Participation in the hearing, however, will be limited to the parties' lawyers and witnesses. Please be aware that security measures will be employed at the entrance to both facilities, including searches of hand-carried items such as briefcases or backpacks. No signs, banners, posters, or other displays will be permitted.[17] No firearms or other weapons will be allowed in either facility, and the Board's Notice regarding weapons, dated July 14, 2015, remains in effect.[18] Moreover, Chadron State College places additional restrictions on the presence of weapons on campus.[19]

IV. Availability of Documentary Information Regarding the Proceeding

Documents relating to Crow Butte's License Renewal Application are available on the NRC Web site at *http://www.nrc.gov/info-finder/materials/uranium/licensed-facilities/crow-butte.html*. These and other documents related to this proceeding are available for public inspection at the Commission's Public Document Room (PDR), located in One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, or electronically from the publicly available records component of the NRC's document management system (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html*.[20] Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone between 8:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday (except federal holidays) at (800) 397–4209 or (301) 415–4737, or by sending an email to *pdr.resource@nrc.gov*.

It is so *ordered.*

Dated: September 25, 2015.

[11] The Oglala Sioux Tribe's Renewed and New Contentions Based on the Final Environmental Assessment (October 2014) (Jan. 5, 2015) (ADAMS Accession No. ML15005A541); Consolidated Intervenors' New Contentions Based on the Final Environmental Assessment (October 2014) (Jan. 5, 2015) (ADAMS Accession No. ML15006A274).

[12] Environmental Assessment Availability Notification, Letter from Marcia Simon, NRC Staff Counsel, to Administrative Judges and Parties (Oct. 27, 2014) (ADAMS Accession No. ML14300A228). The Environmental Assessment was prepared pursuant to the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and the agency's implementing regulations, located in 10 CFR part 51.

[13] LBP–15–11, 81 NRC __, __(slip op. at 59–61) (Mar. 16, 2015).

[14] Licensing Board Order (Admitting Remaining Exhibits; Scheduling Transcript Corrections) (Sept. 10, 2015) (unpublished); Licensing Board Order (Admitting Exhibits; Scheduling Supplemental Testimony and October Hearing Day) (Sept. 4, 2015) (unpublished).

[15] Crow Butte conducted four pump tests to estimate the hydraulic properties of the Basal Chadron and Brule aquifer as a result of pumping water from the uranium-bearing ore zone of the Basal Chadron.

[16] Funding for the U.S. government for fiscal year 2016 has not yet been appropriated by Congress. The NRC may be able to operate for a limited period of time even without funding appropriated. The parties to this proceeding will be made aware if ASLBP activities must be suspended because the NRC has to shut down. Once funding for ASLBP activities becomes available, the Board will contact the parties either to reaffirm the October 23 supplemental hearing date, or to reschedule the hearing if that proves necessary.

[17] *See* Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 FR 31,719 (June 12, 2001).

[18] Licensing Board Notice (Regarding Weapons at Atomic Safety and Licensing Board Proceeding) (July 14, 2015) at 1 (prohibiting the possession of weapons at ''all proceedings conducted in Nebraska by the Atomic Safety and Licensing Board of the U.S. Nuclear Regulatory Commission'').

[19] *See Chadron State College Student Handbook* 36–37 (2015 rev.), *available at http://www.csc.edu/documents/publications/csc_student_handbook.pdf*.

[20] Documents which are determined to contain sensitive or proprietary information may only be available in redacted form. All non-sensitive documents are available in their complete form.

For the Atomic Safety and Licensing Board.

Michael M. Gibson,

Chair, Administrative Judge, Rockville, Maryland.

[FR Doc. 2015–25533 Filed 10–6–15; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76063; File No. SR–NYSEARCA–2015–81]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Several Rules to Address Certain Order Handling Obligations on the Part of Its Floor Brokers

October 1, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 16, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend several rules to address certain order handling obligations on the part of its Floor Brokers. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend several rules to address certain order handling obligations on the part of its Floor Brokers. Specifically, the Exchange is proposing to amend Rules 6.62, 6.46, and 6.48 to clarify whether orders sent to Floor Brokers are considered ''Held'' or ''Not Held''. This proposal would enable the Exchange to compete with options exchanges that have already implemented the types of changes being proposed here.[4]

Current Rule 6.62(f) defines whether orders sent to Floor Brokers are presumed to be ''Held'' or ''Not Held.'' [5] A ''Not Held'' order generally is one where the customer gives the Floor Broker discretion in executing the order, both with respect to the time of execution and the price (though the customer may specify a limit price), and the Floor Broker works the order over a period of time to avoid market impact while seeking best execution of the order. A ''Held'' order generally is one where the customer seeks a prompt execution at the best currently available price or prices.

The Exchange now proposes to establish in Rules 6.62(f), 6.46, and 6.48 a different default status for orders sent to Floor Brokers because the Exchange believes that these provisions are intended to protect against a broker failing to properly represent and ultimately execute orders.[6] Specifically the Exchange is proposing to amend Rule 6.62(f) to provide that ''[a]n order entrusted to a Floor Broker will be considered a Not Held Order, unless otherwise specified by a Floor Broker's client.'' The Exchange is also proposing to add new Commentary .06 to Rule 6.46 (Responsibilities of Floor Brokers) and to add language to Rule 6.46 (Discretionary Transaction) that mirrors the language it proposes to add to Rule 6.62(f). The Exchange believes that these proposed changes, taken together, would result in a change to the default order handling obligations for orders sent to Floor Brokers (*i.e.,* the Exchange would consider all orders sent to Floor Brokers to be ''Not Held'' by default).

The Exchange notes that Rules 6.46 and 6.48 were based upon rules that were adopted prior to electronic trading and, therefore, did not contemplate the interaction between an electronic environment and a trading floor and have not been amended to specifically address that interaction. While it is clear that Floor Brokers have more discretion with regards to the manner in which they represent and execute orders on a trading floor than does a computer routing an order to the Exchange for execution, the bounds of the discretion have not been entirely clear. Rules 6.46 and 6.48, among others, set certain boundaries to a Floor Broker's discretion, but the Exchange believes the current marketplace, with electronic and floor trading, favors an amendment to those boundaries.

Electronic and floor trading gives clients the choice between an Options Trading Permit (''OTP'') Holder or OTP Firm that routes orders to the Exchange electronically or an OTP Holder or OTP Firm that executes orders via a Floor Broker. The Exchange believes that clients are keenly aware that the differences between electronic and floor trading include at least the following factors: A computer cannot deviate from its programed instructions, whereas a Floor Broker can take into account the nuance of the marketplace, such as the makeup of a particular trading floor, the individuals on that trading floor, and how the electronic books interact with that environment. The Exchange believes that clients use Floor Brokers precisely because Floor Brokers can take into account the nuance of the marketplace (*i.e.,* exercise a certain level of discretion) to potentially provide higher execution quality. The Exchange likewise believes that if a client did not want a Floor Broker to use their expertise in the execution of an order, the client would simply send orders to the Exchange electronically.

Given that Floor Brokers have more discretion with regards to the manner in which they represent and execute orders than do computers executing electronic orders, the Exchange is proposing to

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities and Exchange Act Release Nos. 75299 (June 25, 2015), 80 FR 37700 (July 1, 2015) (Approval Order); 74990 (May 18, 2015), 80 FR 29767 (May 22, 2015) (SR–CBOE–2015–047) (Notice). The Exchange notes that, unlike CBOE, the Exchange does not route certain electronic order to Floor Brokers. Therefore, the Exchange is not proposing rule text mirroring CBOE's rule in this regard.

[5] Rule 6.62(f) (Orders Defined) defines a ''Not Held Order'' as an order that is marked as ''not held'', ''NH'', or ''take time,'' or ''which bears any qualifying notation giving discretion as to the price or time at which such order is to be executed.''

[6] The Exchange notes that at the time these rules were adopted, virtually all options orders (large or small and retail or professional) were handled by Floor Brokers. Given the discrete profile of orders handled by Floor Brokers today (generally large size orders and often multi-leg) it is reasonable for Floor Brokers to ''work'' orders that are entrusted to them because that is the reason a customer would utilize a Floor Broker in today's environment.

change certain boundaries related to that discretion. In particular, in recognition of the discretion implicit with the use of a Floor Broker, the Exchange seeks to provide notice to the marketplace that, unless otherwise specified by a Floor Broker's client, an order is deemed to be ''not held.'' The Exchange believes clients that choose to use Floor Brokers do so in order to utilize a Floor Broker's expertise in the execution of orders. This rule change would update Exchange rules by setting forth the presumptive discretion available to Floor Brokers in a manner consistent with modern market structure and the Floor Broker's role in the current trading environment. This filing also serves as notice to the investing community that orders sent to Floor Brokers will be deemed ''not held'' unless otherwise specified by the Floor Broker's client.

In addition, the Exchange will announce the implementation of this rule change by Trader Update.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that it has articulated a reasonable basis for changing the current default presumption of whether a customer intends to provide a Floor Broker with the ability to exercise time and price discretion on its behalf as long as the order is not otherwise marked in a manner to suggest that the customer did not intend for its order to be treated as Not Held. Other than changing the default presumption to ''Not Held'' for most orders sent to Floor Brokers, the Exchange is not proposing to change any other order handling obligations applicable to Floor Brokers. The Exchange believes that its proposal is consistent with the Act and is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because it responds to an understanding of the changing role of Floor Brokers on the Exchange's Floor since it adopted Rule 6.48, and its understanding of how customers today use, and intend to continue to use, the services of Floor Brokers on the Exchange. In addition, the Exchange believes designating certain orders as ''not held'' is in the interest of facilitating transactions in securities and reflective of today's marketplace, which generally helps to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on competition because the rule change adds clarity regarding the default orders handling obligations for orders sent to Floor Brokers, reflects the modern market structure, is consistent with the reasons customers utilize Floor Brokers, and will be applied equally to all OTP Holders and OTP Firms. To the extent that the proposed rule change will cause clients or brokers to choose the Exchange over other trading venues, market participants on other exchanges are welcome to become OTP Holders or OTP Firms and trade at the Exchange if they determine that this proposed rule change has made the Exchange more attractive or favorable. In addition, as noted above, the Exchange believes the proposed rule change is pro-competitive and would allow the Exchange to compete more effectively with other options exchanges that have already adopted similar rule changes.[10]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that such a waiver would allow implementation of this proposed rule change without delay and enable the Exchange to compete with other option exchanges that changed the default order handling obligation for orders sent to Floor Brokers to ''Not Held.'' The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change to be operative upon filing.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[16] of the Act to determine whether the proposed rule change should be approved or disapproved.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See supra* n. 4.

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2015–81 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2015–81. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2015–81 and should be submitted on or before October 28, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–25463 Filed 10–6–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76064; File No. SR–NYSEMKT–2015–66]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Several Rules To Address Certain Order Handling Obligations on the Part of Its Floor Brokers

October 1, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 16, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend several rules to address certain order handling obligations on the part of its Floor Brokers. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend several rules to address certain order handling obligations on the part of its Floor Brokers. Specifically, the Exchange is proposing to amend Rules 900.3NY, 933NY, and 936NY to clarify whether orders sent to Floor Brokers are considered ''Held'' or ''Not Held''. This proposal would enable the Exchange to compete with options exchanges that have already implemented the types of changes being proposed here.[4]

Current Rule 900.3NY(f) defines whether orders sent to Floor Brokers are presumed to be ''Held'' or ''Not Held.''[5] A ''Not Held'' order generally is one where the customer gives the Floor Broker discretion in executing the order, both with respect to the time of execution and the price (though the customer may specify a limit price), and the Floor Broker works the order over a period of time to avoid market impact while seeking best execution of the order. A ''Held'' order generally is one where the customer seeks a prompt execution at the best currently available price or prices.

The Exchange now proposes to establish in Rules 900.3NY(f), 933NY, and 936NY a different default status for orders sent to Floor Brokers because the Exchange believes that these provisions are intended to protect against a broker failing to properly represent and ultimately execute orders.[6] Specifically the Exchange is proposing to amend Rule 900.3NY(f) to provide that ''[a]n order entrusted to a Floor Broker will be

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities and Exchange Act Release Nos. 75299 (June 25, 2015), 80 FR 37700 (July 1, 2015) (Approval Order); 74990 (May 18, 2015), 80 FR 29767 (May 22, 2015) (SR–CBOE–2015–047) (Notice). The Exchange notes that, unlike CBOE, the Exchange does not route certain electronic order to Floor Brokers. Therefore, the Exchange is not proposing rule text mirroring CBOE's rule in this regard.

[5] Rule 900.3NY(f) (Orders Defined) defines a ''Not Held Order'' as an order that is marked as ''not held'', ''NH'', or ''take time,'' or ''which bears any qualifying notation giving discretion as to the price or time at which such order is to be executed.''

[6] The Exchange notes that at the time these rules were adopted, virtually all options orders (large or small and retail or professional) were handled by Floor Brokers. Given the discrete profile of orders handled by Floor Brokers today (generally large size orders and often multi-leg) it is reasonable for Floor Brokers to ''work'' orders that are entrusted to them because that is the reason a customer would utilize a Floor Broker in today's environment.

considered a Not Held Order, unless otherwise specified by a Floor Broker's client.'' The Exchange is also proposing to add new Commentary .06 to Rule 933NY (Responsibilities of Floor Brokers) and to add language to Rule 936NY (Discretionary Transaction) that mirrors the language it proposes to add to Rule 900.3NY(f). The Exchange believes that these proposed changes, taken together, would result in a change to the default order handling obligations for orders sent to Floor Brokers (*i.e.,* the Exchange would consider all orders sent to Floor Brokers to be ''Not Held'' by default).

The Exchange notes that Rules 933NYand 936NY were based upon rules that were adopted prior to electronic trading and, therefore, did not contemplate the interaction between an electronic environment and a trading floor and have not been amended to specifically address that interaction. While it is clear that Floor Brokers have more discretion with regards to the manner in which they represent and execute orders on a trading floor than does a computer routing an order to the Exchange for execution, the bounds of the discretion have not been entirely clear. Rules 933NYand 936NY, among others, set certain boundaries to a Floor Broker's discretion, but the Exchange believes the current marketplace, with electronic and floor trading, favors an amendment to those boundaries.

Electronic and floor trading gives clients the choice between an Amex Trading Permit Holder (''ATP'') that routes orders to the Exchange electronically or an ATP that executes orders via a Floor Broker. The Exchange believes that clients are keenly aware that the differences between electronic and floor trading include at least the following factors: A computer cannot deviate from its programed instructions, whereas a Floor Broker can take into account the nuance of the marketplace, such as the makeup of a particular trading floor, the individuals on that trading floor, and how the electronic books interact with that environment. The Exchange believes that clients use Floor Brokers precisely because Floor Brokers can take into account the nuance of the marketplace (*i.e.,* exercise a certain level of discretion) to potentially provide higher execution quality. The Exchange likewise believes that if a client did not want a Floor Broker to use their expertise in the execution of an order, the client would simply send orders to the Exchange electronically.

Given that Floor Brokers have more discretion with regards to the manner in which they represent and execute orders than do computers executing electronic orders, the Exchange is proposing to change certain boundaries related to that discretion. In particular, in recognition of the discretion implicit with the use of a Floor Broker, the Exchange seeks to provide notice to the marketplace that, unless otherwise specified by a Floor Broker's client, an order is deemed to be ''not held.'' The Exchange believes clients that choose to use Floor Brokers do so in order to utilize a Floor Broker's expertise in the execution of orders. This rule change would update Exchange rules by setting forth the presumptive discretion available to Floor Brokers in a manner consistent with modern market structure and the Floor Broker's role in the current trading environment. This filing also serves as notice to the investing community that orders sent to Floor Brokers will be deemed ''not held'' unless otherwise specified by the Floor Broker's client.

In addition, the Exchange will announce the implementation of this rule change by Trader Update.

2. Statutory Basis

The Exchange believes that the proposed change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that it has articulated a reasonable basis for changing the current default presumption of whether a customer intends to provide a Floor Broker with the ability to exercise time and price discretion on its behalf as long as the order is not otherwise marked in a manner to suggest that the customer did not intend for its order to be treated as Not Held. Other than changing the default presumption to ''Not Held'' for most orders sent to Floor Brokers, the Exchange is not proposing to change any other order handling obligations applicable to Floor Brokers. The Exchange believes that its proposal is consistent with the Act and is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because it responds to an understanding of the changing role of Floor Brokers on the Exchange's Floor since it adopted Rule 936NY, and its understanding of how customers today use, and intend to continue to use, the services of Floor Brokers on the Exchange. In addition, the Exchange believes designating certain orders as ''not held'' is in the interest of facilitating transactions in securities and reflective of today's marketplace, which generally helps to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on competition because the rule change adds clarity regarding the default orders handling obligations for orders sent to Floor Brokers, reflects the modern market structure, is consistent with the reasons customers utilize Floor Brokers, and will be applied equally to all ATPs. To the extent that the proposed rule change will cause clients or brokers to choose the Exchange over other trading venues, market participants on other exchanges are welcome to become ATPs and trade at the Exchange if they determine that this proposed rule change has made the Exchange more attractive or favorable. In addition, as noted above, the Exchange believes the proposed rule change is pro-competitive and would allow the Exchange to compete more effectively with other options exchanges that have already adopted similar rule changes.[10]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See supra* n. 4.

19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2015–66 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–66. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–66 and should be submitted on or before October 28, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–25464 Filed 10–6–15; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31856; File No. 812–14122]

Triton Pacific Investment Corporation, Inc., *et al.;* Notice of Application

September 30, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: Triton Pacific Investment Corporation, Inc. (the ''Company''), Triton Pacific Income & Growth Fund IV, LP (''Fund IV''), Triton Pacific Platinum Fund IV, LP (''Platinum IV'' and, together with Fund IV, the ''Existing Affiliated Private Funds''), TPCP Fund Manager IV, LLC (the ''Fund Manager''), Triton Pacific Adviser, LLC (the ''BDC Adviser''), Triton Pacific Capital Partners, LLC (''TPCP''), and Triton Pacific Group, Inc. (''TPG'').

FILING DATES: The application was filed on February 8, 2013, and amended on May 17, 2013, July 15, 2013, December 18, 2013, June 12, 2014, November 25, 2014, May 28, 2015, and September 29, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 26, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: 10877 Wilshire Blvd., 12th Floor, Los Angeles, CA 90024.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Company, a Maryland corporation, is organized as a closed-end management investment company that has elected to be regulated as a BDC under section 54(a) of the Act.[1] The Company's Objectives and Strategies[2] are to maximize total return by generating current income from debt investments and long term capital appreciation from equity investments. The Company invests primarily in debt and equity investments in small and mid-sized private U.S. companies. The board of directors of the Company (for any Regulated Fund, the ''Board'') is comprised of five members, three of whom are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Independent Directors''). Craig Faggen (the ''Principal'') serves as a director on the Company's Board and as the Company's chief executive officer. The Principal controls TPG, TPCP, and the BDC Adviser.

2. The Existing Affiliated Private Funds are parallel funds. Fund IV is a Delaware limited partnership and Platinum IV is a Delaware limited liability company. Each Existing Affiliated Private Fund would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. The investment strategy of each Existing Affiliated Private Fund is to generate current income and capital appreciation by investing in small and mid-sized private U.S. companies. The Existing Affiliated Private Funds and the Company have similar investment strategies.

3. The BDC Adviser, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). The BDC Adviser serves as investment adviser to the Company and the Existing Affiliated Private Funds.

4. The Fund Manager, a Delaware limited liability company, is the general partner of the Existing Affiliated Private Funds. TPCP, a California limited liability company, is the managing member of the Fund Manager. TPG, a California corporation, is the managing member of TPCP.

5. Applicants seek an order (''Order'') to permit one or more Regulated Funds[3] and/or one or more Affiliated Private Funds[4] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under section 57(a)(4) and rule 17d-1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which an Adviser negotiates terms in addition to price (''Co-Investment Program'');[5] and (b) making additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase additional securities of the issuers (''Follow-On Investments''). ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub, as defined below) participated together with one or more other Regulated Funds and/or one or more Affiliated Private Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub) could not participate together with one or more other Regulated Funds and/or one or more Affiliated Private Funds without obtaining and relying on the Order.[6]

6. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subs.[7] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any other Regulated Fund or Affiliated Private Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) and rule 17d-1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the Order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board of the Regulated Fund will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

7. When considering Potential Co-Investment Transactions for any Regulated Fund, the Adviser will consider only the Objectives and Strategies, investment policies, investment positions, capital available for investment (''Available Capital''), and other pertinent factors applicable to that Regulated Fund.[8] The Adviser

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] ''Objectives and Strategies'' means a Regulated Fund's (as defined below) investment objectives and strategies, as described in the Regulated Fund's registration statement on Form N–2, other filings the Regulated Fund makes with the Commission under the Securities Act of 1933 (the ''Securities Act''), or under the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

[3] ''Regulated Funds'' means the Company and any Future Regulated Fund. ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as BDC, (b) whose investment adviser is an Adviser, and (c) that intends to participate in the Co-Investment Program. The term ''Adviser'' means the BDC Adviser and any future investment adviser that controls, is controlled by, or is under common control with the BDC Adviser and is registered as an investment adviser under the Advisers Act. All references to the term ''Adviser'' include successors-in-interest to the Adviser. A successor-in-interest is limited to an entity that results from a reorganization into another jurisdiction or change in the type of business organization.

[4] ''Affiliated Private Fund'' means the Existing Affiliated Private Funds and any Future Affiliated Private Fund. ''Future Affiliated Private Fund'' means any entity (a) whose investment adviser is an Adviser, (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (c) that intends to participate in the Co-Investment Program.

[5] The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act.

[6] All existing entities that currently intend to rely on the Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[7] The term ''Wholly-Owned Investment Sub'' means an entity: (i) That is wholly-owned by a Regulated Fund (with the Regulated Fund at all times beneficially holding, directly or indirectly, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund; (iii) with respect to which the Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

[8] ''Available Capital'' consists solely of liquid assets not held for permanent investment, including

Continued

expects that any portfolio company that is an appropriate investment for a Regulated Fund should also be an appropriate investment for one or more other Regulated Funds and/or one or more Affiliated Private Funds, with certain exceptions based on Available Capital or diversification.[9]

8. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (''Eligible Directors''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority'')[10] will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

9. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and Affiliated Private Fund in such disposition or Follow-On Investment is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

10. No Independent Director of a Regulated Fund will have a direct or indirect financial interest in any Co-Investment Transaction, other than through share ownership in one of the Regulated Funds, including any interest in securities of a company whose securities are acquired in the Co-Investment Transaction.

11. Under condition 14, if an Adviser, the Principal, any person controlling, controlled by, or under common control with the Adviser or the Principal, and the Affiliated Private Funds (collectively, the ''Holders'') own in the aggregate more than 25% of the outstanding voting securities of the Company or another a Regulated Fund (''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Independent Directors will act independently in evaluating the Co-Investment Program, because the ability of an Adviser or the Principal to influence the Independent Directors by a suggestion, explicit or implied, that the Independent Directors can be removed will be limited significantly. Applicants represent that the Independent Directors will evaluate and approve any such voting trust or proxy adviser, taking into accounts its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Regulated Funds and Affiliated Private Funds could be deemed to be a person related to each Regulated Fund in a manner described by section 57(b) by virtue of being under common control. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d-1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d-1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d-1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d-1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that any Order granting the requested relief shall be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for the Affiliated Private Funds or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Adviser will make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, the Adviser will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by

cash, amounts that can currently be drawn from lines of credit, and marketable securities held for short-term purposes. In addition, for the Affiliated Private Funds, Available Capital would include bona fide uncalled capital commitments that can be called by the settlement date of the Co-Investment Transaction.

[9] The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[10] In the case of a Regulated Fund that is a registered closed-end fund, the directors that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to section 57(o).

the other participating Regulated Funds and Affiliated Private Funds, collectively in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participating party's Available Capital, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's Available Capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and the Affiliated Private Funds) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more Regulated Funds and/or one or more Affiliated Private Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) the terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) the interests of the shareholders of the Regulated Fund; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by other Regulated Funds or the Affiliated Private Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or the Affiliated Private Funds; *provided that,* if any other Regulated Fund or the Affiliated Private Funds, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event will not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) the Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the Adviser agrees to, and does, provide, periodic reports to the Regulated Fund's Board with respect to the actions of the director or the information received by the board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that the Affiliated Private Funds or any Regulated Fund or any affiliated person of the Affiliated Private Funds or any Regulated Fund receives in connection with the right of the Affiliated Private Funds or the Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Private Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Private Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to each Regulated Fund's Board, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or the Affiliated Private Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Regulated Fund's Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[11] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund or Affiliated Private Fund or any affiliated person of another Regulated Fund or Affiliated Private Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Private Fund. The grant to any Affiliated Private Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Private Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Private Funds and Regulated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Private Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Regulated Fund's Board has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis

[11] This exception only applies to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

(as described in greater detail in the application); and (iii) the Regulated Fund's Board is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Private Fund and each Regulated Fund will bear their own expenses in connection with any such disposition.

8. (a) If any Affiliated Private Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Private Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Regulated Fund's Board has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) the amount of the opportunity is not based on the Regulated Funds' and the Affiliated Private Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the applicable Adviser to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Private Funds in the same transaction, exceeds the amount of the opportunity, then the amount invested by each such party will be allocated among them pro rata based on each party's Available Capital, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Independent Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or the Affiliated Private Funds that the Regulated Fund considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f).

11. No Independent Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act), of any of the Affiliated Private Funds.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their investment advisory agreements with the Regulated Funds and the Affiliated Private Funds, be shared by the Regulated Funds and the Affiliated Private Funds in proportion to the relative amounts of the securities held or be acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable) received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and the Affiliated Private Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and the Affiliated Private Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Private Funds, the Advisers, the other Regulated Funds, or any affiliated person of the Regulated Funds or the Affiliated Private Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Private Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C) and (b) in the case of an Adviser, investment advisory fees paid in accordance with the respective agreements between the Adviser and the Regulated Funds or the Affiliated Private Funds).

14. If the Holders own in the aggregate more than 25% of the outstanding Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party (such as the trustee of a voting trust or a proxy adviser) when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any matters requiring approval by the vote of a majority of the outstanding voting securities, as defined in section 2(a)(42) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–25465 Filed 10–6–15; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14484 and #14485]

Florida Disaster #FL–00107

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of FLORIDA dated 09/29/2015.

Incident: Severe storms and flooding.

Incident Period: 07/25/2015 through 08/09/2015.

Effective Date: 09/29/2015.

Physical Loan Application Deadline Date: 11/30/2015.

Economic Injury (EIDL) Loan Application Deadline Date: 06/29/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Hillsborough, Pasco, Pinellas.

Contiguous Counties: Florida, Hardee, Hernando, Manatee, Polk, Sumter.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.750
Homeowners without Credit Available Elsewhere	1.875
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.625
Non-Profit Organizations without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14484 6 and for economic injury is 14485 0.

The State which received an EIDL Declaration # is Florida

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: September 29, 2015.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2015–25454 Filed 10–6–15; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Results of the GSP Limited Product Review, Including Actions Related to Competitive Need Limitations (CNLs)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice announces the results of the GSP Limited Product Review launched in July 2015, including: (1) The designation of certain cotton products as eligible for GSP benefits when imported from least-developed beneficiary developing countries (LDBDCs), and (2) the results of the review of CNL-related issues arising from 2014 import data, including CNL waivers, CNL waiver revocations, requests for redesignation of certain products, and *de minimis* CNL waivers.

FOR FURTHER INFORMATION CONTACT: Aimee Larsen, Director for GSP, Office of the United States Trade Representative. The telephone number is (202) 395–2974, the fax number is (202) 395–9674, and the email address is *ALarsen@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: The GSP program provides for the duty-free treatment of designated articles when imported from beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*), as amended, and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

The GSP program expired on July 31, 2013. GSP was reauthorized on June 29, 2015, by the Trade Preferences Extension Act of 2015. The GSP program is now effective through December 31, 2017, with retroactive effect through July 31, 2013. Pursuant to the Trade Preferences Extension Act of 2015, exclusions from GSP duty-free treatment where CNLs have been exceeded for calendar year 2014 will be effective October 1, 2015, unless granted a waiver by the President.

Results of the GSP Limited Product Review

Pursuant to Section 203 of the Trade Preferences Extension Act of 2015, the Trade Policy Staff Committee (TPSC) conducted a limited GSP review encompassing products that, based on full-year 2014 import data, are subject to CNL-related actions, including exclusions, waivers, and revocation of waivers, as well as redesignations. As part of this review, the TPSC considered: (1) Petitions to waive CNLs for two products from Thailand; (2) revocation of CNL waivers for three products from beneficiary countries where 2014 imports exceeded certain statutory limits; (3) requests for redesignation of products previously excluded from GSP eligibility for certain beneficiary countries; and (4) products eligible for *de minimis* waivers of CNLs. As part of this review, the TPSC also considered the possible designation of certain cotton products for eligibility for GSP benefits when imported from LDBDCs under the GSP program.

In a Presidential Proclamation dated September 30, 2015, the President implemented his decisions regarding GSP product eligibility issues arising out of this GSP product review, including CNL waivers and CNL revocations. This notice provides further information on the results of the GSP Limited Product Review. These results, comprising five lists, are available for the public to view at *http://www.regulations.gov* in docket USTR–2015–0007, under ''Supporting and Related Materials'' and at *https://ustr.gov/issue-areas/preference-programs/generalized-system-preferences-gsp/current-reviews/gsp-20142015*.

Specific Results

The President designated five upland cotton fiber products as eligible for duty-free treatment under GSP when imported from LDBDCs. See List I (Products Added to the List of Eligible Products for GSP for Least Developed Beneficiary Developing Countries). This designation is pursuant to the authority granted to the President in Section 202 of the Trade Preferences Extension Act of 2015 and consistent with USTR's December 2011 announcement of trade initiatives intended to enable least-developed countries to benefit more fully from global trade.

The President granted petitions for waivers of CNLs for two products from Thailand: (1) Coconuts otherwise prepared or preserved (HTS 2008.19.15) and (2) copper alloys (other than brass, cupro-nickel or nickel-silver), wire,

coated or plated with metal (HTS 7408.29.10). See List II (Decision on Petitions to Grant Waiver of the Competitive Need Limitation). Additionally, the President revoked existing CNL waivers for three products: (1) Certain plywood sheets (HTS 4412.31.40) from Indonesia; (2) certain copper, stranded wire (HTS 7413.00.10) from Turkey; and (3) certain copper cables and plaited bands (HTS 7413.00.50) from Turkey. See List III (Revocations of Competitive Need Limitation Waivers).

The President also redesignated certain articles from GSP-eligible countries that had previously exceeded the CNLs, but had fallen below the CNL for total annual trade in 2014. The President redesignated as GSP-eligible: (1) Oilcake and other solid residues, resulting from the extraction of vegetable fats or oils, of sunflower seeds (HTS 2306.30.00) from Ukraine; (2) rare gases, other than argon (HTS 2804.29.00) from Ukraine; (3) insulated ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships (HTS 8544.30.00) from Indonesia; and (4) parts of railway/tramway locomotives/rolling stock, axles (HTS 8607.19.03) from Ukraine. See List IV (Products Receiving GSP Redesignation).

The President granted *de minimis* waivers to 98 articles that exceeded the 50-percent import-share CNL, but for which the aggregate value of all U.S. imports of that article was below the 2014 *de minimis* level of $22 million. See List V (Products Receiving De Minimis Waivers). The articles for which *de minimis* waivers were granted will continue to be eligible for duty-free treatment under GSP when imported from the associated countries.

William D. Jackson,

Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences and Chair of the GSP Subcommittee of the Trade Policy Staff Committee Office of the U.S. Trade Representative.

[FR Doc. 2015–25548 Filed 10–6–15; 8:45 am]

BILLING CODE 3290–F6–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2015–0020]

Revision of Thirteen Controlling Criteria for Design; Notice and Request for Comment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for comment.

SUMMARY: The geometric design standards for projects on the National Highway System (NHS) are incorporated by reference in FHWA regulations. These design standards are comprehensive in nature, covering a multitude of design characteristics, while allowing flexibility in application. Exceptions may be approved on a project basis for designs that do not conform to the minimum or limiting criteria set forth in the standards, policies, and standard specifications.

The FHWA is updating its policy regarding controlling criteria for design. The current policy identifies 13 controlling criteria for design and requires formal design exceptions when any of the 13 controlling criteria are not met. The FHWA intends to further streamline the controlling criteria, and the application of these criteria, based on the results of recent research that evaluated the safety and operational effects of the 13 controlling criteria. The FHWA also intends to clarify when design exceptions are required and the documentation that is expected to support such requests. This notice solicits comments on the proposed revisions to the 13 controlling criteria for the design of projects on the NHS that require a design exception when adopted design criteria are not met, in accordance with FHWA regulations.

DATES: Comments must be received on or before December 7, 2015. Late comments will be considered to the extent practicable.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, or fax comments to (202) 493–2251. Alternatively, comments may be submitted to the Federal eRulemaking portal at *http://www.regulations.gov*. All comments must include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). Anyone may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78).

FOR FURTHER INFORMATION CONTACT: For questions about the program discussed herein, contact Elizabeth Hilton, Geometric Design Engineer, FHWA Office of Program Administration, (512) 536–5970 or via email at *elizabeth.hilton@dot.gov*. For legal questions, please contact Robert Black, Office of the Chief Counsel, (202) 366–1359, or via email at *Robert.Black@dot.gov*. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Federal eRulemaking portal at: *http://www.regulations.gov*. The Web site is available 24 hours each day, 365 days each year. Please follow the instructions. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara*.

Purpose of This Notice

The FHWA is requesting comment on proposed revisions to the 13 controlling criteria for the design of projects on the NHS that require a design exception when not met, in accordance with 23 CFR 625.3(f). Design exceptions are an administrative tool used to document an engineer's evaluation of possible solutions to a specific design issue, including the operational and safety performance of each option, impacts to the human and natural environment, and other factors, and demonstrating the reasons a particular solution that does not meet applicable design standards was selected. Many States have their own process for reviewing design deviations when State or Federal design criteria are not met. When used in this Notice, the term 'design exception' refers to documentation prepared for projects on the NHS when a controlling criterion is not met, and that must be approved by the FHWA or on behalf of FHWA if a State Transportation Agency (STA) has assumed this responsibility through a Stewardship and Oversight agreement. Stewardship and Oversight agreements set forth the agreement between FHWA and each STA on the roles and responsibilities of FHWA and the STA with respect to Title 23 project

approvals and related responsibilities and oversight activities. The FHWA also intends to clarify when design exceptions are required and the documentation that is expected to support such requests.

Comments received through this Notice will be considered by FHWA when revising the controlling criteria for the design of projects on the NHS, as well as design exception documentation and application.

Background

As codified in 23 CFR 625.3 and 625.4, the geometric design standards for projects on the NHS are A Policy on Geometric Design of Highways and Streets (2001) and A Policy on Design Standards Interstate System (2005), published by the American Association of State Highway and Transportation Officials (AASHTO). Rulemaking is underway to adopt the current (2011) edition of A Policy on Geometric Design of Highways and Streets. These design standards are comprehensive in nature, covering a multitude of design characteristics, while allowing flexibility in application. As codified in 23 CFR 625.3(f), and in accordance with the delegated authority provided by FHWA Order M1100.1A, exceptions may be approved on a project basis for designs that do not conform to the minimum or limiting criteria set forth in the standards, policies, and standard specifications adopted in 23 CFR part 625.

The FHWA issued a policy memorandum on April 15, 1985, available on the docket for this notice, and on FHWA's Web site at *http://www.fhwa.dot.gov/design/standards/850415.cfm*, which identified 13 criteria contained in A Policy on Geometric Design of Highways and Streets and designated them as controlling criteria. The policy required formal design exceptions when any of the 13 controlling criteria were not met.

The FHWA proposes to streamline the 13 controlling criteria to refine the focus on criteria with the greatest impact on road safety and operation. This streamlined application of the controlling criteria is consistent with the industry's move toward a modified design approach, often referred to as performance based practical design (PBPD), and will reduce the instances when a design exception must be prepared when applicable design standards are not met for projects on the NHS. The controlling design criteria set forth in 1985 are: Design speed, lane width, shoulder width, bridge width, horizontal alignment, superelevation, vertical alignment, grade, stopping sight distance, cross slope, vertical clearance, horizontal clearance, and structural capacity. The term 'horizontal clearance' was initially interpreted as the 'clear zone' described in the AASHTO Roadside Design Guide (*http://www.fhwa.dot.gov/design/standards/850415.cfm*), but in the early 1990s was clarified to mean 'lateral offset to obstruction' as described in the AASHTO geometric design policies (*http://www.fhwa.dot.gov/design/standards/930525.cfm*). Recent research, culminating in publications of the most recent Highway Capacity Manual (2010, Transportation Research Board) and the Highway Safety Manual (2010, AASHTO), developed much greater knowledge of the traffic operational and safety effects of the controlling criteria than was available when they were established. The NCHRP Report 783 ''Evaluation of the 13 Controlling Criteria for Geometric Design'' (2014) specifically examined the safety and operational effects of the existing controlling criteria.

The PBPD is an approach to decisionmaking that encourages engineered solutions rather than relying on minimum, maximum, or limiting values found in design criteria. The PBPD is grounded in an analytic framework that enables transportation agencies to utilize existing design flexibility and analytical tools in a way that maximizes benefits while minimizing costs. The PBPD does not disregard engineering guidance or standards. Rather, flexibility in design typically requires more information and a higher level of analysis when defining and deciding on the most appropriate design value for a particular location. Consistent with FHWA's efforts regarding PBPD and to ensure that design exceptions are only required for criteria with significant safety or operational effects, FHWA intends to streamline the controlling criteria based on the findings of recent research. Since 1985, the controlling criteria have been applied to all projects, regardless of roadway type or context. The NCHRP Report 783 found that the 13 controlling criteria had minimal influence on the safety or operations on urban streets. On rural roadways, freeways, and high-speed urban/suburban roadways, a stronger connection to safety and operations was found for some of the criteria than for others.

Proposed Revisions to Controlling Criteria

Based on the findings of NCHRP Report 783 and FHWA's own assessment and experience, FHWA proposes to eliminate the following controlling criteria:

- Bridge Width.
- Vertical Alignment.
- Lateral Offset to Obstruction.

To improve clarity, FHWA proposes to rename the following existing controlling criteria:

- Horizontal Alignment to be renamed Horizontal Curve Radius.
- Grade to be renamed Maximum Grade.
- Structural Capacity to be renamed Design Loading Structural Capacity.

The resulting controlling criteria for design are proposed as follows:

- Design Speed.
- Lane Width.
- Shoulder Width.
- Horizontal Curve Radius.
- Superelevation.
- Stopping Sight Distance.
- Maximum Grade.
- Cross Slope.
- Vertical Clearance.
- Design Loading Structural Capacity.

The FHWA also proposes a revision to the application of the controlling criteria. Most controlling criteria would apply only to high-speed [design speed ≥50 mph (80 km/h)] roadways. Only design loading structural capacity and design speed would continue to be applied to all NHS facility types. Research indicates that the current controlling criteria are less influential on the traffic operational and safety performance of low-speed urban and suburban arterials than other features such as intersection design and access management strategies. Therefore, consistent with FHWA's risk-based approach to stewardship and oversight, FHWA intends to focus application of the controlling criteria on high-speed NHS roadways [design speed ≥ 50 mph (80 km/h)]. On low-speed NHS roadways [design speed <50 mph (80 km/h)], design exceptions are proposed to only be required by FHWA for deviations from the design speed or design loading structural capacity criteria. Exceptions to the controlling criteria must be carefully evaluated and approved by FHWA or on behalf of FHWA if an STA has assumed the responsibility through a Stewardship and Oversight agreement.

While all of the criteria contained in the adopted standards are important design considerations, they do not all affect the safety and operations of a roadway to the same degree, and therefore should not require the same level of administrative control. Based on the findings of recent research and FHWA's assessment and experience, a brief discussion on each of the proposed changes to the controlling criteria is provided below.

Controlling Criteria FHWA Proposes To Eliminate

1. Bridge width is proposed to be removed from the list of controlling criteria because research found little relationship between bridge width and crash frequency on rural, two-lane highways and surmised the same would be true for other roadway types. Lane and shoulder width criteria apply to roadways and bridges, so any deficiency in bridge width will require design exception documentation if the lane or shoulder width criteria is not met under this proposal. Design criteria allow lesser shoulder width, and therefore lesser bridge widths, on long bridges [overall length over 200 feet (60 m)]. If the minimum lane or shoulder widths are not provided on a long bridge, the deviation would be documented as a lane or shoulder width design exception under the proposed revisions to controlling criteria.

2. Vertical alignment is proposed to be removed from the list of controlling criteria. Three of the existing criteria relate to vertical alignment. Crest vertical curve design is covered under the stopping sight distance criterion. Grade is explicitly covered as a separate criterion, leaving only sag vertical curve length to be covered under the vertical alignment criterion. While research has confirmed the interrelationship between vehicle headlight illuminations, sag vertical curves, and sight distance to features in the roadway, no relationship has extended to the effect of these combined elements on crashes. Furthermore, except when a horizontal curve or overhead structure is also present, sag vertical curve length is not critical under daytime conditions when the driver can see beyond the sag vertical curve, or at night, when vehicle taillights and headlights make another vehicle on the road ahead visible in or beyond a sag vertical curve.

3. Lateral offset to obstruction is proposed to be removed from the list of controlling criteria because on rural roadways, the controlling criterion for shoulder width ensures that there will be at least 18 inches of lateral offset to roadside objects. Lateral offset is most relevant to urban and suburban roadways to ensure that mirrors or other appurtenances of heavy vehicles do not strike roadway objects and so that passengers in parked cars are able to open their doors. While these are important considerations, they do not rise to the same level of effect as other controlling criteria proposed to be retained.

Controlling Criteria FHWA Proposes To Retain for Roadways on the NHS With a Design Speed Equal to or Greater Than 50 mph (80 km/h), Unless Otherwise Noted

1. Design speed is proposed to be retained as a controlling criterion for all facilities on the NHS. Design speed is different from the other controlling criteria in that it establishes the range of design values for many of the other geometric elements of the highway. Because of its effect on a highway's design, the design speed is a fundamental and very important choice that a designer makes. In recognition of the wide range of site-specific conditions, constraints, and contexts that designers face, the design standards allow a great deal of design flexibility by providing ranges of values for design speed. For most cases, the ranges provide adequate flexibility for designers to choose an appropriate design speed without the need for a design exception. If a limited portion of an alignment must be designed to a lower speed, it is generally more appropriate to evaluate specific geometric element(s) and treat those as design exceptions, instead of evaluating an exception for the design speed of the roadway.

2. Lane width is an important design criterion with respect to crash frequency and traffic operations on high-speed and rural highways. The design standards provide the flexibility to choose lane widths as narrow as 10 feet on some facilities.

3. Shoulder width has substantial effect on crash frequency and on traffic speeds on rural highways.

4. Horizontal curve radius, previously called horizontal alignment, has a documented relationship to crash frequency on rural highways of all types. Curve radius also influences traffic operations on urban/suburban arterials. Superelevation is the other main aspect of horizontal alignment and is being retained as independent controlling criterion.

5. Superelevation has a documented relationship to crash frequency on rural, two-lane highways and research suggests this would also be true on rural multilane highways and freeways. Superelevation is generally not provided on low-speed urban/suburban streets.

6. Stopping Sight Distance (SSD) is proposed to be retained as a controlling criterion because sufficiently long SSD is needed to enable a vehicle traveling at or near the design speed to stop before reaching a stationary object in its path. Research found that SSD less than specified by the design standards for crest vertical curve design, combined with a hidden feature such as a curve, intersection, or driveway, resulted in increased crashes on high speed roadways. Retention of SSD as a controlling criterion will ensure that deviations from this criterion are examined on a case-by-case basis, to determine whether site characteristics and crash history are indicative of potential areas needing attention. From an operational perspective, SSD generally does not affect operations on freeways under free-flow conditions. However, when freeways operate at near-capacity, limited SSD may further reduce capacity below the levels expected based on current predictive models. These impacts are typically examined during project development.

7. Maximum grade is proposed as a controlling criterion but minimum grade is not. The existing controlling criteria of 'grade' includes both maximum and minimum grade. Maximum grade is proposed to be retained due to its relationship to crash frequency on rural, two-lane highways and the effect of steep grades on traffic operations on high-speed roadways. Minimum grade is proposed to be excluded because while it does influence roadway drainage, minimum grade alone does not ensure sufficient drainage and does not rise to the level of the controlling criteria.

8. Cross slope is proposed to be retained as a controlling criterion to address drainage issues. While research has not been conducted to determine whether there is a relationship between the normal cross slope of roadway pavements and crash frequency, our experience is that inadequate drainage could contribute to vehicle loss of control under some circumstances. Due to the relationship between cross slope and drainage, especially when combined with minimum grades, cross slope is proposed to be retained as a controlling criterion.

9. Vertical clearance is proposed to be retained as a controlling criterion. While vertical clearance does not affect operations on the roadway other than for those vehicles that are taller than the available vertical clearance allows, vertical clearance crashes can have severe impacts on operations by damaging overpasses and other structures, resulting in extended road closures. In addition, inadequate vertical clearance on Interstate freeways impacts military defense routes and requires additional coordination with the Surface Deployment and Distribution Command Transportation Engineering Agency.

10. Design Loading Structural Capacity is related to the strength and service limit state designs, not to traffic operations or the likelihood of traffic crashes. Previously called 'structural capacity,' FHWA proposes to clarify that the applicable criterion covered herein relates to the design of the structure, not the load rating. Design loading structural capacity is important in maintaining a consistent minimum standard for safe load-carrying capacity and deviations from this criterion should be extremely rare. Design loading structural capacity is proposed to be retained as a controlling criterion regardless of the design speed for the project. Exceptions to design loading structural capacity on the NHS could impact the mobility of freight, emergency and military vehicles, and the traveling public and requires additional coordination with the FHWA Office of Infrastructure.

Design Documentation

As codified in 23 CFR 625.3(f), and in accordance with the delegated authority provided by FHWA Order M1100.1A, exceptions may be approved on a project basis for designs that do not conform to the minimum or limiting criteria set forth in the standards, policies, and standard specifications adopted in 23 CFR part 625. Under this proposal, formal design exceptions, subject to approval by FHWA, or on behalf of FHWA if an STA has assumed the responsibility through a Stewardship and Oversight agreement, would be required for projects on the NHS only when the controlling criteria are not met. The FHWA expects documentation of design exceptions to include all of the following:

- Specific design criteria that will not be met.
- Existing roadway characteristics.
- Alternatives considered.
- Analysis of standard criteria versus proposed design criteria.
  - Supporting quantitative analysis of expected operational and safety performance.
  - Right-of-way impacts.
  - Impacts to human and natural environment.
  - Impacts to the community.
  - Impacts on the needs of all users of the facility.
  - Project cost.
- Proposed mitigation measures.
- Compatibility with adjacent sections of roadway.
- Possibility of a future project bringing this section into compliance with applicable standards.

Design Speed and Design Loading Structural Capacity are fundamental criteria in the design of a project. Exceptions to these criteria should be extremely rare and FHWA expects the documentation to provide the following additional information.

- Design Speed exceptions must address:
  - Length of section with reduced design speed compared to overall length of project.
  - Measures used in transitions to adjacent sections with higher or lower design or operating speeds.
- Design Loading Structural Capacity exceptions must address:
  - Verification of safe load-carrying capacity (load rating) for all State unrestricted legal loads or routine permit loads, and in the case of bridges on the Interstate, all Federal legal loads.

The FHWA encourages agencies to document all design decisions to demonstrate compliance with accepted engineering principles and the reasons for the decision. Deviations from criteria contained in the standards for projects on the NHS, but which are not considered to be controlling criteria, should be documented by the STA in accordance with State laws, regulations, directives, and safety standards. Deviations from criteria contained in standards adopted by a State for projects not on the NHS should be documented in accordance with State laws, regulations, directives, and safety standards. States can determine their own level of documentation depending on their State laws and risk management practices.

The proposed revisions to the controlling criteria and design documentation requirements will be published in final form after considering comments received regarding the proposed changes.

The FHWA requests comments on the revised guidance memorandum, which is available in the docket (FHWA–2015–0020). The FHWA will respond to comments received on the guidance in a second **Federal Register** notice, to be published after the close of the comment period. That second notice will include the final guidance memorandum that reflects any changes implemented as a result of comments received.

Authority: 23 U.S.C. 109 and 315; 23 CFR 1.32 and 625; 49 CFR 1.85.

Issued on: September 30, 2015.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

[FR Doc. 2015–25526 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0105]

Qualification of Drivers; Application for Exemptions; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 10 individuals for exemptions from the Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits hearing impaired individuals from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these drivers to operate property-carrying CMVs will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year period and may be renewed, and the exemptions preempt State laws and regulations.

DATES: The exemptions are effective October 7, 2015. The exemptions expire on October 10, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., 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: *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., e.t., 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, 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. The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA grants 10 individuals an exemption from § 391.41(b)(11) concerning hearing to enable them to operate property-carrying CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on the current medical literature and information and the ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety'' (the 2008 Evidence Report) presented to FMCSA on August 26, 2008. The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the CDLIS,[1] for CDL holders, and inspections recorded in MCMIS.[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. Each applicant's record demonstrated a safe driving history. The Agency believes the drivers covered by the exemptions do not pose a risk to public safety.

C. Comments

On November 24, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on 10 individuals (FR 79 69989; Docket number FMCSA–2014–27741). The comment period ended on December 24, 2014. In response to this notice, four comments were received from The Commonwealth of Virginia; The Indiana Bureau of Motor Vehicles; Schneider National, Inc.; The American Trucking Associations, Inc.; Schneider National, Inc.; Hub Group Trucking, Inc., and Werner Enterprises, Inc. Some of these comments were addressed in a previous notice. These stakeholders expressed safety concerns for the far reaching ramifications to the commercial driving industry of allowing deaf drivers to test, train and/or drive commercially. Additionally they expressed concern for the process by which exemptions are granted from parts of 49 CFR 391.41, the increased volume of exemptions, and the need to rely on scientific support as a basis for granting the exemptions. FMCSA acknowledges the stakeholder's concerns and may consider the initial steps to revising the physical qualification standards through a formal rulemaking process.

D. Exemptions Granted

Following individualized assessments of the exemption applications, FMCSA grants exemptions from 49 CFR 391.41(b)(11) to 10 individuals. Under current FMCSA regulations, all of the 10 drivers receiving exemptions from 49 CFR 391.41(b)(11) would have been considered physically qualified to drive a CMV in interstate commerce except that they do not meet the hearing requirement. FMCSA has determined that the following 10 applicants should be granted an exemption:

Clayton L. Ashby

Mr. Ashby, 28, holds an operator's license in Virginia.

Joseph G. Cerna-Nieves

Mr. Cerna-Nieves, 24, holds an operator's license in Florida.

Steven C. Levine

Mr. Levine, 40, holds an operator's license in New York.

Donna Neri

Ms. Neri, 51, holds an operator's license in Arizona.

Brenda J. Palmigiano

Ms. Palmigiano, 56, holds a Class A commercial driver's license (CDL) in New York.

Lon Edward Smith

Mr. Smith, 80, holds an operator's license in Mississippi.

Mark Taylor

Mr. Taylor, 46, holds an operator's license in Arizona.

James Clark Tillis

Mr. Tillis, 53, holds an operator's license in Alabama.

Bruce N. Walker

Mr. Walker, 66, holds an operator's license in New York.

Tommy Mark Weldon

Mr. Weldon, 52, holds an operator's license in Georgia.

Basis For Exemption

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. 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 him or her to driving in intrastate commerce. The driver must comply with the terms and conditions of the exemption. This includes reporting any crashes or accidents as defined in 49 CFR 390.5 and reporting all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR part 391.

Conclusion

The Agency is granting exemptions from the hearing standard, 49 CFR 391.41(b)(11), to 10 individuals based on an evaluation of each driver's safety experience. Safety analysis of information relating to these 10

[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 51 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.

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. In accordance with 49 U.S.C. 31315, each exemption will be valid for 2 years from the effective date 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 10 drivers for a period of 2 years from the physical qualification standard concerning hearing: Clayton L. Ashby (VA); Joseph G. Cerna-Nieves (FL); Steven C. Levine (NY); Donna Neri (AZ); Brenda J. Palmigiano (NY); Lon Edward Smith (MS); Mark Taylor (AZ); James Clark Tillis (AL); Bruce N. Walker (NY); and Tommy Mark Weldon (GA).

Dated: September 29, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–25499 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0384]

Qualification of Drivers; Application for Exemptions; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 12 individuals for exemptions from the Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits hearing impaired individuals from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these drivers to operate property-carrying CMVs will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year period and may be renewed, and the exemptions preempt State laws and regulations.

DATES: The exemptions are effective October 7, 2015. The exemptions expire on October 10, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., 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: *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., e.t., 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, 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. The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA grants 12 individuals an exemption from § 391.41(b)(11) concerning hearing to enable them to operate property-carrying CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on the current medical literature and information and the ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety'' (the 2008 Evidence Report) presented to FMCSA on August 26, 2008. The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the CDLIS,[1] for CDL holders, and inspections recorded in MCMIS.[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. Each applicant's record demonstrated a safe driving history. The Agency believes the drivers covered by the exemptions do not pose a risk to public safety.

C. Comments

On May 8, 2015, FMCSA published a notice of receipt of exemption applications and requested public comment on 12 individuals (FR 80 26610; Docket number FMCSA–2015–11121. The comment period ended on June 8, 2015. In response to this notice, one comment was received expressing safety concerns for the far reaching ramifications to the commercial driving industry of allowing deaf drivers to test, train and/or drive commercially. Some of these concerns were addressed in a previous notice. Additionally they expressed concern for the process by which exemptions are granted from parts of 49 CFR 391.41, the increased

[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 51 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.

volume of exemptions, and the need to rely on scientific support as a basis for granting the exemptions. FMCSA acknowledges the stakeholder's concerns and may consider the initial steps to revising the physical qualification standards through a formal rulemaking process.

D. Exemptions Granted

Following individualized assessments of the exemption applications, FMCSA grants exemptions from 49 CFR 391.41(b)(11) to 12 individuals. Under current FMCSA regulations, all of the 12 drivers receiving exemptions from 49 CFR 391.41(b)(11) would have been considered physically qualified to drive a CMV in interstate commerce except that they do not meet the hearing requirement. FMCSA has determined that the following 12 applicants should be granted an exemption:

Thomas M. Carr

Mr. Carr, 50, holds a Class B commercial driver's license (CDL) in Pennsylvania.

Randy Ray Griffin

Mr. Griffin, 50, holds an operator's license in California.

William Hall

Mr. Hall, 35, holds an operator's license in Alabama.

Robert Chance Hayden

Mr. Hayden, 29, holds an operator's license in Florida.

Robert J. Knapp

Mr. Knapp, 47, holds an operator's license in Wisconsin.

Keith P. Miller

Mr. Miller, 37, holds an operator's license in Pennsylvania.

Ramoncito Sanchez

Mr. Sanchez, 34, holds an operator's license in Texas.

Bradly D. Sexton

Mr. Sexton, 36, holds an operator's license in Oklahoma.

Sandy L. Sloat

Ms. Sloat, 34, holds an operator's license in Texas.

Robert A. Toler

Mr. Toler, 31, holds an operator's license in Missouri.

Jeffry B. Webber

Mr. Webber, 53, holds an operator's license in Oklahoma.

Michael K. Wilkes

Mr. Wilkes, 50, holds an operator's license in Massachusetts.

Basis For Exemption

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. 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 him or her to driving in intrastate commerce. The driver must comply with the terms and conditions of the exemption. This includes reporting any crashes or accidents as defined in 49 CFR 390.5 and reporting all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391.

Conclusion

The Agency is granting exemptions from the hearing standard, 49 CFR 391.41(b)(11), to 12 individuals based on an evaluation of each driver's safety experience. Safety analysis of information relating to these 12 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. In accordance with 49 U.S.C. 31315, each exemption will be valid for 2 years from the effective date 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 12 drivers for a period of 2 years from the physical qualification standard concerning hearing: Thomas M. Carr (PA); Randy Ray Griffin (CA); William Hall (AL); Robert Chance Hayden (FL); Robert J. Knapp (WI); Keith P. Miller (PA); Ramoncito Sanchez (TX); Bradly D. Sexton (OK); Sandy L. Sloat (TX); Robert A. Toler (MS); Jeffry B. Webber (OK); and Michael K. Wilkes (MA).

Dated: September 28, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–25496 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0255]

Agency Information Collection Activities; Extension of a Currently-Approved Information Collection Request: Transportation of Household Goods; Consumer Protection

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for information.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval. The FMCSA requests approval to extend an ICR titled, ''Transportation of Household Goods; Consumer Protection.'' The information collected will be used to help regulate motor carriers transporting household goods (HHG) for individual shippers. FMCSA invites public comment on the ICR.

DATES: We must receive your comments on or before *December 7, 2015.*

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2015–0255 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received

will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8-794.pdf.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Rodgers, Chief, Commercial Enforcement Division, Federal Motor Carrier Safety Administration, West Building, 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–0073; email *Kenneth.rodgers@dot.gov*. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Background: The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106–159, 113 Stat. 1748, Dec. 9, 1999) authorized the Secretary of Transportation (Secretary) to regulate household goods carriers engaged in interstate operations for individual shippers. In earlier legislation, Congress abolished the former Interstate Commerce Commission and transferred the Commission's jurisdiction over household goods transportation to the U.S. Department of Transportation (DOT) (ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, Dec. 29 1995). Prior to FMCSA's establishment, the Secretary delegated this household goods jurisdiction to the Federal Highway Administration, FMCSA's predecessor organization within DOT.

The FMCSA has authority to regulate the overall commercial operations of the household goods industry under 49 U.S.C. 14104, ''Household goods carrier operations.'' This ICR includes the information collection requirements contained in title 49 CFR part 375, ''Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations.'' The information collected encompasses that which is generated, maintained, retained, disclosed, and provided to, or for, the agency under 49 CFR part 375.

Sections 4202 through 4216 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109–59, 119 Stat. 1144, Aug. 10, 2005) (SAFETEA–LU) amended various provisions of existing law regarding household goods transportation. It specifically addressed: Definitions (section 4202); payment of rates (section 4203); registration requirements for household goods motor carriers (section 4204); carrier operations (section 4205); enforcement of regulations (section 4206); liability of carriers under receipts and bills of lading (section 4207); arbitration requirements (section 4208); civil penalties for brokers and unauthorized transportation (section 4209); penalties for holding goods hostage (section 4210); consumer handbook (section 4211); release of broker information (section 4212); working group for Federal-State relations (section 4213); consumer complaint information (section 4214); review of liability of carriers (section 4215); and application of State laws (section 4216). The FMCSA regulations that set forth Federal requirements for movers that provide interstate transportation of household goods are found in 49 CFR part 375, ''Transportation of Household Goods; Consumer Protection Regulation.''

On July 16, 2012, FMCSA published a Direct Final Rule (DFR) titled, ''Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations: Household Goods Motor Carrier Record Retention Requirements,'' (77 FR 41699). The rule amended the regulations governing the period during which HHG motor carriers must retain documentation of an individual shipper's waiver of receipt of printed copies of consumer protection materials. This change harmonized the retention period with other document retention requirements applicable to HHG motor carriers. FMCSA also amended the regulations to clarify that a HHG motor carrier is not required to retain waiver documentation from any individual shippers for whom the carrier does not actually provide services.

Title: Transportation of Household Goods; Consumer Protection.

OMB Control Number: 2126–0025.

Type of Request: Extension of a currently-approved information collection.

Respondents: Household goods movers and consumers.

Estimated Number of Respondents: 8,565 respondents [6,065 household goods movers + 2,500 consumers = 8,565].

Estimated Time per Response: Varies from 5 minutes to display assigned U.S. DOT number in created advertisement to 12.5 minutes to distribute consumer publication, and 10 minutes to complete Form MSCA–2P, ''Household Goods/Commercial Complaint Form.

Expiration Date: April 30, 2016.

Frequency of Response: Other (Once).

Estimated Total Annual Burden: 5,524,800 hours [Informational documents provided to prospective shippers at 43,800 hours + Written Cost estimates for prospective shippers at 4,620,000 hours + Service orders, bills of lading at 805,300 hours + In-transit service notifications at 22,600 hours + Complaint and inquiry records including establishing records system at 32,700 hours + Household Goods—Consumer Complaint Form MCSA–2P at 400 hours = 5,524,800].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the information collected. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87 on September 29, 2015.

G. Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2015–25524 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0275]

Hours of Service of Drivers: U.S. Department of Defense (DOD); Granting of Renewal of Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to renew the exemption from the minimum 30-minute rest break provision of the Agency's hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers working under contract to the U.S. Department of Defense's (DOD) Military Surface Deployment and Distribution Command (SDDC). The exemption will enable SDDC's contract motor carriers and their employee-drivers engaged in the transportation of weapons, munitions, and sensitive/classified cargo to have the same regulatory flexibility that 49 CFR 395.1(q) provides for drivers transporting explosives. The exempted drivers will be allowed to use 30 minutes or more of attendance time to meet the HOS rest break requirements, providing they do not perform any other work during the break.

DATES: This exemption is effective from 12:01 a.m., October 22, 2015, through 11:59 p.m., October 21, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver, and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

Docket. For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Under 49 CFR 395.3(a)(3)(ii), a property-carrying CMV driver is prohibited from operating a CMV on a public road if more than eight hours have passed since the end of the driver's last off duty or sleeper-berth period of at least 30 minutes.

SDDC's initial exemption application for relief from the HOS rest break requirement was submitted in 2013; a copy of the application is in the docket identified at the beginning of this notice. That 2013 application describes fully the nature of the operations of SDDC's contracted drivers. The exemption was granted on October 28, 2013 (78 FR 64265). That exemption expires on October 21, 2015.

Certain motor carriers under contract to the SDDC provide protective services while transporting weapons, munitions, and sensitive/classified cargo. SDDC requested renewal of the rest-break exemption to allow its contract drivers to be treated the same as drivers transporting explosives. Section 395.1(q) allows drivers of CMVs carrying Division 1.1, 1.2, or 1.3 explosives who are subject to the requirement for a 30-minute off-duty rest break in § 395.3(a)(3)(ii) to use 30 minutes or more of on-duty ''attendance time'' to meet the requirement for a rest break, provided they perform no other work.

Method To Ensure an Equivalent or Greater Level of Safety

SDDC stated that it requires continuous attendance and surveillance of such shipments until they reach their final destination. SDDC also stated that it has instituted several technical and administrative controls to ensure the efficient transportation of cargo requiring protective services, controls that would remain in effect under the requested exemption. They include the following:

- Conducting review of carrier compliance requirements and procedures for moving hazardous cargo.
- Evaluating carrier authority to operate on U.S. roadways.
- Evaluating carrier compliance with FMCSA's Compliance Safety Accountability program and Safety Measurement System standards.
- Providing over-the-road vehicle surveillance.
- Inspecting carrier facilities and corporate headquarters for compliance with DOD and DOT standards.

Further details regarding SDDC's safety controls can be found in its application for exemption. The application can be accessed in the docket identified at the beginning of this notice. SDDC asserted that renewing the exemption would allow driver teams to manage their en route rest periods efficiently and also perform mandated shipment security surveillance, resulting in both safe driving performance and greater security of cargo during long-distance trips.

SDDC anticipates no safety impacts from this exemption and believes that its contract employee drivers should be allowed to follow the requirements in § 395.1(q) when transporting shipments of sensitive DOD cargo. SDDC believes that shipments made under the requested exemption would achieve a level of safety and security that is at least equivalent to that which would be obtained by following the normal break requirement in § 395.3(a)(3)(ii).

SDDC indicated that approximately 1,942 power units and 3,000 drivers would currently be eligible for the exemption, if renewed. The exemption would be effective for 2 years, the maximum period allowed by § 381.300. SDDC reported two crashes in 2014 in which drivers were cited. Neither crash was connected to fatigue that was related to the 30 minute break.

Public Comments

On April 16, 2015, FMCSA published notice of this application, and asked for public comment (80 FR 20556). No comments were submitted to the public docket.

FMCSA Decision

The FMCSA has evaluated SDDC's application for renewal of the exemption. The Agency believes that SDDC will likely achieve a level of safety that is equivalent to or greater than, the level of safety achieved without the exemption [49 CFR 381.305(a)]. The exempted drivers will receive 30 minutes or more of rest when required since they will be free of all duties other than ''attending'' the vehicle during the break periods. The safety objectives of the break requirement will be met; the only subject of the exemption is the duty status of the driver while attending the vehicle during a required rest break. Therefore, the Agency grants the exemption request subject to the terms and conditions in this **Federal Register** notice.

Terms of the Exemption

1. Drivers authorized by SDDC to utilize this exemption must have a copy of this exemption document in their possession while operating under the terms of the exemption. The exemption document must be presented to law enforcement officials upon request.

2. All motor carriers operating under this exemption must have a ''Satisfactory'' safety rating with FMCSA, or be ''unrated;'' motor carriers with ''Conditional'' or ''Unsatisfactory'' FMCSA safety ratings are prohibited from using this exemption.

3. All motor carriers operating under this exemption must have Safety Measurement System (SMS) scores below FMCSA's intervention thresholds, as displayed at *http://ai.fmcsa.dot.gov/sms/.*

Period of the Exemption

This exemption from the requirements of 49 CFR 395.3(a)(3)(ii) is granted for the period from 12:01 a.m., October 22, 2015, through 11:59 p.m., October 21, 2017.

Extent of the Exemption

The exemption is restricted to SDDC's contract driver-employees transporting security-sensitive materials. This exemption is limited to the provisions of 49 CFR 395.3(a)(3)(ii) to allow contract driver-employees transporting security-sensitive materials to be treated the same as drivers transporting explosives, as provided in § 395.1(q). These drivers must comply with all other applicable provisions of the FMCSRs.

Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to SDDC contract operators in intrastate commerce.

Notification to FMCSA

The SDDC must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's CMVs operating under the terms of this exemption. The notification must include the following information:

a. Exemption Identity: ''SDDC,''

b. Name of operating motor carrier and USDOT number,

c. Date of the accident,

d. City or town, and State, in which the accident occurred, or closest to the accident scene,

e. Driver's name and driver's license number and State of issuance,

f. Vehicle number and State license plate number,

g. Number of individuals suffering physical injury,

h. Number of fatalities,

i. The police-reported cause of the accident,

j. Whether the driver was cited for violation of any traffic laws or motor carrier safety regulations, and

k. The driver's total driving time and total on-duty time period prior to the accident.

Reports filed under this provision shall be emailed to *MCPSD@DOT.GOV.*

Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation or restriction of the exemption. The FMCSA will immediately revoke or restrict the exemption for failure to comply with its terms and conditions.

Issued on: September 25, 2015.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–25520 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0106]

Qualification of Drivers; Application for Exemptions; Hearing

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 Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits hearing impaired individuals from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these drivers to operate property-carrying CMVs will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year period and may be renewed, and the exemptions preempt State laws and regulations.

DATES: The exemptions are effective October 7, 2015. The exemptions expire on October 10, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., 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: *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., e.t., 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, 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. The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA grants 14 individuals an exemption from § 391.41(b)(11) concerning hearing to enable them to operate property-carrying CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on the current medical literature and information and the ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety'' (the 2008 Evidence Report) presented to FMCSA on August 26, 2008. The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the CDLIS,[1] for CDL holders, and inspections recorded in MCMIS.[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. Each applicant's record demonstrated a safe driving history. The Agency believes the drivers covered by the exemptions do not pose a risk to public safety.

C. Comments

On January 22, 2015, FMCSA published a notice of receipt of exemption applications and requested public comment on 14 individuals (FR 80 3306; Docket number FMCSA–2015–00995). The comment period ended on February 23, 2015. In response to this notice, one comment was received expressing concern for the process by which exemptions are granted from parts of 49 CFR 391.41, the increased volume of exemptions, and the need to rely on scientific support as a basis for granting the exemptions. The American Trucking Associations, Inc. (ATA) submitted a comment stating, ''The granting of such a large number of exemptions dilutes the physical qualification standards and constitutes regulation through exemption. FMCSA must begin a dialogue on the need and effectiveness of these standards. If it is determined that these standards need to be altered, it must be done through the formal rulemaking process.'' FMCSA acknowledges ATA's concerns and may consider in the future the initial steps to a formal rulemaking process to revise physical qualification standards.

D. Exemptions Granted

Following individualized assessments of the exemption applications, FMCSA grants exemptions from 49 CFR 391.41(b)(11) to 14 individuals. Under current FMCSA regulations, all of the 14 drivers receiving exemptions from 49 CFR 391.41(b)(11) would have been considered physically qualified to drive a CMV in interstate commerce except that they do not meet the hearing requirement. FMCSA has determined that the following 14 applicants should be granted an exemption:

Weston Tyler Arhurs

Mr. Arthurs, 28, holds an operator's license in California.

Kevin Ray Ballard

Mr. Ballard, 38, holds an operator's license in Texas.

Jeremy Wayne Brandyberry

Mr. Brandyberry, 34, holds an operator's license in Nebraska.

Scott C. Friede

Mr. Friede, 40, holds a Class A commercial driver's license (CDL) in Nebraska.

Glenn E. Hivey

Mr. Hivey, 81, holds a Class A commercial driver's license (CDL) in Pennsylvania.

Jeremiah Putnam Hoagland

Mr. Hoagland, 35, holds a Class A commercial driver's license (CDL) in Colorado.

Curtis J. Horning

Mr. Horning, 40, holds an operator's license in Pennsylvania.

Leroy Lynch

Mr. Lynch, 59, holds a Class A commercial driver's license (CDL) in Ohio.

Floyd McClain, Jr.

Mr. McClain, 38, holds an operator's license in Florida.

Christopher David McKenzie

Mr. McKenzie, 37, holds an operator's license in Texas.

Kimothy Fred Mcleod

Mr. Mcleod, 51, holds a Class A commercial driver's license (CDL) in Georgia.

Victor Morales-Contreras

Mr. Morales-Contreras, 27, holds an operator's license in Texas.

Brandon Veronie, Sr.

Mr. Veronie, 36, holds a chauffeur's license in Louisiana.

Anthony L. Witcher

Mr. Witcher, 55, holds a chauffeur's license in Michigan.

Basis for Exemption

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. 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 him or her to driving in intrastate commerce. The

[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 51 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.

driver must comply with the terms and conditions of the exemption. This includes reporting any crashes or accidents as defined in 49 CFR 390.5 and reporting all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391.

Conclusion

The Agency is granting exemptions from the hearing standard, 49 CFR 391.41(b)(11), to 14 individuals based on an evaluation of each driver's safety experience. 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. In accordance with 49 U.S.C. 31315, each exemption will be valid for 2 years from the effective date 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 from the physical qualification standard concerning hearing: Weston Tyler Arhurs (CA); Kevin Ray Ballard (TX); Jeremy Wayne Brandyberry (NE); Scott C. Friede (NE); Glenn E. Hivey (PA); Jeremiah Putnam Hoagland (CO); Curtis J. Horning (PA); Leroy Lynch (OH); Floyd McClain, Jr. (FL); Christopher David McKenzie (TX); Kimothy Fred Mcleod (GA); Victor Morales-Contreras (TX); Brandon Veronie, Sr. (LA); and Anthony L. Witcher (MI).

Issued on: September 29, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–25498 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0058]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 42 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on June 6, 2015. The exemptions expire on June 6, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. 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*.

II. Background

On May 6, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 42 individuals and requested comments from the public (80 FR 26133). The public comment period closed on June 5, 2015, and one comment was received.

FMCSA has evaluated the eligibility of the 42 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 42 applicants have had ITDM over a range of one to 30 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the May 6, 2015, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received one comment in this proceeding. The comment is addressed below.

Miguel Morales stated that he is in favor of granting the Federal diabetes exemptions to the drivers.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from

the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 42 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Robert L. Adams (GA)
Steven D. Beale (WA)
Kevin N. Bigham (PA)
Eric B. Bratanich (WI)
Jeffry L. Bromby (CA)
Nicole E. Brown (VA)
Joel R. Currie (MN)
Vladimir Desyatnik (MA)
George C. Druzak (PA)
William L. Duncan (FL)
Colin K. Featherston (IN)
Leland R. Frazier, Jr. (GA)
Robert C. George (TX)
Louis E. Graves (MS)
Jeremiah D. Herbst (MD)
Loren G. Howard (AK)
John A. Irwin (IL)
Gregory M. Johnson (TX)
Calvin Jones (NC)
Marvin T. Kruse (SD)
Richard L. Langdon (NY)
William L. Marshall (FL)
William Martin (NY)
Phillip K. Miles (PA)
Mark R. Miller (IA)
Miguel A. Morales (NY)
David S. Navarro (MD)
Kevin L. Novotny (MN)
Michael D. Parsons (IN)
Amanda K. Perez-Littleton (NM)
Jerry L. Perry (OH)
Michael J. Peterson (MN)
John S. Pitfield (NC)
Manuel H. Plascencia (IL)
Thomas E. Ringstaff, Jr. (OH)
Edwin Rivera (NY)
Milton E. Sullivan (VA)
Patrick A. Tucker (CA)
John E. Vee (IA)
Russell A. Wilkins (VA)
William D. Willis (GA)
David A. Wolff (NY)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years 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 before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Dated: September 29, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–25503 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0115]

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 10 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 10 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 October 7, 2015. The exemptions expire on October 10, 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 10 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

[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.

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 10 individuals. Under current FMCSA regulations, all of the 10 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 10 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 10 drivers, some of whom drive a CMV currently in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the 10 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–2015–0115

On May 8, 2015, FMCSA published a notice of receipt of exemption applications and requested public comment on 18 individuals (80 FR 26612; Docket number FMCSA–2015–11123). The comment period ended on June 8, 2015. No commenters responded to this **Federal Register** notice. Of the 18 applicants, eight were denied. The Agency has determined that the following 10 applicants should be granted an exemption.

Ian Correll-Zerbe

Mr. Correll-Zerbe is a 26 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 January 2013. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Correll-Zerbe receiving an exemption.

Alan Feuerhelm

Mr. Feurerhelm is a 68 year-old class A CDL holder in Iowa. He has a history of epilepsy and has remained seizure free since 1985. 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. Feuerhelm receiving an exemption.

Robert J. Forney

Mr. Forney is a 37 year-old class A CDL holder in Wisconsin. 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 2011. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Forney receiving an exemption.

Bryan R. Jones

Mr. Jones is a 31 year-old class B CDL holder in Pennsylvania. 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. Jones receiving an exemption.

Terri Kathleen Kahle

Ms. Kahle is a 49 year-old class A CDL holder in Pennsylvania. She has a history of a seizure disorder and has remained seizure free since 2004. 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. Kahle receiving an exemption.

Ivan M. Martin

Mr. Martin is a 56 year-old driver in Pennsylvania. He has a history of a seizure disorder and has remained seizure since 1985. 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. Martin receiving an exemption.

James Joseph Marvel

Mr. Marvel is a 64 year-old driver in Virginia. He has a history of epilepsy and has remained seizure free since 1967. 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. Marvel receiving an exemption.

Andy L. McNeal

Mr. McNeal is a 52 year-old class B CDL holder in Indiana. He has a history of a single seizure and resected brain tumor in 2007. 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. McNeal receiving an exemption.

Richard S. Nelson

Mr. Nelson is a 79 year-old class A CDL holder in Minnesota. He has a

history of a seizure disorder and has remains seizure free since 1962. 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 Nelson receiving an exemption.

Michael D. Williams

Mr. Williams is a 48 year-old class A CDL holder in Nevada. 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 2002. 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 10 individuals based on a thorough evaluation of each driver's safety experience and medical condition. Safety analysis of information relating to these 10 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 10 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 10 drivers for a period of 2 years with annual medical certification required: Ian Correll-Zerbe (PA); Alan Feuerhelm (IA); Robert J. Forney (WI); Bryan R. Jones (PA); Terri Kathleen Kahle (PA); Ivan M. Martin (PA); James Joseph Marvel (VA); Andy L. McNeal (IN); Richard S. Nelson (MN); and Michael D. Williams (NV) 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 29, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–25504 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0104]

Qualification of Drivers; Application for Exemptions; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 17 individuals for exemptions from the Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits hearing impaired individuals from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these drivers to operate property-carrying CMVs will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year period and may be renewed. The exemptions preempt State laws and regulations.

DATES: The exemptions are effective October 7, 2015. The exemptions expire on October 10, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., 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: *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., e.t., 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, 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. The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA grants 17 individuals an exemption from § 391.41(b)(11) concerning hearing to enable them to operate property-carrying CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on the current medical literature and information and the ''Executive

Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety'' (the 2008 Evidence Report) presented to FMCSA on August 26, 2008. The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the CDLIS,[1] for CDL holders, and inspections recorded in MCMIS.[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. Each applicant's record demonstrated a safe driving history. The Agency believes the drivers covered by the exemptions do not pose a risk to public safety.

C. Comments

On October 27, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on 17 individuals (FR 79 64004; Docket number FMCSA–2014–25453). The comment period ended on November 26, 2014. In response to this notice, FMCSA received 10 comments. Six comments supported deaf drivers driving commercially and four comments expressed safety concerns for granting exemptions to drivers who do not meet the hearing standard. The safety concerns were submitted on behalf of The American Trucking Associations, Inc.; Schneider National, Inc.; Hub Group Trucking, Inc.; and Werner Enterprises, Inc. Some of these comments were addressed in a previous notice. These stakeholders expressed safety concerns for the far reaching ramifications to the commercial driving industry of allowing deaf drivers to test, train and/or drive commercially. Additionally they expressed concern for the process by which exemptions are granted from parts of 49 CFR 391.41, the increased volume of exemptions, and the need to rely on scientific support as a basis for granting the exemptions. FMCSA acknowledges the stakeholder's concerns and may consider the initial steps to revising the physical qualification standards through a formal rulemaking process.

D. Exemptions Granted

Following individualized assessments of the exemption applications, FMCSA grants exemptions from 49 CFR 391.41(b)(11) to 17 individuals. Under current FMCSA regulations, all of the 17 drivers receiving exemptions from 49 CFR 391.41(b)(11) would have been considered as qualified physically to drive a CMV in interstate commerce except that they do not meet the hearing requirement. FMCSA has determined that the following 17 applicants should be granted an exemption:

Martin Anthony Bystrycki

Mr. Bystrycki, 63, holds a Class A commercial driver's license (CDL) in Florida.

Ronald Craver, Sr.

Mr. Craver, 57, holds an operator's license in Texas.

Byron Davis

Mr. Davis, 37, holds an operator's license in Mississippi.

Stephen Digiovanna

Mr. Digiovanna, 53, holds a Class A commercial driver's license (CDL) in Pennsylvania.

Bruce Howard Dunn

Mr. Dunn, 52, holds a Class A commercial driver's license (CDL) in Louisiana.

Brandon Thomas Londo

Mr. Londo, 29, holds an operator's license in Texas.

George T. Moore

Mr. Moore, 47, holds an operator's license in Georgia.

Robert J. Pippin

Mr. Pippin, 46, holds an operator's license in South Dakota.

Scott A. Perdue

Mr. Perdue, 47, holds a Class A commercial driver's license (CDL) in Georgia.

Adalberto Rodriguez

Mr. Rodriguez, 49, holds a Class A commercial driver's license (CDL) in New York.

David Rodriguez

Mr. Rodriguez, 56, holds an operator's license in Texas.

Melvin Randall Ross

Mr. Ross, 61, holds a Class A commercial driver's license (CDL) in Ohio.

Abderrazek Merjoune

Mr. Merjoune, 42, holds a Class A commercial driver's license (CDL) in Maryland.

Seth Lee Shannon

Mr. Shannon, 36, holds an operator's license in Washington.

Thomas D. Sneer

Mr. Sneer, 58, holds a Class A commercial driver's license (CDL) in Minnesota.

Juan Sloan

Mr. Sloan, 52, holds an operator's license in California.

Charles F. Wirick, IV

Mr. Wirick, 31, holds an operator's license in Maryland.

Basis for Exemption

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. 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 him or her to driving in intrastate commerce. The driver must comply with the terms and conditions of the exemption. This includes reporting any crashes or accidents as defined in 49 CFR 390.5 and reporting all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391.

Conclusion

The Agency is granting exemptions from the hearing standard, 49 CFR 391.41(b)(11), to 17 individuals based on an evaluation of each driver's safety experience. Safety analysis of information relating to these 17 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. In accordance with 49 U.S.C. 31315, each exemption will be

[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 51 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.

valid for 2 years from the effective date 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 17 drivers for a period of 2 years from the physical qualification standard concerning hearing: Martin Anthony Bystrycki (FL); Ronald Craver, Sr. (TX); Byron Davis (MS); Stephen Digiovanna (PA); Bruce Howard Dunn (LA); Brandon Thomas Londo (TX); George T. Moore (GA); Robert J. Pippin (SD); Scott A. Perdue (GA); Adalberto Rodriguez (NY); David Rodriguez (TX); Melvin Randall Ross (OH); Abderrazek Merjoune (MD); Seth Lee Shannon (WA); Thomas D. Sneer (MN); Juan Sloan (CA); and Charles F. Wirick, IV (MD).

Issued on: September 29, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–25497 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2015–0056]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated May 30, 2015, the Maine Yacht Center, LLC (MYC) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 215–Railroad Freight Car Safety Standards. FRA assigned the petition Docket Number FRA–2015–0056.

In an effort to increase business, MYC wants to build a self-propelled carrier, for boats 30 to 40 or more feet in length, that will travel one-half mile over the St. Lawrence & Atlantic Railroad from a waterfront facility to a storage facility. The limiting factor for over-the-road movement of boats is a fixed bridge height of 14 feet. Using rail would allow MYC to move larger boats using a route with a fixed bridge height of 18 feet.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 6, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. 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.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov.

Issued in Washington, DC, on September 30, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–25494 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Orders 13224.

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the name of one individual whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: OFAC's actions described in this notice are effective on October 2, 2015.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Notice of OFAC Actions

On October 2, 2015, OFAC blocked the property and interests in property of the following individual pursuant to E.O. 13224, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'':

1. MUTHANA, Aseel (a.k.a. ''Abu Fariss''), Syria; DOB 1996 or 1997; nationality United Kingdom (individual) [SDGT]

Dated: October 2, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–25527 Filed 10–6–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF TREASURY

Internal Revenue Service

Office of the General Counsel; Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Directive 15, pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Laura Hildner, Deputy General Counsel

2. Sunita B. Lough, Commissioner (Tax Exempt/Government Entities), IRS

3. Mary Beth Murphy, Deputy Commissioner (Small Business/Self Employed), IRS

Alternate—Donna C. Hansberry, Deputy Commissioner (Tax Exempt/Government Entities), IRS

This publication is required by 5 U.S.C. 4314(c)(4).

Dated: September 28, 2015.

William J. Wilkins,

Chief Counsel, Internal Revenue Service.

[FR Doc. 2015–25335 Filed 10–6–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Interest Rate Paid on Cash Deposited To Secure U.S. Immigration and Customs Enforcement Immigration Bonds

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning October 1, 2015, and ending on December 31, 2015, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is 0.06 per centum per annum.

ADDRESSES: Comments or inquiries may be mailed to Sam Doak, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 26106–1328. You can download this notice at the following Internet addresses: *http://www.treasury.gov* or *http://www.federalregister.gov*.

DATES: Effective October 1, 2015 to December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Adam Charlton, Manager, Federal Borrowings Branch, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 26106–1328, (304) 480–5248; Sam Doak, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 26106–1328, (304) 480–5117.

SUPPLEMENTARY INFORMATION: Federal law requires that interest payments on cash deposited to secure immigration bonds shall be ''at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum.'' 8 U.S.C. 1363(a). Related Federal regulations state that ''Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero.'' 8 CFR 293.2. Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [Insert FR citation of the methodology notice] In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the TreasuryDirect Web site.

Gary Grippo,

Deputy Assistant Secretary for Public Finance.

[FR Doc. 2015–25534 Filed 10–6–15; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection (VHA Homeless Programs Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups) for Veterans) Activity: 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 November 6, 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 ''VHA Homeless Programs Project CHALENG, OMB Control No. 2900–NEW'' 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 ''VHA Homeless Programs Project CHALENG, OMB Control No. 2900–NEW'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, 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: VHA Homeless Programs, Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups) for Veterans.

OMB Control Number: 2900–NEW, (VHA Homeless Programs, Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups)).

Type of Review: New collection.

Abstract: In 1993 the Department of Veterans Affairs (VA) launched Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups) for Veterans in response to Public Law 102–405 which required VA to make an assessment of the needs of homeless Veterans in coordination with other Federal departments, state and local government agencies, and nongovernmental agencies with experience working with homeless persons. Since 1993, VA has administered a needs assessment in accordance with guidance in Public Law 103–446 and Public Law 105–114.

This collection of information is necessary to ensure that VA and community partners are developing services that are responsive to the needs of local homeless Veterans, in order to end homelessness and prevent new Veterans from experiencing homelessness. Over the years data from CHALENG has assisted VA in developing new services for Veterans such as the Homeless Veteran Dental Program (HVDP), the expansion of the Department of Housing and Urban Development–VA Supportive Housing (HUD–VASH) Program, the Veterans Justice Programs and Supportive Services for Veteran Families (SSVF). In addition community organizations use CHALENG data in grant applications to support services for homeless Veterans; grant applications are for VA, other Federal, local government, and community foundation dollars, which maximizes community participation in serving homeless Veterans.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,650 burden hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 15,000.

By direction of the Secretary.

Kathleen M. Manwell,

Program Analyst, VA Privacy Service, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2015–25432 Filed 10–6–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Policy and Implementation Plan for Public Access to Scientific Publications and Digital Data from Research Funded by the Department of Veterans Affairs

AGENCY: Department of Veterans Affairs.

ACTION: Notice and request for comments.

SUMMARY: This **Federal Register** Notice announces an opportunity for public review and comment on the Policy and Implementation Plan for Public Access to Scientific Publications and Digital Data from Research Funded by the Department of Veterans Affairs.

DATES: Comments must be received by VA on or before November 6, 2015.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''Policy and Implementation Plan for Public Access to Scientific Publications and Digital Data from Research Funded by the Department of Veterans Affairs.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Tom Puglisi, Ph.D., Executive Director, Office of Research Oversight (10R), 810 Vermont Avenue NW., Washington DC 20420, Telephone: 202–632–7676 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA's policy and implementation plan for increased public access to the results of its research was developed in response to White House initiatives on federally funded scientific research. In its February 22, 2013, memorandum, the White House Office of Science and Technology Policy (OSTP) directed each federal agency with over $100 million in annual expenditures for the conduct of research and development to develop a plan to support increased public access to the results of research funded by the federal government, including digital data sets and results published in peer-reviewed scholarly publications arising directly from federally-funded research (OSTP, Increasing Access to the Results of Federally Funded Scientific Research, February 22, 2013).

In implementing policies on public access to research publications and digital research data, VA must first remain cognizant of its ethical and legal obligations to safeguard the privacy of Veterans (and VA's other research subjects) and the confidentiality of their private information, while promoting the highest quality science. VA also recognizes that Veterans and the public at large have a substantive interest in accessing the results of the research that VA conducts. VA's responsibility precludes unlimited public access to private information about individual research subjects. With this in mind, VA has carefully weighed the public benefits versus the risks of harm to Veterans and other research subjects in establishing the requirements.

VA is committed to ensuring that the final study results, including peer-reviewed publications and digital data from VA-funded scientific research, are made available to the scientific community, industry, and the general public with the fewest constraints possible, while protecting the privacy of the Veterans (and others individuals) about whom research data are obtained and safeguarding the confidentiality of their data.

Requirements for public access to scientific publications will apply to all peer-reviewed publications reporting results of research that are either funded by the VA Office of Research and Development (ORD) or conducted, supported, or sponsored by any Veterans Health Administration (VHA) Program Office.

Requirements for public access to digital data will apply to the final research data underlying all peer-reviewed publications reporting results of research that is either funded by the VA ORD or conducted, supported, or sponsored by any VHA Program Office. VA proposes to begin sharing digital research data through controlled public access mechanisms and move toward open public access to the extent that the protection of Veterans' identifiable private information can be ensured.

Availability: Persons with access to the Internet may obtain the document at: *http://www.va.gov/ORO/Docs/Guidance/Plan_for_Access_to_Results_of_VA_Funded_Rsch_02_14_2014.pdf.*

Alternatively, the document may be obtained by mail or by calling ORO at (202) 632–7676 (this is not a toll-free number).

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, Department of Veterans Affairs, approved this document on September 30, 2015, for publication.

Dated: October 1, 2015.

Michael Shores,

Chief Impact Analyst, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2015–25448 Filed 10–6–15; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection (Evaluation of the Department of Veterans Affairs Mental Health Services) 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 November 6, 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–NEW (Evaluation of the Department of Veterans Affairs Mental Health Services) 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–NEW (Veterans, Researchers, and IRB Members Experiences with Recruitment Restrictions)'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, 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: Evaluation of the Department of Veterans Affairs Mental Health Services.

OMB Control Number: 2900–NEW.

Type of Review: New Collection Request.

Abstract: This is a congressionally-mandated research study to evaluate mental health services provided by the Department of Veteran Affairs (VA). Congress directed the VA to conduct a survey of veterans with assistance from the Institute of Medicine (IOM) of the National Academies. Attachment 1 contains the authorizing legislation, the National Defense Authorization Act for Fiscal Year 2013, Section 726.

Following the large number of deployments and operations in Iraq and Afghanistan, the number of military members with mental health problems has been rising. All Veterans who need mental health services do not seek them it or receive them from the Department of Veterans Affairs (VA) health care system. This study is to assess barriers to receiving mental health care services among veterans.

Affected Public: Individuals or Households.

Estimated Annual Burden: 5,192 burden hours.

Estimated Average Burden per Respondent: 35 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 8,900.

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. 2015–25431 Filed 10–6–15; 8:45 am]

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FEDERAL REGISTER

Vol. 80 Wednesday,
No. 194 October 7, 2015

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Species Status for the Headwater Chub and a Distinct Population Segment of the Roundtail Chub; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2015–0148; 4500030113]

RIN 1018–BA86

Endangered and Threatened Wildlife and Plants; Threatened Species Status for the Headwater Chub and a Distinct Population Segment of the Roundtail Chub

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the headwater chub (*Gila nigra*) and a distinct population segment (DPS) of the roundtail chub (*Gila robusta*) from the lower Colorado River basin as threatened species under the Endangered Species Act (Act). If we finalize this rule as proposed, it would extend the Act's protections to this species and DPS.

DATES: We will accept comments received or postmarked on or before December 7, 2015. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by November 23, 2015.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter FWS–R2–ES–2015–0148, which is the docket number for this rulemaking. Then click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2015–0148, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see *Public Comments*, below, for more information).

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021; telephone 602–242–0210. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, if a species is determined to be an endangered or threatened species throughout all or a significant portion of its range, we are required to promptly publish a proposal in the **Federal Register** and make a determination on our proposal within 1 year. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

This rule proposes to list the headwater chub and the lower Colorado River basin roundtail chub DPS as threatened species. The headwater and lower Colorado River basin roundtail chub DPS are candidate species for which we have on file sufficient information on biological vulnerability and threats to support preparation of a listing proposal, but for which development of a listing regulation has been precluded by other higher priority listing activities. This rule reassesses all available information regarding the status of and threats to the headwater chub and lower Colorado River basin roundtail chub DPS.

The basis for our action. Under the Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that headwater chub and lower Colorado River basin roundtail chub DPS meet the definition of threatened species primarily because of the present or threatened destruction of their habitat or range and other natural or manmade factors resulting mainly from impacts from nonnative aquatic species, reduction of habitat (*i.e.*, water availability), and climate change.

We will seek peer review. We will seek comments from independent specialists to ensure that our determinations are based on scientifically sound data, assumptions, and analyses. We will invite these peer reviewers to comment on our listing proposal. Because we will consider all comments and information we receive during the comment period, our final determinations may differ from this proposal.

Information Requested

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available, and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The headwater and roundtail chubs' biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, their habitats, or both.

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to these species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of these species, including the locations of any additional populations of these species.

(5) Information as to which prohibitions, and exceptions to those prohibitions, are necessary and advisable to provide for the conservation of the headwater chub or the lower Colorado River basin roundtail chub DPS pursuant to section 4(d) of the Act (16 U.S.C. 1531 *et seq.*).

We are also seeking comments regarding potential critical habitat designation for the headwater chub and

the lower Colorado River basin roundtail chub DPS. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act, including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat may not be prudent.

(2) Specific information on:

(a) The amount and distribution of headwater chub and roundtail chub habitat;

(b) What areas, that were occupied at the time of listing (or are currently occupied) and that contain features essential to the conservation of the species, should be included in the designation and why;

(c) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(d) What areas not occupied at the time of listing are essential for the conservation of the species and why.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on critical habitat.

(4) Information on the projected and reasonably likely impacts of climate change on the headwater chub, the lower Colorado River basin roundtail chub DPS, and their habitats.

(5) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the proposed critical habitat designation; in particular, we seek comments on any impacts on small entities or families, and the benefits of including or excluding areas that exhibit these impacts.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit information via *http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov*, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposed rule in the **Federal Register** (see **DATES**, above). Such requests must be sent to the address shown in the **FOR FURTHER INFORMATION CONTACT** section. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of peer review is to ensure that our listing determinations are based on scientifically sound data, assumptions, and analyses. The peer reviewers will have expertise in headwater and roundtail chub (or similar species) biology, life history, ecology, habitat, and other physical or biological factors.

Previous Federal Action

Headwater Chub

On December 30, 1982 (47 FR 58454), we placed the headwater chub (as *Gila robusta grahami*) on the list of candidate species as a category 2 species. Category 2 species were those for which information in the Service's possession indicated that proposing to list was possibly appropriate, but for which substantial biological data to support a proposed rule were lacking. Headwater chub retained its category 2 candidate status until the practice of identifying category 2 candidates was discontinued in the candidate notice of review (CNOR) published on February 28, 1996 (61 FR 7596). At that time, the headwater chub was removed from the candidate list and no longer recognized under the Act.

On April 14, 2003, we received a petition from the Center for Biological Diversity to list the headwater chub (*Gila nigra*) as endangered or threatened and to designate critical habitat concurrently with the listing. Following receipt of the 2003 petition, and pursuant to a stipulated settlement agreement, we published a 90-day finding on July 12, 2005 (70 FR 39981), in which we found that the petitioners had provided sufficient information to indicate that listing of the headwater chub may be warranted. On May 3, 2006, we published our 12-month finding (71 FR 26007) that listing was warranted, but precluded by higher priority listing actions, for the headwater chub. The species was subsequently included in all of our CNORs from 2006 through 2014 (71 FR 53756, September 12, 2006; 72 FR 69034, December 6, 2007; 73 FR 75176, December 10, 2008; 74 FR 57804, November 9, 2009; 75 FR 69222, November 10, 2010; 76 FR 66370, October 26, 2011; 77 FR 69994, November 21, 2012; 78 FR 70104, November 22, 2013; 79 FR 72450, December 5, 2014).

Lower Colorado River Basin Roundtail Chub DPS

On December 30, 1982 (47 FR 58455), the roundtail chub was placed on the list of candidate species as a category 2 species. Roundtail chub retained its category 2 candidate status until the practice of identifying category 2 candidates was discontinued in the 1996 CNOR (61 FR 7596; February 28, 1996). At that time, the roundtail chub was removed from the candidate list and no longer recognized under the Act.

On April 14, 2003, we received a petition from the Center for Biological Diversity to list a distinct population segment (DPS) of the roundtail chub (*Gila robusta*) in the lower Colorado River basin (defined as all waters tributary to the Colorado River in Arizona and the portion of New Mexico in the Gila River and Zuni River basins)

as endangered or threatened and to designate critical habitat concurrently. Following receipt of the 2003 petition, and pursuant to a stipulated settlement agreement, we published our 90-day finding on July 12, 2005 (70 FR 39981), that the petition presented substantial scientific information indicating that listing a DPS of the roundtail chub in the lower Colorado River basin may be warranted.

On May 3, 2006, we published our 12-month finding (71 FR 26007) that listing of a DPS of the roundtail chub in the lower Colorado River basin was not warranted because it did not meet our definition of a DPS. On September 7, 2006, the Center for Biological Diversity challenged our decision not to list the lower Colorado River basin population of the roundtail chub as an endangered species under the Act. On November 5, 2007, in a stipulated settlement agreement, we agreed to commence a new status review of the lower Colorado River basin population segment of the roundtail chub and to submit a 12-month finding to the **Federal Register** by June 30, 2009.

On July 7, 2009, we published a 12-month finding (74 FR 32352) on a petition to list a DPS of roundtail chub and found that the population segment satisfies the discreteness and significance elements of the Interagency Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Act (DPS Policy) (February 7, 1996; 61 FR 4722), and qualifies as a DPS. We further concluded that listing of the lower Colorado River basin DPS was warranted but precluded due to higher priority listing actions at the time. The DPS was subsequently included in all of our CNORs from 2009 through 2014 (74 FR 57804, November 9, 2009; 75 FR 69222, November 10, 2010; 76 FR 66370, October 26, 2011; 77 FR 69994, November 21, 2012; 78 FR 70104, November 22, 2013; 79 FR 72450, December 5, 2014).

The lower Colorado River basin DPS of roundtail chub is the candidate entity that is the subject of this proposed rule. The DPS includes the lower Colorado River and its tributaries downstream of Glen Canyon Dam, including the Gila and Zuni River basins in New Mexico.

Background

Species Information

Taxonomy

Headwater chub was first described as a subspecies, *G. grahami* or *G. robusta grahami*, from Ash Creek and the San Carlos River in east-central Arizona in 1874 (Cope and Yarrow 1875). In 2000, Minckley and DeMarais proposed full species status for headwater chub. The American Fisheries Society has accepted headwater chub (*Gila nigra*) as a full species (Nelson et al. 2004), as have the New Mexico Department of Game and Fish (Carmen 2006) and Arizona Game and Fish Department (Arizona Game and Fish Department 2006). As a consortium of fisheries scientists, the American Fisheries Society is the recognized and accepted scientific authority on fish taxonomy, and this is best commercial and scientific data available.

Roundtail chub (*Gila robusta*) was first described by Baird and Girard (1853) from specimens collected in 1851 from the Zuni River (tributary to Little Colorado River), although that location may not be correct as Smith et al. (1979) reported the type locality was likely the mainstem Little Colorado River and Sublette et al. (1990) suggested the specimens may have been collected from the Rio Pescado (tributary to Zuni River) and incorrectly cited as the Zuni River. Roundtail chub has been recognized as a distinct species since the 1800s.

Biology and Habitat

I. Headwater Chub Biology and Habitat

Headwater chubs are cyprinid fish (member of the minnow family Cyprinidae) with streamlined body shapes and are similar in appearance to the roundtail chub and the Gila chub (*Gila intermedia*). Adults range in size from 200–320 millimeters (mm) (8–12 inches (in)). Headwater chubs live for approximately 8 years and spawn from age 2 to 3 onward (Bestgen 1985, p. 65; Neve 1976, pp. 13, 15). Spawning typically occurs between April and May (Bestgen 1985, pp. 57–60; Brouder et al. 2000, pp. 12–13) but can occur as early as March (Neve 1976, pp. 13–14). Headwater chub are omnivorous, opportunistic feeders that consume plants, detritus, arthropods (aquatic and terrestrial), and fish.

Headwater chubs occur in the middle to upper reaches of medium- to large-sized streams (Minckley and DeMarais 2000, p. 255) that are considered cool to warm water streams. Habitats in the Gila River containing headwater chubs consist of tributary and mainstem habitats at elevations of 1,325 meters (m) (4,347 feet (ft)) to 2,000 m (6,562 ft) (Bestgen 1985, entire; Bestgen and Propst 1989, pp. 402–410). Typical adult habitats containing headwater chub consist of nearshore pools (greater than 1.8 m (6 ft.)), adjacent to swifter riffles and runs over sand and gravel substrate, with young-of-the-year and juveniles using smaller pools and areas with undercut banks and low velocity (Barrett 1992, p. 48; Barrett and Maughn 1995, p. 302; Bestgen and Propst 1989, pp. 402–410). Spawning typically occurs in pool-riffle areas with sandy-rocky substrates when water temperatures are between 17–22 degrees Celsius (°C) (63–72 degrees Fahrenheit (°F)) (Bonar et al. 2011, p. 10; Bestgen 1985, p. 64; Bonar et al. 2011, p. 11; Neve 1976, pp. 13–14). Snowmelt during late winter and early spring cues spawning and provides water temperatures suitable for spawning.

In the lower Colorado River basin, several chub species are closely related genetically and closely resemble each other morphologically. This is likely the result of multiple independent hybridization events over time (Rinne 1976; Rosenfeld and Wilkinson 1989; DeMarais et al. 1992; Dowling and DeMarais 1993; Minckley and DeMarais 2000; Gerber et al. 2001; Schwemm 2006; Schönhuth et al. 2014). Due to the similarities in morphology and genetics, identification of species in a stream is based on the geographic location of the stream in relation to other known chub streams. In headwater chub, most of their genetic variation occurs among populations, each of which tends to be distinctive. Genetic variation within headwater chub populations is consistent with the presumed multiple hybrid origins of this species (Dowling et al. 2008, p. 2).

II. Lower Colorado River Basin Roundtail Chub Biology and Habitat

Roundtail chub are similar in appearance to Gila chub and headwater chub. Adults range in size from 225–350 mm (9–14 in) in length. Roundtail chub average life span is 8–10 years (Bezzerides and Bestgen 2002, p. 21). Maturity of roundtail chub in the lower Colorado River population segment occurs between ages 3 and 5 years at 150–300 mm (6–12 in) (Bezzerides and Bestgen 2002, p. 21; Brouder et al. 2000, p. 12). In the lower Colorado River population segment, spawning occurs between April and May (Minckley 1981, p. 189; Bestgen 1985b, p. 7; Bryan et al. 2000, pp. 27–28; Bryan and Robinson 2000, pp. 20–21).

Roundtail chub are found in cool to warm waters of rivers and streams, and often occupy the deepest pools and eddies present in the stream (Minckley 1973, p. 101; Brouder et al. 2000, pp. 6–8; Minckley and DeMarais 2000, p. 255; Bezzerides and Bestgen 2002, pp. 17–19). Adult roundtail chub favor slow-moving, deep pools. For cover they use large rocks, undercut banks, and woody debris (Bezzerides and Bestgen 2002, p. 18; Brouder et al. 2000, pp. 6–7; Bryan

and Hyatt 2004, p. 9). Spawning occurs in pool, run, and riffle habitats, with slow to moderate water velocities (Propst 1999, p. 24; Brouder et al. 2000, p. 12; Voeltz 2002, p. 16). Snowmelt during late winter and early spring cues spawning and provides water temperatures suitable for spawning. Roundtail chub larvae use low-velocity backwaters (Ruppert et al. 1993, p. 397). Young-of-the-year roundtail chub occupy shallow (less than 50 cm (20 in) depth) and low-velocity waters with vegetated shorelines (Brouder et al. 2000, pp. 6–8; Lanigan and Berry 1981, p. 392). Juveniles use habitat similar to young-of-the-year but with depths less than 100 cm (40 in). Water temperatures of habitats occupied by roundtail chub vary seasonally between 0–32 °C (32–90 °F) (Bezzerides and Bestgen 2002, p. 19; Bonar et al. 2010, p. 3).

There was historically greater connectivity and subsequent relatedness of roundtail chub over the lower Colorado River basin, and development of populations in isolation from other roundtail chub populations was not the normal condition across most of the historical range, except in the Bill Williams River and Little Colorado River drainages.

Roundtail Chub Lower Colorado River Distinct Population Segment

Section 3(16) of the Act defines ''species'' to include any species or subspecies of fish and wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). To interpret and implement the distinct population segment provisions of the Act and congressional guidance, the Service and the National Marine Fisheries Service (now the National Oceanic and Atmospheric Administration—Fisheries Service), published the Policy Regarding the Recognition of Distinct Vertebrate Population Segments (DPS Policy) in the **Federal Register** on February 7, 1996 (61 FR 4722). The DPS Policy sets forth a three-step process for considering if a population is a DPS: The Policy requires the Service first to determine whether a vertebrate population is discrete and, if the population is discrete, then to determine whether the population is significant. Lastly, if the population is determined to be both discrete and significant, then the DPS Policy requires the Service to evaluate the conservation status of the population to determine whether or not the DPS falls within the Act's definition of an ''endangered species'' or a ''threatened species.''

In accordance with our DPS Policy, this section details our analysis of whether the vertebrate population segment under consideration for listing qualifies as a DPS, specifically, whether: (1) The population segment is discrete from the remainder of the species to which it belongs; and (2) the population is significant to the species to which it belongs. In our July 7, 2009, 12-month finding for roundtail chub (74 FR 32352) we found that the roundtail chub in the lower Colorado River basin (the lower Colorado River and its tributaries downstream of Glen Canyon Dam, including the Gila and Zuni River basins in New Mexico) met the definition of a DPS. In the following sections, we reaffirm that finding.

Discreteness

Under the DPS Policy, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act. The potential DPS population of roundtail chub in the lower Colorado River basin is not delimited by international governmental boundaries. The following discussion considers whether the potential DPS population of roundtail chub in the lower Colorado River basin is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors.

The historical range of roundtail chub included both the upper and lower Colorado River basins in the States of Wyoming, Utah, Colorado, New Mexico, Arizona, and Nevada (Propst 1999, p. 23; Bezzerides and Bestgen 2002, p. 25; Voeltz 2002, pp. 9–23), but the roundtail chub was likely only a transient in Nevada, so Nevada is not considered part of its range. Currently, roundtail chubs occur in both the upper and lower Colorado River basins in Wyoming, Utah, Colorado, New Mexico, and Arizona. Bezzerides and Bestgen (2002, p. 24) concluded that historically there were two discrete population centers, one in each of the lower and upper basins, and that these two population centers remain today. Numerous authors have noted that roundtail chub was very rare with few documented records in the mainstem Colorado River between the two basins (Minckley 1973, p. 102; Minckley 1979, p. 51; Valdez and Ryel 1994, pp. 5–10–5–11; Minckley 1996, p. 75; Bezzerides and Bestgen 2002, pp. 24–25; Voeltz 2002, pp. 19, 112), so we do not consider the mainstem to have been occupied historically, and have not considered the Colorado River in our estimates of historical range. The information on historical distribution is clouded because early surveyors also variably used the term ''bonytail'' to describe roundtail chub (Valdez and Ryel 1994, pp. 5–7). The bonytail chub (*Gila elegans*) is a species in the mainstem Colorado River. Some historical accounts of roundtail chub in the mainstem may have, in fact, been bonytail chub. Records of roundtail chub from the mainstem Colorado River also may have been transients from nearby populations, such as some records from Grand Canyon, which may have been from the Little Colorado River (Voeltz 2002, p. 112). One record from between the two basins, a record of two roundtail chubs captured near Imperial Dam in 1973, illustrates this. Upon examining these specimens, Minckley (1979, p. 51) concluded that they were strays washed downstream from the Bill Williams River based on their heavily blotched coloration. This is a logical conclusion considering that roundtail chub from the Bill Williams River typically exhibit this blotched coloration (Rinne 1969, pp. 20–21; Rinne 1976, p. 78). Minckley (1979, p. 51), Minckley (1996, p. 75), and Mueller and Marsh (2002, p. 40) also considered roundtail chub rare or essentially absent in the Colorado River mainstem based on the paucity of records from numerous surveys of the Colorado River mainstem.

We conclude that, historically, roundtail chub occurred in the Colorado River basin in two population centers, one each in the upper (largely in Utah and Colorado, and to a lesser extent, in Wyoming and New Mexico) and lower basins (Arizona and New Mexico), with apparently little, if any, mixing of the two populations. If there was one population, we would expect to find a large number of records in the mainstem Colorado River between the San Juan and Bill Williams Rivers, but very few records of roundtail chub exist from this reach of stream. Also, there is a substantial distance between these areas of roundtail chub occurrence in the two basins. The mouth of the Escalante River, which contains the southernmost

population of roundtail chub in the upper basin, is approximately 443 kilometers (km) (275 river miles (mi)) upstream from Grand Falls on the Little Colorado River, the historical downstream limit of the most northern population of the lower Colorado River basin. The lower Colorado River basin roundtail chub population segment meets the element of discreteness because it was separate historically, and continues to be markedly separate today.

Additionally, in more recent times, the upper and lower basin populations of the roundtail chub have been physically separated by Glen Canyon Dam. That artificial separation is not the sole basis for our finding that the lower basin population is discrete from the upper basin population. The historical information on collections suggests that there was limited contact even before the dam was built. Available molecular information for the species, although sparse, seems to support this as genetic markers from roundtail chub in the Gila River basin are entirely absent from upper basin populations (Gerber et al. 2001, p. 2028; see *Significance* discussion, below).

Accordingly, we reaffirm our finding that the lower Colorado River basin population segment of roundtail chub is discrete from other populations of the species.

Significance

Since we have determined that the roundtail chub in the lower Colorado River basin meet the discreteness element of the DPS Policy, we now consider the population segment's biological and ecological significance based on ''the available scientific evidence of the discrete population segment's importance to the taxon to which it belongs'' in light of congressional guidance that the authority to list DPSs be used ''sparingly'' while encouraging the conservation of genetic diversity (DPS Policy, 61 FR 4722; S. Rep. No. 96–151 (1979)).

The DPS Policy describes four classes of information, or considerations, to take into account in evaluating a population segment's biological and ecological importance to the taxon to which it belongs. As precise circumstances are likely to vary considerably from case to case, the DPS policy does not state that these are the only classes of information that might factor into a determination of the biological and ecological importance of a discrete population. As specified in the DPS policy (61 FR 4722), consideration of the population segment's significance may include, but is not limited to, the following classes of information: (1) Persistence of the discrete population segment in an ecological setting that is unusual or unique for the taxon; (2) evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; or (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics. Significance of the discrete population segment is not necessarily determined by existence of one of these classes of information standing alone. Rather, information analyzed under these considerations is evaluated relative to the biological or ecological importance of the discrete population to the taxon as a whole. Accordingly, all relevant and available biological and ecological information is analyzed for importance to the taxon as a whole. Below, we provide our analysis of the significance of the lower Colorado River basin roundtail chub populations.

Persistence of the Population Segment in an Unusual or Unique Ecological Setting

Based on our review of the best available information, we found that there are some differences in various ecoregion variables between the upper and lower Colorado River basins. For example, McNabb and Avers (1994) and Bailey (1995) delineated ecoregions and sections of the United States based on a combination of climate, vegetation, geology, and other factors. Populations of roundtail chub in the lower basin and in the upper basin occur primarily in different ecoregions. These ecoregions display differences in the natural hydrograph in the type, timing, and amount of precipitation between the two basins, with the upper basin (8–165 cm (3–65 in) per year) (Jeppson 1968, p. 1) somewhat less arid than the lower basin (13–64 cm (5–25 in) per year) (Green and Sellers 1964, pp. 8–11).

The primary difference is that, in the lower basin there are two seasonal peaks of streamflow, a monsoon hydrograph plus the spring runoff season. In the upper basin, roundtail chub habitats have strong snowmelt hydrographs, with some summer, fall, and winter precipitation, but with the majority of major flow events in spring and early summer (Bailey 1995, p. 341; Carlson and Muth 1989, p. 222; Woodhouse et al. 2003, p. 1551). The biology of the roundtail chub indicates the importance of the spring runoff as the cue for spawning, and this cue operates in both the upper and lower basins (Bezzerides and Bestgen 2002, p. 21). The variability of the monsoon storms to provide for higher flows later in the summer is such that it does not have an influence on successful spawning. While there are differences in the ecological settings between the two segments, these differences are not likely to be significant to the taxon.

Significant Gap in the Range of the Taxon

Roundtail chub in the lower Colorado River basin can be considered significant under our DPS Policy because loss of the lower Colorado River populations of roundtail chub would result in a significant gap in the range of the taxon. The lower and upper Colorado River basins are approximately 443 km (275 river mi) and possess a unique, divergent mtDNA lineage that has never been found outside the lower basin (Dowling and DeMarais 1993, pp. 444– 446; Gerber et al. 2001, p. 2028). The lower Colorado River area constitutes over one third of the species' historical range. There are 74 populations of roundtail chub remaining in the upper basin and 31 in the lower basin. Thus, the lower basin populations constitute approximately one third (30 percent) of the remaining populations of the species (Bezzerides and Bestgen 2002, pp. 28–29, Appendix C; Voeltz 2002, pp. 82–83). The populations in the lower basin account for approximately 49 percent (107,300 square mi, 270,906 square km) of the Colorado River Basin (U.S. Geological Survey 2006, pp. 94–102). In addition, the roundtail chub historically occupied up to 2,796 mi (4,500 km) of stream in the lower basin and currently occupies between 497 mi (800 km) and 901 mi (1450 km) of stream habitat in the lower basin. These populations are not newly established, ephemeral, or migratory. The species has been well established in the lower Colorado River basin, and has represented a large portion of the species' range for a long period of time (Bezzerides and Bestgen 2002, pp. 20– 29; Voeltz 2002, pp. 82– 83). The loss of one third of a unique, divergent mtDNA lineage that has never been found outside the lower basin (Dowling and DeMarais 1993, pp. 444– 446; Gerber et al. 2001, p. 2028) of the species as a whole would constitute a significant gap in the range.

Natural Occurrence of a Taxon Elsewhere as an Introduced Population

As part of a determination of significance, our DPS Policy suggests that we consider whether there is evidence that the population represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range (61 FR 4725). The roundtail chub in the lower Colorado River basin is not the only surviving natural occurrence of the species. Consequently, this factor is not applicable to our determination regarding significance.

Marked Differences in Genetic Characteristics

As stated in the DPS Policy, in assessing the significance of a discrete population, the Service considers evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics (61 FR 4725). There have been long-standing difficulties in morphological discrimination and taxonomic distinction among members from the lower Colorado *Gila robusta* complex, and the genus Gila as a whole, due in part to the role hybridization has played in its evolution. But it is important to consider variation throughout the entire Colorado River basin to place variation and divergence in the lower basin *Gila robusta* complex in appropriate context.

Along with *G. robusta, G. cypha* and *G. elegans* are present in the mainstem Colorado River and many large tributaries throughout the basin. Lower Colorado River basin populations of these three species exhibited distinct mtDNAs, with only limited introgression of *G. elegans* into *G. cypha* (Gerber et al. 2001, p. 2028). *G. robusta* individuals from the headwaters of the Little Colorado River and the mainstem Colorado River and tributaries above Glen Canyon Dam in the upper basin possess *G. cypha* or *G. elegans* mtDNA (Dowling and DeMarais 1993, pp. 444–446; Gerber et al. 2001, p. 2028). Populations of the *G. robusta* complex of the lower basin in the Bill Williams and Gila River basins (including *G. robusta, G. intermedia,* and *G. nigra*) possess a unique, divergent mtDNA lineage that has never been found outside the lower basin (Dowling and DeMarais 1993, pp. 444– 446; Gerber et al. 2001, p. 2028). Conversely, in the upper Colorado River basin populations, the impact of hybridization was significant. Most upper basin fish sampled exhibited only *G. cypha* mtDNA haplotypes, with some individuals exhibiting mtDNA from *G. elegans* (Gerber et al. 2001, p. 2028). The complete absence of *G. robusta* mtDNA, even in populations of morphologically pure *G. robusta*, indicates extensive introgression that predates human influence.

Gerber et al. (2001, p. 2037) noted that genetic information in *Gila* poorly accounts for species morphology, stating that ''the decoupling of morphological and mtDNA variation in Colorado River Gila illustrates how hybridization and local adaptation can play important roles in evolution.'' The lower Colorado River discrete population segment differs markedly from the upper Colorado River basin segment due to the unique, divergent genetic lineage of the lower basin.

Summary of Significance

The divergent genetic lineage within the lower Colorado River basin (Dowling and DeMarais 1993, pp. 444–446; Gerber et al. 2001, p. 2028) demonstrates a marked difference in genetic characteristics from the upper Colorado River basin segment. In addition, the lower Colorado River basin segment constitutes one third of the species' range; the loss of which would result in a significant gap in the species' range. The lower Colorado River basin population of roundtail chub is therefore significant to the species as whole because the loss of this population would create a significant gap in the range and the population demonstrates a marked difference in genetic characteristics.

DPS Conclusion

We have evaluated the lower Colorado River population segment of the roundtail chub to determine whether it meet the definition of a DPS, addressing discreteness and significance as required by our policy. On the basis of the best available information, we conclude that the lower Colorado River populations are discrete from the upper Colorado River basin populations on the basis of their present and historical geographic separation of 275 river mi (444 km) and because few historical records have been detected in the mainstem Colorado River between the two population centers that would suggest meaningful connectivity. We also conclude that the lower Colorado River basin roundtail chub is significant because of its unique genetic lineage, which differs markedly from the upper basin, and that the loss of the species from the lower basin would result in a significant gap in the range of the species. Because this population segment meets both the discreteness and significance elements of our DPS policy, the lower Colorado River population segment of the roundtail chub qualifies as a DPS in accordance with our DPS policy, and, as such, is a listable entity under the Act.

Summary of Biological Status and Threats

The Act directs us to determine whether any species is an endangered species or a threatened species based on any on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We completed the Draft Headwater Chub and Lower Colorado River DPS of Roundtail Chub Species Status Assessment (SSA Report) (Service 2015; entire), which is available online at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2015–0148. The SSA Report documents the results of the comprehensive biological status review for the headwater chub and lower Colorado River basin roundtail chub DPS, which provides a thorough account of the species' overall viability. We define viability here as a description of the ability of the species to sustain populations in the wild beyond a biologically meaningful timeframe. For these species, we assessed the future viability about 30 years from the present or around 2046. In the SSA Report, we assess the viability of the headwater chub and the lower Colorado River basin roundtail chub DPS in terms of resiliency, redundancy, and representation. Resiliency is having sufficiently large populations for the species to withstand stochastic events. Redundancy is having a sufficient number of populations for the species to withstand catastrophic events. Representation is having the breadth of genetic makeup of the species to adapt to changing environmental conditions.

In the SSA Report, we summarize the relevant biological data and a description of past, present, and likely future risk factors (causes and effects) and provide an analysis of the viability of the species. Specifically, we evaluate the risk of extirpation of individual analysis units (AUs). The SSA Report provides the scientific basis that informs our regulatory decision regarding whether these species should be listed as endangered or threatened species under the Act. This decision involves the application of standards within the

Act, its implementing regulations, and Service policies (see Determination, below). The SSA Report contains the analysis on which this determination is based, and the following discussion is a summary of the results and conclusions from the SSA Report.

Historical and Current Range and Distribution

The occurrence records of both species show some inconsistencies and in some cases use incorrect common names. Therefore, we used the best available information and made some decisions on assignment of chub species that may not be consistent with museum records, but we based these decisions on more current information and biological characters.

Assignment of chubs in a stream to headwater, roundtail, or Gila is difficult due to the morphological and genetic similarities. Typically, assignment to species is based on the geographical location. Assignment to one or the other species has been made for all populations or streams of the headwater chub and roundtail chub DPS. However, there is some uncertainty within three streams (Fossil Creek and West Clear Creek in the Verde River drainage, and Turkey Creek in the Upper Gila drainage) where the species overlap, and likely hybridize with one another. Each of these locations is discussed in more detail below. For the purposes of the SSA Report and the SSA Model, we will evaluate Fossil Creek as having headwater chub from the constructed barrier upstream to Fossil Springs (above the barrier) and roundtail chub from the mouth of Fossil Creek to Irving (below the barrier), with a mix between Irving and the fish barrier. In West Clear Creek, for the SSA Report, we will consider lower and upper West Clear Creek are roundtail chub based on our past assignment. In Turkey Creek for the SSA Report, we will consider Turkey Creek contains only Gila chub, but not headwater chub.

In the SSA Report, we use AUs to describe the populations of chubs. The AUs were delineated based on the hydrological connectivity of currently occupied streams and the ability of chubs to move within or among streams. There are two types of AUs considered in the SSA Report: (1) Those composed of one occupied stream, referred to as independent AUs; and (2) those composed of two or more hydrologically connected occupied streams, referred to as complex AUs.

Headwater Chub

Based on our assessment, headwater chub historically occupied 26 streams with a maximum total stream length of 892 kilometers (km) (554 miles (mi)). The streams were distributed over three drainage basins: Gila River, Salt River, and Verde River. As of 2015, headwater chub are found in 22 streams with a collective minimum of 432 km (268 mi) of available habitat: 406 km (252 mi) from the historically occupied streams and 26 km (16 mi) from occupied streams newly discovered. We evaluated the reduction in range based on stream length rather than the number of streams because this provides a more accurate assessment of the amount of habitat. Listing the number of streams does not provide an account of the available habitat because streams could vary greatly in length. This represents at least 48 percent of the estimated historical range and no more than a 52 percent reduction in range. We document the extirpation of chubs from four historically occupied streams, totaling 71 km (44 mi). Additionally, we know that chub are not found in portions of Haiger and Tonto Creeks (approximately 25 km (16 mi) and 18 km (11 mi), respectively), where they were historically. This accounts for 114 km of the reduction in range, leaving 346 km (71 mi) unaccounted for. This 346 km (71 mi) may represent actual habitat lost or may be due to differences in the methodologies used in calculating the historical and current ranges, or a combination of both.

TABLE 1—ESTIMATED HISTORICAL AND CURRENT RANGES (IN LINEAR STREAM km) OF THE HEADWATER CHUB IN THE LOWER COLORADO RIVER BASIN FOR THE SSA REPORT

Species of chub	Estimated historical range based on stream length (km) [1]	Estimated current range (km & % of estimated historical range currently occupied) [2]	Estimated reduction in range (km & % of estimated historical range that no longer contains chubs)	Number of streams historically occupied	Number of streams currently occupied
Headwater	892	432 (48%)	460 (52%)	26	22

[1] This includes perennial, intermittent, and dry reaches within a stream.
[2] This includes perennial and interrupted perennial reaches within a stream.

Lower Colorado River Basin Roundtail Chub DPS

The lower Colorado River basin roundtail chub DPS historically occupied 48 streams with a maximum total stream length of 4,914 km (3,053 mi). The streams were distributed across five drainage basins: Bill Williams River, Gila River, Little Colorado River, Salt River, and Verde River. As of 2015, roundtail chub are found in 35 streams with a collective minimum of 2,098 km (1,303 mi) of available habitat: 2,077 km (1,291 mi) from the historically occupied streams and 21 km (13 mi) from occupied streams newly discovered. We evaluated the reduction in range based on stream length rather than the number of streams because this provides a more accurate assessment of the amount of habitat. Listing the number of streams does not provide an account of the available habitat because streams could vary greatly in length. This represents at least 43 percent of the historical range and no more than a 57 percent reduction in range. We document the extirpation of chubs from six historically occupied streams, totaling 1,864 km (1,158 mi). Therefore, approximately 234 km (145 mi) of the potential reduction in range is unaccounted for. This 234 km (145 mi) may represent actual habitat lost or may be due to differences in the methodologies used in calculating the historical and current ranges, or a combination of both.

There are also four newly established populations for the lower Colorado River basin roundtail chub DPS: Blue River in the Gila River drainage basin, Ash Creek in the Salt River drainage basin, and Gap Creek and Roundtree Creek in the Verde River drainage basin. Blue River is 81 km (50 mi) watered length, Ash Creek is about 5 km (3 mi) watered length, Gap Creek and Roundtree Canyon Creek are about 3 km (2 mi) in watered length each. The total

wetted length of all four streams is 92 km (57 mi).

Historically, populations in the lower Colorado River basin roundtail chub DPS had greater connectivity to each other. However, roundtail chub are extirpated from several large riverine streams that provided connectivity across most of the historically occupied range. This has resulted in the recent isolation of AUs even within the same drainage basin.

TABLE 2—ESTIMATED HISTORICAL AND CURRENT RANGES (IN LINEAR STREAM km) OF THE ROUNDTAIL CHUB IN THE LOWER COLORADO RIVER BASIN FOR THE SSA REPORT

Species of chub	Estimated historical range based on stream length (km) [1]	Estimated current range (km & % of estimated historical range currently occupied) [2]	Estimated reduction in range (km & % of estimated historical range that no longer contains chubs)	Number of streams historically occupied	Number of streams currently ccupied
Roundtail	4,914	2,098 (43%)	2,816 (57%)	48	35

[1] This includes perennial, intermittent, and dry reaches within a stream.
[2] This includes perennial and interrupted perennial reaches within a stream.

Individual, Population, and Species Needs for Headwater Chub and the Lower Colorado River Basin Roundtail Chub DPS

Both adult headwater chub and the lower Colorado River basin roundtail chub DPS need slow-moving, deep pools, and juveniles and young-of-the-year need shallow water along stream banks. For shelter, they need large rocks, undercut banks, and woody debris. For spawning, they need pool, run, and riffle habitats with sandy-rocky substrates and slow to moderate water velocities. For feeding, adults need plants, detritus, and arthropods (aquatic and terrestrial), and juveniles and young-of-the-year need diatoms, filamentous algae, and insects. Adults may also consume small fish, as they are the top native fish predator in their habitat (Pilger et al. 2010, p. 306).

Both headwater chub and the lower Colorado River basin roundtail chub DPS need to have multiple resilient populations distributed throughout different drainage basins within their historical range to maintain viability into the future and avoid extinction. Resilient chub populations must be of sufficient size to withstand stochastic events such as demographic effects of low genetic diversity and environmental variability. The best available data do not indicate a minimum or preferred population size. However, large (or more resilient) populations are better able to withstand disturbances such as random fluctuations in birth rates (demographic stochasticity), or variations in rainfall (environmental stochasticity). The resiliency of headwater chub or the lower Colorado River basin roundtail chub DPS populations is largely governed by: (1) The quantity, distribution, and connectivity of habitat; (2) the quality of habitat (specifically deep pools for adults and shallow waters along stream banks for juveniles and young-of-the-year); and (3) the presence or absence of nonnative aquatic species. These conditions combine to control the size of the chub population and its age structure (which increases the resiliency of AUs in terms of demographic stochasticity and genetic diversity). Further, these conditions control the extent of habitat available to serve as refuge sites for chub to survive environmental stochasticity and localized threats from land and water uses, and allow re-occupancy of the affected habitat area after the event.

For redundancy, both the species and DPS need a sufficient number of resilient populations to withstand catastrophic events. The wider the distribution of resilient populations and the greater the number of populations, the more redundancy the species or DPS will have. This redundancy reduces the risk that a large portion of the range will be negatively affected by any catastrophic event at any one time. Species that are well distributed across their historical range (*i.e.*, having high redundancy) are less susceptible to extinction and more likely to be viable than species confined to a small portion of their range (Carroll *et al.* 2012, entire; Redford *et al.* 2011, entire).

Having a breadth of genetic makeup of the species to adapt to changing environmental conditions is needed for representation. Representation can be measured through the genetic diversity within and among populations, and the ecological diversity (variety of ways species interact with each other and the environment) of populations across the species' range. The more representation, or diversity, the species has, the more it may be capable of adapting to changes (natural or human caused) in its environment. In the case of the headwater chub and lower Colorado River basin roundtail chub DPS, maintenance of the identified genetic diversity in AUs across the species' and DPS's geographic range is important.

Risk Factors for Headwater Chub and the Lower Colorado River Basin Roundtail Chub DPS

We reviewed the potential factors that may affect the headwater chub and lower Colorado River basin roundtail chub. We found three primary risk categories: (1) Competition with, predation from, and harassment by nonnative aquatic species; (2) a lack of sufficient water to support the physical and biological components needed for all life stages and life-history functions; and (3) changes in the timing and amount of snowmelt runoff in the spring and precipitation from monsoons in the fall, reduction in hydrologic connectivity within and between streams, and the reduction in the length of flowing reaches (all of which are impacts from climate change). All three of these risks categories likely have population-level effects to both the headwater chub and the lower Colorado River basin roundtail chub DPS.

We considered several other potential risk factors that may have population-level effects to either the headwater chub or the lower Colorado River basin roundtail chub DPS, but we were not able to incorporate into the model. These include wildfire risk, additional climate change impacts (other than those considered in the model), water loss due to anthropogenic actions, and demographic impacts from these factors and the reduction in the range. We evaluated impacts from these additional risks to each AU and the species/DPS as a whole.

There are other risks to both chub species that can result in localized effects, including grazing, roads, forestry practices, disease, pathogens, and recreation. While these may have effects

on individual chubs, they are not likely to have population-level impacts on either the headwater chub or the lower Colorado River basin roundtail chub DPS, as explained in chapter 7 and appendix B of the SSA Report.

Across the historical range, the quality and quantity of habitat, abundance of headwater chub and roundtail chub, and condition of the AUs has been altered. The introduction of nonnative aquatic species and changes in water flows, caused by human activities (either surface water diversion or groundwater pumping) and climate change, leading to a reduction in water availability, have led to reductions in chub abundance and habitat quality and quantity. Nonnative aquatic species occur within almost all streams occupied by these two chub species. The changes in flows have altered the connectivity and spatial distribution of chubs, resulting in segmentation of watered areas within individual streams and loss of connectivity between streams.

Nonnative fish are the most significant risk factor to the lower Colorado River fish fauna, including headwater chub and the lower Colorado River roundtail chub DPS, due to competition and predation (Minckley and Deacon 1991; Carlson and Muth 1989, p. 220; Mueller 2005, pp. 10–12; Olden and Poff 2005, p. 75). It has now been shown that contamination by nonnative fishes is the most significant risk factor to the lower Colorado River fish fauna due to competition and predation (Minckley and Deacon 1991; Carlson and Muth 1989, p. 220; Mueller 2005, pp. 10–12; Olden and Poff 2005, p. 75), and nonnative aquatic species are the primary impediment to the native fish species' success (Minckley and Marsh 2009, p. 51). Declines in native fish, including roundtail and headwater chubs, are largely attributable to predation, with early life stages (Minckley 1983, p. 182) being the most vulnerable. Clarkson *et al.* (2005, p. 20) noted that over 50 nonnative aquatic species were introduced into the Southwest as either sport fish or baitfish. Lower West Clear Creek showed a reduction in roundtail chub after smallmouth bass became a significant part of the fish community (Brouder et al. 2000, pp. 9, 13; Jones *et al.* 2014, pp. 70–71), and in the upper Salt River after flathead catfish were introduced (AGFD 1996), and these reductions have been interpreted as resulting from those nonnative fish expansions. Fathead minnow (*Pimephales promelas*), green sunfish (*Lepomis cyanellus*), red shiner (*Cyprinella lutrensis*), western mosquitofish (*Gambusia affinis*), largemouth bass (Micropterus salmoides), flathead catfish (*Pylodictis olivaris*) (Fuller 1999, p. 208), and channel catfish (*Ictalurus punctatus*) are among the fastest expanding nonnative fishes in the basin and are considered to be the most invasive in terms of their negative impacts on native fish communities (Olden and Poff 2005, pp. 83–84). Of these species, green sunfish, flathead catfish, smallmouth bass, and largemouth bass are considered to impact chubs the most.

However, there are streams where chubs have maintained populations in the presence of one or more of these nonnative aquatic species, but the mechanisms providing for that coexistence in any particular stream are unknown. The nonnative aquatic species community varies for different streams. The amount of preferred habitat available for both the chub and the nonnative aquatic species may play a role, as may the abundance of the nonnative species and its means of affecting the chub. In some cases, the nonnative aquatic species may have only newly entered the stream and the full effects have not been realized. In other cases, the current habitat and population dynamics may not strongly favor either natives or nonnatives, allowing for persistence of both under those conditions. While chubs coexist with nonnative aquatic species in several streams, this does not mean that nonnative aquatic species are not impacting chubs or that nonnative aquatic species are not having population-level impacts on chubs. Marks *et al.* (2009, pp. 15, 21) looked at the response of native fish in Fossil Creek before and after nonnative fish were removed from the stream. With the removal of these nonnative fish, headwater and roundtail chub numbers increased 70 times over the pre-removal numbers due to the success of spawning and survival of young-of-the-year chubs.

Nonnative aquatic species occur within all streams occupied by chubs with the exception of three streams for each species. We expect that nonnative aquatic species will continue to persist in most, if not all, of the streams they currently occupy because they have readily adapted to the stream conditions and removing them from areas they currently occupy is difficult and expensive. Further, it is likely that the increase in the frequency and severity of droughts, the reduction of flowing regions within a network of streams, and an increase in the length of dry patches within a stream as a result of climate change will exacerbate the impacts from nonnative aquatic species. This is because as the available watered segments decrease, the interactions between nonnatives and chubs increase, with more larvae and young-of-the-year removed from the chub populations due to predation by nonnative aquatic species. In addition, resources become more limited and the competition for these resources increases, resulting in decreased food for chubs and more competition for that food. The reduction in water will likely decrease the water quality (*e.g.*, decreased dissolved oxygen, temperature increases, changes in pH, and nutrient loading) (Lake 2000, p.578; Lake 2003, p. 1165), which nonnative aquatic species are likely more capable of adapting to than the chubs. (Eaton and Scheller 1996, p. 1111; Rahel and Olden 2008, p. 527; Rahel et al. 2008, pp. 554–555). While the chubs have maintained a presence in several streams with nonnatives, the impacts from nonnative aquatic species exacerbated by other factors reduce the streams' ability to withstand stochastic events. In addition, there is the potential that the six streams (three for headwater chub and three for lower Colorado River basin roundtail chub DPS) that currently do not have nonnative aquatic species could be infiltrated by nonnatives. The three headwater chub streams are Diamond Creek in the Gila River basin, and Buzzard Roost Creek and Turkey Creek in the Tonto Creek basin. For the lower Colorado River basin roundtail chub DPS, the streams are Stone Corral Canyon Creek and Conger Creek in the Bill Williams basin, and Canyon Creek in the Salt River basin.

Nonnative aquatic species could be introduced through the release of baitfish, intentional introduction by anglers for sport fishing, or flooding events, which allow chubs to pass low water barriers. The management of nonnatives is an important tool in the conservation of these species. Currently, due to a lack of a producer for Antimycin A and lack of Environmental Protection Agency (EPA) registration for other potential piscicides in development, the most effective method to remove fish is rotenone. However, the process for public coordination and other steps required on the pesticide label make it difficult and time-consuming to use rotenone under Federal law, and even more so under Arizona State Law (ARS Title 17–481) and Arizona Game and Fish Commission policy. Given vocal public and political opposition to rotenone treatments, stream restoration has become difficult in Arizona because of the lengthy bureaucratic process attached to those treatments. Without

this tool, management of nonnative aquatic species will become more difficult (Pool et al. 2013, p. 640).

Water is the basic habitat component needed for both chub species' survival and to support the various life stages and life-history functions. Water supports the needed physical and biological characteristics in streams to provide suitable chub habitat. There is a strong seasonal component to the amount of water available in a stream. There is snowmelt in the spring, which is important for spawning, and monsoon rains in the summer that is important during the driest time of year (late spring, early summer). Spatial and temporal variation in water amount and temperature may influence timing and periodicity of spawning, influence elevation distributions within stream systems, and impact the life cycles and availability of food resources (Dallas 2008, pp. 395–397). Historically, the amount of water in any stream at any time was determined by natural water sources, such as surface flow, springs, and alluvial groundwater input. Currently, these natural water sources are impacted by climate change (discussed below) and human actions. The creation of large water storage dams (such as those on the Salt and Verde Rivers) eliminate flowing sections of water and replace them with large reservoirs that support nonnative fish species. Chubs may be found in these large reservoirs initially, but do not persist there (Bezzerides and Bestgen 2002, p. 18). The dams that form the reservoirs are impassible obstacles and prevent chubs from moving through the system, resulting in occupied fragments of a stream where there was once full connectivity.

On the smaller scale, diversion dams that allow for removal of water from the stream for human uses may or may not be barriers to connectivity depending on their size and structure; however, their effect on flows can be substantial depending on the number of diversions in a stream, and the season of diversion. For agriculture, the primary diversion season is in the late spring through early fall. Generally, late spring and early summer is the time of year with the lowest flow and when water supplies are already stressed. This contributes to local stream drying, where the reach below the diversion can be all or partially dry until any return flows from the land use from agricultural fields, groundwater levels restore surface flow, or monsoon rains. In addition to direct removal of surface flow, wells that tap the alluvial groundwater (the shallow aquifer that also supports the surface flow in a stream) can reduce the level of the groundwater such that it is below the streambed elevation and cannot provide surface flows. In areas with few wells, this is generally not a significant concern; however, in areas with denser human development (as is found along the East Verde River, Oak Creek, and Wet Beaver Creek), stream drying occurs occurs (Girmendonk and Young 1997, pp. 31–32, 42; Paradzick et al 2006, pp.9–12). Demand for water is projected to increase as human populations are predicted to increase, affecting the timing, amount, and distribution of water within streams.

Climate change models project alteration in the timing and amount of snowmelt and monsoon rains, and the frequency and duration of droughts, as well as increases in temperature resulting in increased evaporation. During the spring and early monsoon seasons, the flowing regions of the Verde River stream network (areas with water) are projected to diminish a median of 8 percent and a maximum of 20 percent (Jaeger et al. 2014, p. 3) from their current status in the Verde River basin. Over much of the western United States and western Canada, warmer winters are projected to produce earlier runoff and discharge but less snow water equivalent and shortened snowmelt seasons in many snow-dominated areas (Barnett et al. 2005, entire; Rood et al. 2008, entire; Reba et al. 2011, entire).

Climate change model predictions suggest that climate change will shrink the length of the remaining flowing reaches in the Verde River, in the lower Colorado River basin, where both these species occur (Jaeger et al. 2014, p. 3). The frequency of stream drying events in the Verde Valley is expected to increase by approximately 17 percent (Jaeger et al. 2014, p. 13895), due in large part to groundwater decline. These regions that support flow are increasingly isolated as adjacent dry fragments expand in length and occur more frequently across these seasons. Model predictions suggest that midcentury and late-century climate will reduce network-wide hydrological connectivity. Midcentury and late-century climate model projections suggest that more frequent and severe droughts will reduce network-wide hydrologic connectivity for native fishes by 6 to 9 percent over the course of a year and up to 12 to 18 percent during spring spawning months (Jaeger et al. 2014, p. 3). The reduction in the length of the remaining flowing reaches will further increase native and nonnative aquatic species interactions and resource limitations, and will compromise the ability of these habitats to support native fishes (Jaeger et al. 2014, p. 3), including these chub species.

The best available data indicate that climate change and increased human population levels in the Verde Valley in the lower Colorado River basin will result in lowered groundwater levels and stream base flows to some degree (Garner et al. 2013, p. 23; Jaeger et al. 2014, p. 13895). The decline in groundwater levels and base flows in the region is expected to be caused by increased groundwater pumping, by surface water diversion, and from an increase in the frequency and severity of droughts in Arizona as a result of climate change. Specifically, future water levels and stream base flows are expected to continue decreasing along the Verde River and Oak Creek in response to increased pumping, particularly over the next 50 years (Owens-Joyce and Bell 1983, pp. 1, 65; McGavock 1996, p. 67; Blasch et al. 2006, p. 2; Garner et al. 2013). The best available information regarding future water availability for chubs includes models of the groundwater and base flow in the Verde River through approximately 2050. These models indicate a maximum of 20 percent loss of flow for the Verde River by approximately 2050 during dry times of the year (Jaeger et al. 2014, p. 13897). Despite native fishes having evolved life-history strategies to cope with the harsh environmental conditions that occur as a result of stream drying events, the predicted spatiotemporal changes in streamflow likely will have adverse consequences for the distribution, abundance, and persistence of these species into the future.

Effects to chubs from wildfire vary depending on the wildfire and streams. The severity, location, and timing of the wildfire influence the impact of wildfire to chubs depending on the amount of runoff, and degree of sediment and ash in the runoff. The size and condition of the stream also influences the impact to chubs from wildfire. There are streams where chubs (and other fish species) survived the post-fire ash/sediment flows following wildfire. This happened in the Upper Gila, Black River, and Spring Creek (Tonto River drainage). It is probable that there were individual fish that died or were harmed, and population numbers (or health) were reduced. However, populations that were initially depressed in these streams have rebounded, even increasing in abundance or extent relative to pre-fire conditions. However, in certain streams, like Cave Creek, Gila chub populations were impacted by the

Cave Creek Complex Fire through changes in habitat abundance, in which pools where filled with sediment. However, Gila chub still persist in all the locations that were occupied by chub prior to the Cave Creek Complex Fire. Forest management at large landscape scales across the ranges of the chubs is occurring and will continue to occur to reduce forest fuels and therefore reduce wildfire risk and severity. However, the effects from climate change, such as increased temperatures, increased evaporation, and change in timing and amount of precipitation, are likely to create conditions more favorable to wildfire. Wildfire can result in impacts to individuals and could also result in population-level impacts. Wildfire could impact any stream or any AU within the range of both species. Severe or extensive wildfires that occur in smaller AUs and independent AUs are more likely to have an impact on these species as a whole. However, we are unable to predict when or where such fires could occur, nor the impacts to chubs from these wildfires, but we recognize that wildfires are highly likely to occur. We further recognize that not all fire is harmful to these species.

As a result of the risk factors described above, particularly from climate change, the connectivity of chubs within and between streams is impacted, resulting in fragmented streams and AUs that could have population-level impacts to chubs. This results in small and isolated populations, susceptible to demographic impacts. Demographic impacts include loss of genetic diversity from inbreeding depression and genetic drift resulting in young that may have reduced fitness to cope with existing or changing conditions. This decreases a population's ability to adapt to environmental changes and increases vulnerability to extirpation (*i.e.*, decreases resiliency). Fagan *et al.* (2002, p. 3254) found that, as a result of fragmentation and isolation, roundtail chub has a moderately high risk of local extirpation (0.41 percent probability) because recolonization from adjacent populations is less likely. Headwater chub, which has naturally fragmented populations, has a lower risk of local extirpation (0.28 percent probability), as it still occupies many of its historical localities, which are headwater and smaller tributary habitats. However, fragmentation within those populations exercises the same potential for adverse effects of small, isolated populations. In examining the relationship between species distribution and extinction risk in southwestern fishes, Fagan *et al.* (2002, p. 3250) found that the number of occurrences or populations of a species is less significant a factor in determining extinction risk than is habitat fragmentation.

These species developed as a result of multiple independent hybridization events over time (Rinne 1976; Rosenfeld and Wilkinson 1989; DeMarais *et al.* 1992; Dowling and DeMarais 1993; Minckley and DeMarais 2000; Gerber *et al.* 2001; Schwemm 2006; Schönhuth *et al.* 2014). Historically roundtail chub had greater connectivity among populations and subsequent relatedness over the region. The development of populations in isolation from other roundtail chub was not the normal condition across most of the historical range except in the Bill Williams River and Little Colorado River drainages. In the lower Colorado River basin roundtail chub DPS, genetic variation occurs mainly within populations. For roundtail chub, demographic effects could result not only if AUs are fragmented but also if connectivity among AUs is fragmented.

In headwater chub, most of their genetic variation occurs among populations, each of which tends to be distinctive. Each AU is geographically isolated from the other AUs even in the same drainage basin. For headwater chub, demographic effects could result if AUs become fragmented due the unique genetic variation within each AU. As the demand for water by humans and the effects of climate change increase, water is likely to become more limited. This loss of water affects the water flow in a stream and the number and length of watered and dry stream segments (*i.e.,* increased fragmentation of a stream). As fragmentation increases so does the risk of demographic impacts. Small and isolated populations are vulnerable to loss of genetic diversity, which decreases a population's ability to adapt to environmental changes and increases vulnerability to extirpation.

Conservation Efforts for Headwater Chub and the Lower Colorado River Basin Roundtail Chub DPS

Past conservation efforts include the establishment of new populations for roundtail chub in the lower Colorado River Basin DPS and the renovation or securing of currently occupied areas for headwater and roundtail chub in the lower Colorado River Basin DPS. Newly established populations are sites where chubs have been released within the species' historical range. This involves locating a site with suitable habitat, free of nonnative aquatic species or with nonnatives to be removed, through chemical or mechanical means. Establishment of a hatchery broodstock for the streams at risk of loss of wild populations provides for newly established populations to those areas. Renovation or securing of a population involves salvaging the chub species from the stream, then the removal of nonnative aquatic species and potentially the installation of a barrier to keep nonnatives out of the site, and then the release of salvaged chubs back into the stream. Stream renovation is labor- and time-intensive. The salvage of chubs takes significant resources in terms of time, personnel, and funding. Temporary housing for the salvaged chub is needed while the nonnative aquatic species are removed. The eradication of nonnative aquatic species from streams is essential for establishing new populations or securing populations. However, removing nonnative aquatic species from a stream is difficult and typically requires multiple efforts. Rotenone is the most effective means of eradicating nonnatives from a stream. If there is not a barrier to prevent nonnative aquatic species from moving into the renovated area, then a barrier will need to be constructed prior to removing the nonnatives. Once the nonnative aquatic species are removed and a barrier put in place, chubs are released back into the stream. It is likely that not all nonnative aquatic species were removed, and a rotenone treatment will be necessary at some point in the future. This will require salvaging the chubs again and applying the rotenone, and then releasing the salvage chubs.

Removal of nonnative aquatic species has been used as a securing action for Fossil Creek for both headwater and roundtail chub. This effort has been successful, but significant time and resources were expended to secure the site and continue to be needed to maintain this site. Consequently, due to the expense and time, there is uncertainty regarding the securing of sites in the future.

There are currently four newly established sites for the roundtail chub in the lower Colorado River basin. The four new established populations are: Blue River, Ash Creek, Gap Creek, and Roundtree Creek. Blue River is the only established site with documented reproduction. This site has a high potential for success; however, it is a relatively new site established in 2012. The other three sites have not shown reproduction. Their long-term viability is uncertain.

Three of the established sites are free of nonnative aquatic species. Blue

Creek, the fourth newly established site, does contain some nonnatives but the community level of impacts is not likely to impact at a population level but does have negative effects to individuals. The success of secured sites is dependent on keeping the site free of or with limited nonnative aquatic species. The eradication of nonnative aquatic species from streams is essential for establishing new populations or securing populations. Rotenone is a primary means of eradicating nonnative fish from a stream. Currently, due to a lack of a producer for Antimycin A and lack of EPA registration for other potential piscicides in development, the most effective method to remove fish is rotenone. However, the process for public coordination and other steps required on the pesticide label make it difficult and time-consuming to use rotenone under Federal law. Given the difficulty and uncertainty surrounding the use of this tool, management of nonnative aquatic species could be problematic in the future. Without this tool, management of nonnative fish will become more difficult and the success of future conservation efforts more uncertain. Due to the high uncertainty of the success of newly established populations, and the likelihood that rotenone will not be a useable tool to remove nonnative aquatic species, we did not rely on newly established populations or renovated streams in our assessment of future conditions.

In addition, the U.S. Forest Service has implemented a suite of practices to reduce the risk of high-severity fires in the range of the chubs, such as prescribed burning, mechanical thinning, and retention of large trees. These actions can help southwestern forest ecosystems adapt to climate change and reduce the risk of extreme fire behavior (Finney *et al.* 2005). These measures can also reduce emissions of the gases that cause climate change because long-term storage of carbon in large trees can outweigh short-term emissions from prescribed burning. Although considerable work has been accomplished to reduce fuel loads and plans to continue that effort are documented, wildfire still poses a risk to the chubs.

Current Condition

In the SSA Report, we used AUs to describe the populations of chubs. The AUs were delineated based on the hydrological connectivity of currently occupied streams and the ability of chubs to move within or among streams. There are two types of AUs considered in the SSA Report: (1) Those composed of one occupied stream, referred to as independent AUs; and (2) those composed of two or more hydrologically connected occupied streams, referred to as complex AUs.

We determined that water availability, nonnative aquatic species, and chub population structure are the three primary risks to these species. We modeled certain components contributing to the primary risks that were most likely to have a population-level impact to both species of chub. We developed a qualitative (measuring by quality of physical and biological components rather than quantitatively) model to summarize our understanding of the risk of extinction of these species due to these factors. To model water availability, we considered stream length as a surrogate for available habitat. We recognize that stream length does not equate to the quality of habitat available, but this is the best available data we have. The effect of nonnative aquatic species was evaluated in terms of the impacts from the community of nonnatives aquatic species present in a stream and the known impacts to chubs from the nonnative aquatic species present in the stream. Chub population structure is expressed in terms of chub abundance, number of age classes, and number of positive surveys for presence of the species. In addition, the model captures past conservation measures, such as stream renovations and newly established populations. Although not incorporated into our model, we also considered additional risk from climate change and water loss due to anthropogenic factors (*e.g.,* surface water diversion and groundwater pumping), which is part of the water availability factor we included in our model. However, we were not able to capture additional risk from climate change and water loss due to anthropogenic factors in the model. In addition, we assessed impacts from wildfire based on the wildfire risk map developed by the U.S. Forest Service, recognizing that not all fire results in adverse effects to these chubs. Further, we considered the demographic impacts from these risks and the reduction in range. We evaluated impacts from these additional risks to each AU and the species as a whole. We considered these additional factors by evaluating their impacts to AUs and the species as a whole. For additional information on our assessment model, refer to the SSA Report at *http://www.regulations.gov*.

The current condition is expressed as our understanding of risk of extirpation now or in the near future (next 5 years). We identified four categories to communicate how we are defining risk of extirpation, described in Table 3, below. An AU categorized as minor risk has a 0 to 5 percent change of extirpation.

TABLE 3—MODELED ANALYSIS UNIT RANKING CATEGORIES BASED ON RISK OF EXTIRPATION

Category	Extirpation risk (%)
Minor Risk Extirpation	0–5
Low Risk Extirpation	6–30
Moderate Risk Extirpation	31–60
High Risk Extirpation	>60

The results of our model analysis are displayed in Tables 4, 5, and 6, below. The San Carlos River AU and the upper Salt River AU are within tribal boundaries. The available data for these areas are dated and limited. In our analysis, we consider these AUs occupied; however, we have high uncertainty in this status.

Headwater Chub

Currently, there are eight AUs over three drainage basins: Gila River, Salt River, and Verde River. Headwater chub are found in 22 streams with a collective minimum of 432 km (268 mi) of available habitat. This represents at least 48 percent of the estimated historical range and no more than a 52 percent reduction in range. Stream lengths range from 3 to 70 km (2 to 44 mi). Average stream length is 17 km (10 mi). Only three streams lack nonnative aquatic species impacting chubs. Only one AU is in the minor risk of extirpation category. There are three AUs in the low risk, and four in the moderate risk categories (see Table 4, below).

TABLE 4—MODELED CURRENT CONDITION OF HEADWATER CHUB BY ANALYSIS UNITS

[C = Complex AU; I = Independent AU]

Watershed	Sub-watershed	Analysis unit	Type/Number of streams	Risk of extirpation
Gila River	Lower Gila River	San Carlos	C/2	Moderate.
	Upper Gila River	Three Forks	C/4	Low.
Salt River	Tonto Creek	Lower Tonto Creek	C/2	Moderate.
	Tonto Creek	Upper Gunn Creek	I	Moderate.
	Tonto Creek	Upper Tonto Creek	C/8	Low.
Verde River	East Fork Verde River	East Fork Verde River	C/5	Moderate.
	Verde River	Upper Fossil Creek	I	Minor.
	Verde River	Upper Wet Bottom Creek	I	Low.

Once the modeled results of the current condition were determined, we then evaluated the risk from wildfire, additional risk from climate change, water loss due to anthropogenic actions, and the demographic impacts from these risk factors and reduction in range on the AUs and the species as a whole. We assessed if an AU in each risk category were to experience a wildfire, loss of connectivity, decreased water flow due to anthropogenic actions and climate change, and demographic impacts, how that would further affect the condition of the AU. We recognize that impacts from fire do not always result in adverse impacts to chubs. We then considered how this would impact the redundancy and representation of the species.

Wildfire could impact one or more AUs now or in the near future (5 years). Impacts could range from loss of individuals to loss or significant impacts to entire AUs or multiple AUs. The likelihood of wildfire now or in the near future is high; however, the severity, timing, and location of the wildfire is uncertain.

Climate change is projected to reduce the flowing stream length of river networks. However, there are other impacts from climate change that we considered but were not able to incorporate into the model. This includes the increased lengths of dry reaches within a stream, loss of connectivity within and among streams, changes in the timing and amount of snowmelt and monsoon rains, changes in the frequency and duration of droughts, and the increase in temperatures resulting in increased evaporation. Increased dry reaches can impact chub movement and dispersal. Connectivity within streams is important for headwater chubs to maintain genetic diversity. Alterations in the timing and amount of water in the spring could result in delayed or reduced reproduction and recruitment. Alterations in the timing and amount of monsoon rains could result in a decrease in refugia areas for chubs after the driest time of the year. Impacts from climate change occur throughout the range of the headwater chub and are likely to affect all streams to some degree. In addition to the reduction in water from climate change, we also evaluated impacts to chubs from the loss from surface water diversions and groundwater pumping. These impacts are likely to impact all AUs to some degree.

Lower Colorado River Basin Roundtail Chub DPS

Currently, there are 15 AUs across five drainage basins: Bill Williams River, Gila River, Little Colorado River, Salt River, and Verde River. Roundtail chub are found in 35 streams with a collective minimum of 2,098 km (1,303 mi) of available habitat. This represents at least 43 percent of the historical range and no more than a 57 percent reduction in range. The stream lengths range from 7 to 320 km (4 to 199 mi), with an average stream length of 50 km (10 mi). Only three streams lack nonnative aquatic species impacting chubs. One stream, Fossil Creek, has undergone renovation (meaning nonnatives have been removed). There are currently four newly established sites (see Table 6, below). There is only one AU in the minor risk of extirpation category. There are seven AUs in low risk, six in moderate risk, and one in high risk (see Table 5, below).

TABLE 5—MODELED CURRENT CONDITION OF LOWER COLORADO RIVER BASIN ROUNDTAIL DPS ANALYSIS UNITS

[C = Complex AU; I = Independent AU]

Watershed	Sub-watershed	Analysis unit	Type/Number of streams	Risk of extirpation
Bill Williams River	Boulder Creek	Upper Boulder Creek	C/3	Low.
	Burro Creek	Burro Creek	C/4	Low.
	Santa Maria River	Santa Maria River	C/4	Moderate.
	Trout Creek	Trout Creek	C/3	Low.
Gila River	Lower Gila River	Aravaipa Creek	I	Low.
		Eagle Creek	I	Low.
	Upper Gila River	Upper Gila River	I	Moderate.
Little Colorado River	Chevelon Creek	Chevelon Creek	I	Low.
	Clear Creek	Clear Creek	C/2	Moderate.
Salt River	Upper Salt River	Salome Creek	I	High.
		Upper Salt River	C/9	Moderate.
Verde River	Lower Verde	Confluence	C/2	Moderate.
	Fossil Creek	Upper Fossil Creek	I	Low.
	Verde River	Upper West Clear Creek	I	Minor.
	Verde River	Verde River	C/6	Moderate.

Once the modeled results of the current condition were determined, we then evaluated the risk from wildfire, additional risk from climate change, water loss due to anthropogenic actions, and demographic impacts from these risks factors and reduction in range on the AUs and the species as a whole. We assessed if an AU in each risk category were to experience a wildfire, loss of connectivity, decreased water flow, or demographic impacts, how that would further affect the condition (or resiliency) of the AU. We recognize that impacts from fire do not always result in adverse impacts to chubs. We then considered how this would impact the redundancy and representation of the species.

Wildfire could impact one or more AUs now or in the near future (5 years). Impacts could range from loss of individuals to loss or significant impacts to entire AUs or multiple AUs. The likelihood of wildfire now or in the near future is high; however, the severity, timing, and location of the wildfire is uncertain.

Climate change is projected to reduce the flowing stream length. However, there are other impacts from climate change that we considered but were not able to incorporate into the model. This includes the increased lengths of dry reaches within a stream, loss of connectivity within and among streams, changes in the timing and amount of snowmelt and monsoon rains, changes in the frequency and duration of droughts, and the increase in temperatures resulting in increased evaporation. Increased dry reaches can impact chub movement and dispersal. Connectivity within and among streams is important for the lower Colorado River basin roundtail chub DPS to maintain genetic diversity. Alterations in the timing and amount of water in the spring could result in delayed or reduced reproduction and recruitment. Alterations in the timing and amount of monsoon rains could result in a decrease in refugia areas for chubs after the driest time of the year. Impacts from climate change occur throughout the range of the lower Colorado River basin roundtail chub DPS and are likely to affect all streams to some degree. In addition to the reduction in water from climate change, we also evaluated the impacts to chubs from the loss from surface water diversions and groundwater pumping. These impacts are likely to impact all AUs to some degree.

Lower Colorado River Basin Roundtail Chub DPS's Newly Established Sites

There are currently four newly established sites for the lower Colorado River basin roundtail chub DPS (see Table 6, below), each site is an individual AU. These are relatively newly established AUs, and their success is unclear at this time. The Blue River site is the only site that has demonstrated reproduction. The remaining three sites have yet to show any reproduction. We analyzed the current condition of these AUs using the same method that we used to analyze the headwater chub and extant populations of lower Colorado River basin roundtail chub DPS, meaning that we analyzed these using the model and then considered wildfire impacts, additional climate change impacts, water loss due to anthropogenic actions, and the demographic effects from these factors. Again, we recognize that impacts from fire do not always result in adverse impacts to chubs. However, we present the results separately due to the uncertainty of their success.

TABLE 6—MODELED CURRENT CONDITION OF LOWER COLORADO RIVER BASIN ROUNDTAIL CHUB DPS'S NEWLY ESTABLISHED ANALYSIS UNITS

[C = Complex AU; I = Independent AU]

Drainage basin	Analysis unit	Type/Number of streams	Risk of extirpation
Gila River	Blue River	I	Low Risk.
Salt River	Ash Creek	I	Low Risk.
Verde River	Gap Creek	I	Low Risk.
Verde River	Roundtree Canyon	I	Low Risk.

Future Condition Analysis

We analyzed the future risk of extirpation of each AU using the same model we used to assess current condition. However, we added a metric to assess conservation measures. We used the current condition of nonnative aquatic species, water availability, and chub population structure as the baseline to analyze projected future impacts. As stated in the current condition, we modeled water availability using stream length as a surrogate for available habitat. To model projected future impacts from climate change, we applied a reduction in length to the baseline stream length (*i.e.,* water availability) to all streams. Under the current condition, the nonnative aquatic species were evaluated in terms of the impacts from the community of nonnative aquatic species present in a stream and the known impacts to chubs from the nonnative aquatic species present in the stream. To project future impacts from nonnatives aquatic species, we applied an increase in the impacts from the community of nonnative aquatic species present to a percentage of streams. We did not project future impacts to chub population structure because the projected future risk to the chubs is what we are projecting. To measure conservation efforts, we projected the future establishment of new populations and the renovation of streams.

Given our uncertainty regarding if or when streams or AUs occupied by chubs will experience an increase in nonnative aquatic species, a reduction in water in the future, or conservation actions, we have qualitatively forecasted what both species may have in terms of resiliency, redundancy, and representation under four different possible future scenarios based on our understanding of the risks to these species. Our modeling allowed us to review four future scenarios of risk to AUs from nonnative aquatic species and water availability. These scenarios extend to the year 2046, about 30 years from present. In addition, we included an assessment of the potential for future conservation actions within each scenario.

To measure impacts from nonnative aquatic species in the future scenarios, we evaluated an increase in the level of impact from the nonnative aquatic species community across a percentage of streams because it is unlikely that all streams will be affected by increased impacts from nonnative aquatic species. It is more realistic that a portion of streams will have increased effects from nonnative aquatic species. Impacts due to reduction in water availability were

assumed to occur throughout all streams because impacts from climate change, the largest driver of water availability, occur at a landscape scale; however, the future scenarios incorporate various levels of climate change severity to account for the uncertainty in future climate change projections.

We identified two levels of conservation: a high management option and a low management option. The high management option projects that there will be two streams that are renovated or secured (eliminating nonnatives), and two new populations will be established per species. The low management option only projects one new population being established per species. For the two new projected populations for each chub, we did not select real streams but identified a set of conditions to represent a proxy stream similar to what would be considered in selecting a real site for a new population. We randomly selected drainage basins where the new population sites would be implemented. For the purposes of the model, we assumed all of these conservation efforts would result in populations that have reproduction and recruitment.

TABLE 7—FUTURE SCENARIOS ANALYZED IN THE MODEL FOR HEADWATER CHUB AND LOWER COLORADO RIVER BASIN ROUNDTAIL CHUB DPS

Nonnative aquatic species			Water availability	Conservation
Scenario	Percent of streams impacted by nonnatives	Nonnative community level increase	Percent of decrease in stream length	New populations, renovation, securing
1	13	1	−4	High management.
2	13	2	−8	High management.
3	13	2	−8	Low management.
4	45	1	−20	Low management.

The below results are from the model analysis; however, it is important to note that our model does not capture all risks affecting these species. For analyzing the future condition, the model captures certain components contributing to the primary risks to the species (nonnative aquatic species and water availability) and conservation measures (establishing new populations and renovating existing populations). Although not incorporated into our model, we also considered additional risk from climate change and water loss due to anthropogenic factors (*e.g.,* surface water diversion and groundwater pumping), which is part of the water availability factor we included in our model. However, we were not able to capture additional risk from climate change and water loss due to anthropogenic factors in the model. In addition, we assessed impacts from wildfire based on the wildfire risk map developed by the U.S. Forest Service. As clarified in the *Risk Factors for Headwater Chub and the Lower Colorado River Basin Roundtail Chub DPS* section of this proposed rule, we recognize that fire does not always result in adverse effects to these species. Further, we considered the demographic impacts to these risks and the reduction in range. We evaluated impacts from these additional risks to each AU and the species as a whole.

Future Condition Model Results

I. Headwater Chub

The high management options projects that two new AUs will be established and two streams will be renovated. The low management options projects that one new AU will be established and no streams will be renovated. Consequently, scenarios 1 and 2 resulted in 10 AUs, instead of 8, because both of these scenarios incorporate the high management option. Scenarios 3 and 4 resulted in nine AUs due to the low management option projecting only one newly established population. As a result of the established populations and the renovation populations, the representation and redundancy of the species increased. However, the resiliency of some of the AUs is diminished due to the increased risks from nonnative aquatic species and reduced stream length.

TABLE 8—MODELED FUTURE CONDITION OF HEADWATER CHUB ANALYSIS UNITS

Analysis unit name	Current condition	Scenario 1	Scenario 2	Scenario 3	Scenario 4
San Carlos Complex	Moderate	Moderate	Moderate	Moderate	Moderate.
Three Forks Complex	Low	Low	Low	Low	Moderate.
Lower Tonto Creek Network	Moderate	Moderate	Moderate	Moderate	Moderate.
Upper Gunn Creek	Moderate	Moderate	Moderate	Moderate	Moderate.
Upper Tonto Creek Complex	Low	Low	Low	Low	Low.
New Population A	Not applicable	Minor	Minor	Minor	Minor.
East Verde River Complex	Moderate	Low	Low	Moderate	Moderate.
Fossil Creek	Minor	Low	Moderate	Moderate	Low.
Wet Bottom Creek	Low	Low	Low	Low	Low.
New Population B	Not applicable	Minor	Minor	Not applicable	Not applicable.

II. Lower Colorado River Basin Roundtail Chub DPS

The high management options projects that two new AUs will be established and two streams will be renovated. The low management options projects that one new AU will be established and no streams will be renovated. Consequently, scenarios 1 and 2 resulted in 17 AUs, instead of 15, because both of these scenarios incorporate the high management option. Scenarios 3 and 4 resulted in 16 AUs due to the low management option only projecting one newly established

population. As a result of the established populations and the renovation populations, the representation and redundancy of the species increased. However, the resiliency of some of the AUs is diminished due to the increased risks from nonnative aquatic species and reduced stream length. However, the increased risk did not elevate the ranking to the next risk category.

TABLE 9—MODELED FUTURE CONDITION OF LOWER COLORADO RIVER BASIN ROUNDTAIL CHUB DPS ANALYSIS UNITS

Analysis unit	Current condition	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Boulder Creek Complex	Low	Low	Low	Low	Low.
Burro Creek Complex	Low	Low	Low	Low	Low.
Santa Maria River Complex	Moderate	Moderate	Moderate	Moderate	Moderate.
Trout Creek Complex	Low	Low	Low	Low	Moderate.
New Population C	Not applicable	Minor	Minor	Minor	Minor.
Aravaipa Creek	Low	Low	Low	Low	Low.
Eagle Creek	Low	Low	Low	Low	Low.
Upper Gila River Complex	Moderate	Moderate	Moderate	Moderate	Moderate.
Chevelon Creek	Low	Moderate	Moderate	Moderate	Moderate.
Clear Creek Complex	Moderate	Moderate	Moderate	Moderate	Moderate.
Salome Creek	High	High	High	High	High
Upper Salt River Complex	Moderate	Moderate	Moderate	Moderate	Moderate.
Confluence Reach Complex	Moderate	Moderate	Moderate	Moderate	Moderate.
Fossil Creek	Low	Low	Low	Low	Low.
Upper West Clear Creek	Minor	Minor	Minor	Minor	Low.
Verde River Complex	Moderate	Moderate	Moderate	Moderate	Moderate.
New Population D	Not applicable	Minor	Minor	Not applicable	Not applicable.

III. Lower Colorado River Basin Roundtail Chub DPS's Newly Established Sites

There are currently four established sites for the lower Colorado River basin roundtail chub DPS (see Table 10, below), and each site is an individual AU. These are relatively newly established AUs, and their success is unclear at this time. The Blue River site is the only site that has demonstrated reproduction. The remaining three sites have yet to show any reproduction. Consequently, we analyzed these AUs separately because of the uncertainty of their success.

Results for the Lower Colorado River basin roundtail chub DPS newly established populations (Blue River, Ash Creek, Gap Creek, and Roundtree Canyon) are captured in Table 10.

TABLE 10—MODELED FUTURE CONDITION OF LOWER COLORADO RIVER BASIN ROUNDTAIL CHUB DPS'S NEWLY ESTABLISHED ANALYSIS UNITS

[C = Complex AU; I = Independent AU]

Drainage basin	Analysis unit	Current	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Gila River	Blue River	Low	Low	Moderate	Moderate	Low.
Salt River	Ash Creek	Low	Moderate	High	High	High.
Verde River	Gap Creek	Moderate	Moderate	High	High	High.
Verde River	Roundtree Canyon	Low	Moderate	High	High	High.

Summary

Based on the risk factor discussion above, scenarios 1 and 3 are the most likely scenarios. We are moderately certain that nonnative aquatic species will not impact 45 percent of the streams throughout the range of either species. Consequently, scenario 4 is not a realistic scenario, but it does demonstrate a negative future condition for comparison to the other scenarios. Scenario 2 is similar to scenario 3, with different conservation measures (see Table 7, above). Given the uncertainty in the success and feasibility of the conservation measures, we consider it important to evaluate a scenario with low management options. Consequently, we analyzed the results from scenario 3, rather than scenario 2. Scenarios 1 and 3 vary in the level of impacts from nonnative aquatic species, amount of decrease in stream length, and the level of conservation measures. There is uncertainty in the level of impacts from nonnative aquatic species and climate change. Further, there is uncertainty in the level, feasibility, or effectiveness of conservation measures. By considering both scenario 1 and 3, we address some of this uncertainty. Therefore, the most informative scenarios are scenarios 1 and 3, where impacts from nonnative aquatic species are likely to increase in a percentage of streams across the range of each species, stream lengths will be reduced, and some level of conservation management will be implemented. In addition to the model results, we also assessed risk from wildfire, additional risk from climate change, water loss due to anthropogenic factors, demographic impacts from these risks factors, and the reduction in range, as described in the *Risk Factors for Headwater Chub and the Lower Colorado River Basin Roundtail Chub DPS* and *Current Condition* sections, above.

Viability

In the SSA Report, we used AUs to describe the populations of chubs. The AUs were delineated based on the hydrological connectivity of currently occupied streams and the ability of chubs to move within or among streams. There are two types of AUs considered in this SSA Report: (1) Those composed of one occupied stream, referred to as independent AUs; and (2) those composed of two or more hydrologically connected occupied streams, referred to as complex AUs.

Headwater Chub

Currently, at least 48 percent of the estimated historical range is occupied and there has been no more than a 52 percent reduction in range. Occupancy is within 22 streams, with a collective minimum of 432 km (268 mi) of available habitat, dispersed over eight AUs across three drainage basins. Three (38 percent) AUs are isolated, and five (62 percent) AUs have some hydrologic connection to each other. Headwater chub populations are naturally fragmented due to the individual hybridization events that created the species. Due to the multiple hybridization events in separate streams that likely gave rise to headwater chub, there are differences between the occupied streams across the occupied range deriving from the specifics of the founding populations and subsequent events that may have reduced population sizes that affected that diversity (Dowling *et al.* 2008, pp. 10–11). Most of their genetic variation occurs among populations, each of which tends to be distinctive. Each AU is geographically isolated from the other AUs even in the same drainage basin. The significance of isolation in shaping each population highlights the importance of maintaining each independently to preserve the unique genetic variation (Dowling *et al.* 2008, p. 2). Maintaining representation in the form of genetic or ecological diversity is important to retaining the capacity of the chub to adapt to future environmental changes.

Six of the eight AUs are located in adjoining drainages: three in the Salt River (upper and lower Tonto Creek complexes and Gunn Creek independent AUs) and three in the Verde River (East Verde River complex and Fossil and Wet Bottom creeks independent AUs). The result is a distribution with 64 percent of the occupied area within immediate proximity to each other in two adjacent drainage basins, which is a concern for catastrophic events (such as floods). The remaining two complexes, San Carlos River and Three Forks, are in separate drainage basins from the other six and each other, and are not likely to be affected by the same catastrophic natural or anthropogenic event. This configuration creates a concern for maintaining redundancy in the future due to a catastrophic event.

There are eight streams from various AUs of approximately 5 km (3 mi) or less in length. These streams are at a higher risk of extirpation from catastrophic events than are longer streams. Further, there are two AUs of approximately 5 km (3 mi) or less, in which a catastrophic event could result in the loss of these AUs and reduce redundancy of the species. In addition, San Carlos River and its tributary Ash Creek within the Gila River drainage basin are on tribal lands, and we have high uncertainty regarding the presence of chubs.

Lower Colorado River Basin Roundtail Chub DPS

Currently, about 47 to 52 percent of historical range is occupied (or 48 to 53 percent reduction in range). Occupied areas are dispersed over 35 streams within 15 AUs across five drainages. Information about roundtail chub indicated that historically there was greater connectivity and subsequent relatedness over the region, and development of populations in isolation from other roundtail chub was not the normal condition across most of the historical range except in the Bill Williams River and Little Colorado River drainages. Unlike the headwater chub, the roundtail chub's historical connectivity within the Gila, Salt, and Verde Rivers promoted less genetic diversity over the range; however, the Bill Williams and Little Colorado rivers are isolated from that connectivity and are more unique. However, roundtail chub are extirpated from several large riverine streams that provided connectivity across most of the historically occupied range. This has resulted in the recent isolation of AUs even within the same drainage basin. Nine AUs (about 60 percent) are isolated and are not able to naturally recolonize. If a catastrophic event such as wildfire or severe drought occurs in one of these nine populations, it could be extirpated. Variation within populations and connectivity may be more of an issue for roundtail chub in the DPS than with headwater chub. Maintaining representation in the form of genetic or ecological diversity is important to retaining the capacity of the roundtail chub to adapt to future environmental changes.

There are eight streams from various AUs of approximately 5 km (3 mi) or less. These streams are at a higher risk of extirpation from catastrophic events than are longer streams. In addition, one AU is approximately 5 km (3 mi) or less, putting it at higher risk of extirpation due to a catastrophic event, leading to reduced redundancy. In addition, there seven streams within the Upper Salt River drainage basin located on tribal lands where we have high uncertainty regarding the presence of chubs. We consider these streams occupied, but this could be overestimating the range of the headwater chub and the lower Colorado River basin roundtail chub DPS.

In the Little Colorado River drainage basin, loss of one of the two occupied streams would impair redundancy. For the Verde River Complex and Upper Salt River Complex AUs, loss of any stream with documentation of recruitment would likely impair the entire complex. The survey data suggest that some streams in the Verde River Complex and Upper Salt River Complex AUs have more recruitment events than others but we do not fully understand how the chub populations are maintained across the entire complex. Under these conditions, loss of a stream with sustained recruitment would affect redundancy across the entire AU. For the Gila River drainage basin, loss of the Eagle Creek AU would effectively eliminate the upper portion of the Gila River drainage basin. The loss of the Aravaipa Creek AU would effectively eliminate the lower portion of the Gila River drainage basin. For the Bill Williams River drainage basin, the loss of one AU complex would reduce redundancy but not necessarily impair redundancy. However, the loss of both AU complexes would impair redundancy because of the potential for loss of a genetic management unit.

Determinations

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination. Under section 4(b)(1)(a), the Secretary is to make endangered or threatened determinations under section 4(a)(1) solely on the basis of the best scientific and commercial data available to her after conducting a review of the status of the species and after taking into account conservation efforts by States or foreign nations. We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to the headwater chub and lower Colorado River basin roundtail chub DPS.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We used the best available scientific and commercial data to evaluate the viability (and thus risk of extinction) for the headwater chub and the lower Colorado River basin roundtail chub DPS to determine if they meet the definition of an endangered or threatened species.

Summary of Analysis

The biological information we reviewed and analyzed as the basis for our findings is documented in the SSA Report (Service 2015, entire), a summary of which is provided in the Background section of this proposed rule. The projections for the condition of populations are based on our expectations of the risks (in other words, threats) that may have population-level effects currently or in the future. The risks we evaluated in detail are habitat loss and degradation due to groundwater pumping and surface water diversion (Factor A from the Act), and predation, competition, and harassment from nonnative aquatic species (Factors C and E from the Act). For nonnative aquatic species and reduction in water, we also considered the exacerbating effects of climate change (Factor E from the Act). We reviewed, but did not evaluate in further detail because of a lack of population-level effects, the effects of recreation (Factor B from the Act), grazing, forestry practices, roads, and mining (Factor A from the Act). The overall results of the status assessment found that the best available information indicates that the range of the headwater chub and the lower Colorado River basin roundtail chub DPS have decreased, with multiple streams now extirpated, likely due to nonnative aquatic species and loss of habitat (*i.e.,* water).

The purpose of the status assessment was to characterize the future condition of the headwater chub and the lower Colorado River basin roundtail chub DPS in the face of risks and conservation efforts described above in the Background section. In the SSA Report, we described the viability of the headwater chub and the lower Colorado River basin roundtail chub DPS in terms of resiliency, redundancy, representation now, including the next 5 years, and over the next 30 years under four likely scenarios. We have determined that scenarios 1 and 3 are the most likely future scenarios. Our forecasts take into consideration the four newly established sites and one restoration site for the lower Colorado River basin roundtail chub DPS. In addition, our analysis considers wildfire risk, additional climate change impacts, water loss due to anthropogenic actions, and demographic impacts from these factors and the reduction in the range. We recognize the fire does not always result in adverse effects to these chubs. We evaluated impacts from these additional risks to each AU and the headwater chub and the lower Colorado River basin roundtail chub DPS as a whole.

Application of Analysis to Determinations

The fundamental question before the Service is whether the headwater chub and the lower Colorado River basin roundtail chub DPS warrants protection as endangered or threatened under the Act. To determine this, we evaluate the projections of extinction risk, described in terms of the condition and distribution of current (including the next 5 years) and future populations. As population condition declines and distribution shrinks, species' extinction risk increases and overall viability declines.

As described in the determinations below, we first evaluated whether the headwater chub and the lower Colorado River basin roundtail chub DPS are in danger of extinction throughout their ranges now (an endangered species). We then evaluated whether they are likely to become in danger of extinction throughout their ranges in the foreseeable future (a threatened species). We finally considered whether the headwater chub and the lower Colorado River basin roundtail chub DPS are an endangered or threatened species in a significant portion of their ranges (SPR).

Headwater Chub Determination

Endangered Species Throughout Range

I. Standard

Under the Act, an endangered species is any species that is ''in danger of extinction throughout all or a significant portion of its range.'' Because of the fact-specific nature of listing determinations, there is no single metric for determining if a species is currently in danger of extinction. We used the best available scientific and commercial data to evaluate the viability (and thus risk of extinction) for the headwater chub to determine if it meets the definition of an endangered species. In this proposed rule, we use a description of the condition of populations to describe the viability of headwater chub then determine the species' status under the Act.

II. Evaluation

To assist us in evaluating the status of the headwater chub, we evaluated the risk factors that we found may have potential population-level effects now. This included nonnative aquatic species, water availability, and chub population structure, which we assessed in our model. In addition, this included current risk from wildfire, climate change, water loss due to anthropogenic actions, and demographic effects from these risks factors and the reduction in range; however, these were not analyzed in the model. All of these factors affect the resiliency of AUs for the headwater chub.

For headwater chub, at least 48 percent of the estimated historical range remains and no more than a 52 percent of the range has been reduced from the historical range. Nonnative aquatic species occupy almost all currently occupied chub streams, and we analyzed impacts to these streams and AUs through the model. Nonnative aquatic species and chubs have coexisted for some time in several of these streams, but the reasons for this are unclear. There are three streams for headwater chub that are currently free of nonnative aquatic species into which nonnatives could expand or be introduced.

In the model, we analyzed the stream length as a measure of water availability. This provided a current condition of the amount of water in a stream at the driest time of year. This captured climate change and anthropogenic action (surface water diversions and groundwater pumping) impacts to the stream. Wildfire is not analyzed in the model, but we did consider impacts from wildfire. Currently, wildfire could occur almost anywhere within the range of this species and impact one or more streams or entire AUs. However, impacts to the headwater chub are dependent on the severity, location, and timing of the fire, as well as the size of the stream.

Since this species developed as a result of multiple independent hybridization events over time (Rinne 1976; Rosenfeld and Wilkinson 1989; DeMarais et al. 1992; Dowling and DeMarais 1993; Minckley and DeMarais 2000; Gerber *et al.* 2001; Schwemm 2006; Schönhuth *et al.* 2014), it is important to maintain it independently to preserve the unique genetic variation (Dowling *et al.* 2008, p. 2). The genetic diversity of headwater chub is best represented in differences within its

populations, each of which tends to be distinctive.

The renovation effort in Fossil Creek for headwater chub (and for roundtail chub in the lower Colorado River basin) has proven successful, but such an effort requires a large commitment of resources including funding and personnel.

III. Finding for Headwater Chub

Our review found that eight AUs currently exist within the historical range of the headwater chub across three drainage basins. We defined the minor risk category as a 0 to 5 percent current risk of extirpation, the low risk category as a 6 to 30 percent current risk of extirpation, and the moderate risk category as a 31 to 60 percent current risk of extirpation. The model output categorized one AU as minor risk, three AUs as the low risk, and four as the moderate risk categories.

Four AUs are projected as currently having a minor or low risk of extirpation. We consider the one AU in the minor risk category, Fossil Creek, to be resilient because it contains very few nonnative aquatic species, it has a stream length of over 15 km (9 mi), and chub population structure is high (meaning chubs are abundant and recruitment is high). All these components increase the AU's ability to withstand a stochastic event such as wildfire and weather, which are the other risks we considered in our assessment. Based on this, resiliency is sufficient for this AU, and the risk of extirpation is 0 to 5 percent.

Although less resilient than an AU in the minor risk category, the AUs in the low risk category are also considered resilient, because they have low nonnative aquatic species, sufficient stream length, and/or good chub population structure (chubs are common to abundant and recruitment is moderate to high). These components increase the AUs' ability to withstand a stochastic event such as wildfire and drought, which are the other risks we considered in our assessment. However, their ability to withstand a stochastic event is less than an AU in the minor risk, and the range of extirpation risk is greater (6 to 30 percent). The range in risk of extirpation is a factor of the variability in the level of impacts from nonnative aquatic species, water availability, and chub population structure, as well as the uncertainty in the species' response from these risks factors because each AU is different.

Impacts from nonnative aquatic species and water availability, as well as wildfire, climate change, and demographics, are affecting AUs in the minor and low risk categories, but these AUs are currently maintaining chubs and are therefore likely to withstand a stochastic event. In addition, there are two AUs in the moderate risk category that are close to the low risk category score, indicating that while they are in the moderate category they are at the low end of this category (*i.e.,* closer to low risk).

While impacts from climate change are likely currently, and are impacting chub populations at some scale, they are not having population-level impacts to all AUs at this time.

Nonnative aquatic species occur in all but three streams that headwater chub occupy. While chubs coexist with nonnative aquatic species in several streams, this does not mean that nonnative aquatic species are not impacting chubs; however, the AUs are persisting currently.

We consider the species to have sufficient redundancy and representation, and a number of sufficiently large populations, so that the species is able to withstand catastrophic events. The four AUs identified as minor and low risks are currently spread over a large geographical area, such that all the AUs are highly unlikely to experience a catastrophic event that would impact all AUs now. Further, the current range of the species includes AUs that represent the known diversity of ecological settings and genetic materials for the headwater chub. The current and ongoing threats are not likely to impact all remaining populations significantly now. Certain risks, such as climate change, move slowly across the landscape, and demographic impacts take time to impact a population. The increase or spread of nonnative aquatic species moves faster than climate change or demographics, but it will likely take a few years for a nonnative aquatic species to expand in a currently occupied stream or become established in a new stream. Wildfire is likely to have immediate impacts, but it is highly unlikely that wildfire will impact all AUs at the current time. As a result, it is unlikely that a single stochastic event (*e.g.,* drought, wildfire) or catastrophic event will affect all known extant populations equally or simultaneously now. It would require several stochastic events or catastrophic events over a number of years to bring the headwater chub to the brink of extinction due to those factors.

This estimate of the condition and distribution of populations provides sufficient resiliency, representation, and redundancy for the species. The primary threats to the species (nonnative aquatic species, water availability, and climate change) are not currently having population-level effects to all AUs across the range of the headwater chub. Catastrophic or stochastic events in the present are not likely to have population-level impacts to all AUs; consequently the risk of extinction is sufficiently low that the species does not meet the definition of endangered under the Act. Based on the above information, we conclude that the headwater chub does not meet the definition of an endangered species under the Act.

Threatened Species Throughout Range

Having found that the headwater chub is not endangered throughout its range, we next evaluated whether this species is threatened throughout its range.

I. Standard

Under the Act, a threatened species is any species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The foreseeable future refers to the extent to which the Secretary can reasonably rely on predictions about the future in making determinations about the future conservation status of the species (U.S. Department of Interior, Solicitor's Memorandum, M–37021, January 16, 2009). A key statutory difference between an endangered species and a threatened species is the timing of when a species may be in danger of extinction, either now (endangered species) or in the foreseeable future (threatened species). The foreseeable future refers to the extent to which the Secretary can reasonably rely on predictions about the future in making determinations about the future conservation status of the species.

II. Foreseeable Future

To assist us in evaluating the status of the species in the foreseeable future, we evaluated the risk factors that we found may have potential population-level effects over time. This included nonnative aquatic species, water availability, and conservation actions, which we assessed in our model. In addition, we considered the future risk from wildfire, water loss due to future anthropogenic actions, and demographic impacts from these risk factors, as well as reduction in range. In considering the foreseeable future, we forecasted the future status of the headwater chub as described by the future condition of the AUs. This projected future condition was based on the risk factors and conservation actions affecting the species, and the

uncertainties associated with these factors and actions. We consider 30 years from now a reasonable time to reliably predict the future conservation status of this species.

The best available information indicates that we have a high level of certainty out to 30 years for climate change risks, which is an essential consideration for the foreseeable future. Therefore, our analysis of the status of the species to the foreseeable future uses a timeframe of 30 years. The outputs of Jaeger *et al.*'s (2014, entire) downscaled climate forecasting models project climate scenarios to midcentury (approximately 2050) (IPCC 2014; Jaeger *et al.* 2014, entire). Jaeger *et al.* (2014, entire) focuses on the Verde River Basin in Arizona over current (1988–2006) and midcentury (2046–2064) time periods. This study was useful because the headwater chub occurs in the Verde River Basin and the study focuses on impacts to native fish. Since the potential effects of climate change on flowing regions within streams and connectivity within and among streams, and the exacerbated impacts from nonnative aquatic species and demographics (*i.e.,* age structure and genetics) due to climate change, were primary considerations in our status assessment, we considered climate change predictions essential in the foreseeable future. However, we did not extend our forecasting beyond the midcentury because of uncertainty in the climate change models and in the response of the species beyond approximately 2046.

III. Evaluation

To assist us in evaluating the status of the species, we evaluated the risk factors that we found may have potential population-level effects over a 30-year time period. This included nonnative aquatic species, water availability, and conservation actions, which we assessed in our model. In addition, we considered the future risk from fire, additional climate change, future anthropogenic actions, and demographic effects from these risks factors, as well as reduction in range; however, these were not analyzed in the model. We evaluated impacts from these additional risks to each AU and the species as a whole.

Chubs are affected not only by the quantity and quality of water, but also by the timing and spatial distribution of water. In the model, we analyzed the reduction in stream length as an impact from climate change. However, climate change models project that over the next 50 years: (1) Future water levels and stream base flows are expected to continue to decrease in the Verde River in the lower Colorado River basin; (2) the frequency of stream drying events in the Verde Valley is expected to increase; (3) the length of the remaining flowing reaches of streams in the Verde Valley (or region) will be reduced; and (4) network-wide hydrologic connectivity for native fishes will be reduced (both over the course of the year and during spring spawning months). Climate change is also projected to alter the timing and amount of snowmelt and monsoon rains, and the frequency and duration of droughts. Climate change will also increase temperature, resulting in increased evaporation. Climate change is also likely to exacerbate the effects of water loss, reduction in hydrological connectivity, nonnatives, and species interactions (impacting demographics). All of these factors reduce the resiliency of AUs for the headwater chub. However, the certainty of the model projections decreases as the projected timeframe increases. Further, the severity of climate change impacts depicted in climate models varies depending on the scenario being evaluated, with some projecting low changes (*e.g.,* increased ambient temperature and decreased rainfall) in carbon dioxide and others projecting high changes. To address this uncertainty, we considered different levels of impacts to these species under various scenarios. Impacts from climate change are likely to affect all streams and AUs within the range of the headwater chub over the next 30 years.

In the model, we analyzed the stream length as a measure of water availability. This provided a current condition of the amount of water in a stream at the driest time of year. This captured climate change and anthropogenic action (surface water diversions and groundwater pumping) impacts to the stream. Wildfire is not analyzed in the model, but we did consider impacts from wildfire. Currently, wildfire could occur almost anywhere within the range of this species and impact one or more streams or entire AUs. However, impacts to the headwater chub are dependent on the severity, location, and timing of the fire, as well as the size of the stream.

As part of the foreseeable future, we also considered the likely reduction in water availability as a result of increased human demand for water, resulting in increased surface water diversions and groundwater pumping. Demand for water is highly likely to increase as human populations are predicted to increase, affecting the timing, amount, and distribution of water within streams. However, population growth, and the exact location of that population growth, is uncertain. Further, the timing and amount of water consumed is uncertain. To address this uncertainty, we considered different levels of impacts to a subset of streams or AUs.

Nonnative aquatic species occupy almost all currently occupied chub streams, and we analyzed impacts to these streams and AUs through the model. Nonnative aquatic species and chubs have coexisted for some time in several of these streams, but the reasons for this are unclear. We expect that nonnative aquatic species will continue to persist in most if not all of the streams they currently occupy and that nonnative impacts will increase in a percentage of streams across the range of this species. In addition, there are three streams for headwater chub that are currently free of nonnative aquatic species into which nonnatives could expand or be introduced.

The projected effects to chubs from nonnative aquatic species are likely to be exacerbated by climate change, but this was not analyzed in the model. However, we do consider this in our analysis. As the available watered segments decrease, the interactions between nonnative aquatic species and chubs increase, with more larvae and young-of-the-year removed from the chub populations dues to predation by nonnative aquatic species. In addition, resources become more limited, and the competition for these resources increases. Further, the reduction in water will likely decrease the water quality (*e.g.,* decreased dissolved oxygen, temperature increases, changes in pH, and nutrient loading), which nonnative aquatic species are likely more capable of adapting to than chubs.

Since this species developed as a result of multiple independent hybridization events over time (Rinne 1976; Rosenfeld and Wilkinson 1989; DeMarais *et al.* 1992; Dowling and DeMarais 1993; Minckley and DeMarais 2000; Gerber *et al.* 2001; Schwemm 2006; Schönhuth *et al.* 2014), it is important to maintain the species independently to preserve the unique genetic variation (Dowling *et al.* 2008, p. 2). The genetic diversity of headwater chub is best represented in differences within its populations, each of which tends to be distinctive.

We have a moderate to high level of uncertainty regarding the success of the establishment of new populations. (For example, of the four newly established populations of roundtail chub in the lower Colorado River basin only one (Blue River) has demonstrated reproduction. One potential factor is the

size of the site—Blue River is much larger than the other three sites.) The renovation effort in Fossil Creek has proven successful. However, such an effort requires a large commitment of resources including funding and personnel. While attempts at establishing new populations in the future are likely, the success of these sites is uncertain. In addition, the availability of funds and personnel in renovating another site like Fossil Creek is uncertain. Future scenarios projected in our model include conservation actions (establishment of new populations and securing sites), and the uncertainty of success of these sites.

IV. Finding for Headwater Chub

We used the same categories to categorize the risk of extirpation in the foreseeable future (until 2046) as discussed above in the ''III. Evaluation'' section. We determined that scenarios 1 and 3 are most likely and therefore most useful in making our determination. The model output for scenario 1 projected 10 AUs due to the high management option projecting two newly established populations and two renovation sites. The projected risk of extirpation by 2046 for the 10 AUs were: two AUs in minor risk, five in low risk, and three in moderate risk. The two AUs in minor risk of extirpation are the newly established sites, and two of the five AUs in low risk are the renovation sites. Scenario 3 projected nine AUs due to the low management option projecting only one newly established population. The projected risk of extirpation by 2046 for the nine AUs were: one AU in minor risk, three in low risk, and five in moderate risk. The one AU in the minor risk is a newly established site.

We consider AUs within the minor to low risk categories to have sufficient resiliency in the future because they contain very few nonnative aquatic species, have long stream length, and have a high chub population structure. All these components increase the AUs' ability to withstand a stochastic event such as wildfire and weather, which are the other risks we considered in our assessment. Under the current condition, the one AU (Fossil Creek) that ranked in the minor risk category was projected to experience an increase in nonnative aquatic species and a reduction in stream length in the future scenarios. These projected impacts resulted in this AU ranking in the low risk under scenario 1 and the moderate risk under scenario 3. This demonstrates the impacts that nonnative aquatic species and water availability have on AUs. The reduced resiliency of this AU affects the redundancy and representation of the species as a whole.

The two AUs in scenario 1, and the one AU in scenario 3, that ranked in the minor risk category are the projected newly established sites. In addition, one of the AUs in the low risk category under scenario 1 is a renovation site, which under the current condition was ranked as moderate risk. Given the high uncertainty in the success of newly established and renovated sites, these are not reliably considered resilient in the future, and therefore we did not consider these in our determination. This leaves four AUs that ranked in the low risk category in scenario 1 and three in scenario 3. Although less resilient than an AU in the minor risk category, the AUs in the low risk category are also considered resilient, because they have low nonnative aquatic species, sufficient stream length, and good chub population structure. Two of these rank closely to the moderate risk category in scenario 1 and three in scenario 3. This leaves two AUs under scenario 1 and scenario 3 that we consider resilient enough to withstand future stochastic events.

Nonnative aquatic species occur in all but three streams that headwater chub occupy. While chubs coexist with nonnative aquatic species in several streams, this does not mean that nonnatives are not impacting chubs. Further, climate change is likely to exacerbate water loss, reduction in hydrological connectivity, nonnative aquatic species, and species interactions (impacting demographics), resulting in increased competition from and predation by nonnatives. Since climate change is likely to affect all streams to varying degrees, it is likely that impacts from nonnative aquatic species will increase in a portion of streams throughout the range of the headwater chub. The level of increased impacts from nonnative aquatic species is dependent on the condition of the chubs and nonnatives in that AU, and the level of impacts from climate change.

The occurrence of wildfire within the headwater chub's range is highly likely. However, the severity, location, and impacts to chubs are uncertain. Over a 30-year period, multiple wildfires could impact multiple AUs. Impacts could range from loss of individuals to loss of streams to loss of AUs. Demand for water is highly likely to increase as human populations are predicted to increase, affecting the timing, amount, and distribution of water within streams. In addition, the synergistic impacts from the increased effects from wildfire, additional impacts from climate change, water loss due to anthropogenic actions, and demographic effects from these risks factors increase the likelihood and severity of stochastic impacts across the range of the species.

The projected number of AUs in moderate risk is three and five under scenarios 1 and 3, respectively (33 to 55 percent, respectively). These AUs have moderate to high nonnative aquatic species, low to moderate stream lengths, and low to moderate chub abundance. These are not considered resilient enough to withstand stochastic events in the foreseeable future. As stated above, the synergistic impacts from the increased impacts from wildfire, additional impacts from climate change, water loss due to anthropogenic actions, and demographic effects from these risks factors increase the likelihood and severity of stochastic impacts across the range of the species. This increase in likelihood and severity increases the risk of extirpation for these AUs in the moderate risk category. Over the 30-year period of the foreseeable future, the risk from demographic (change in age structure and recruitment of populations) and environmental stochasticity (wildfire and weather) may have effects to all AUs (or populations) in the moderate risk category.

In addition, the model projects that three (38 percent) AUs would be isolated and only five (62 percent) AUs would retain some hydrologic connection. There are projected to be eight streams of approximately 5 km (3 mi) or less in length. These streams would be at a higher risk of extirpation due to stochastic and catastrophic events. The loss of these streams from an AU would reduce the resiliency of that AU. Further, there would be two AUs of approximately 5 km (3 mi) or less. These AUs would be at a higher risk of extirpation due to stochastic and catastrophic events.

The AUs are projected to exist across the historical range; however, 64 percent of the AUs would occupy an area within immediate proximity to each other in two adjacent drainage basins, increasing their risk from catastrophic events (such as wildfire). The distribution of the AUs in the future could possibly be adequate to support representation and redundancy for the species, if a sufficient number of AUs were projected to be resilient. However, AUs that are not resilient cannot reliably contribute to redundancy or representation, and only two to three of the eight AUs are considered resilient. Further, the redundancy and representation of the species is diminished based on the projected future condition of the AUs, and the

potential impacts from wildfire, additional impacts from climate change, water loss due to anthropogenic factors (*e.g.,* surface water diversion and groundwater pumping), and the demographic impacts from these risk factors, as well as the inability to rely on conservation measures. Redundancy is reduced because threats could potentially affect multiple AUs across the range of the headwater chub over the next 30 years and several of these AUs are projected to have diminished resiliency. Consequently, the ability of the species to withstand catastrophic events will likely be impaired.

The significance of isolation in shaping each population highlights the importance of maintaining each independently to preserve the unique genetic variation (Dowling *et al.* 2008, p. 2). Maintaining representation in the form of genetic or ecological diversity is important to retaining the capacity of the headwater chub to adapt to future environmental changes. The loss of an AU could result in reduced representation due to a loss of genetic diversity. Representation is projected to be reduced because the loss of AUs results in a decrease in the unique genetic management units.

Because this estimate of the condition and distribution of populations in the foreseeable future would not provide sufficient resiliency, representation, and redundancy for the species, the risk of extinction is sufficiently high in the foreseeable future to meet the definition of a threatened species under the Act. We conclude that the headwater chub meets the definition of a threatened species under the Act.

Significant Portion of Its Range for Headwater Chub

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that headwater chub is threatened throughout all of its range, no portion of its range can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014).

Lower Colorado River Basin Roundtail Chub DPS Determination

Endangered Species Throughout Range

I. Standard

Under the Act, an endangered species is any species that is ''in danger of extinction throughout all or a significant portion of its range.'' Because of the fact-specific nature of listing determinations, there is no single metric for determining if a species is currently in danger of extinction. We used the best available scientific and commercial data to evaluate the viability (and thus risk of extinction) for the lower Colorado River basin roundtail chub DPS to determine if it meets the definition of an endangered species. In this determination, we used a description of the condition of populations to describe the viability of the lower Colorado River basin roundtail chub DPS and then determine the DPS's status under the Act.

II. Evaluation

To assist us in evaluating the status of the DPS, we evaluated the risk factors that we found may have potential population-level effects now. This included nonnative aquatic species, water availability, and chub population structure, which we assessed in our model. In addition, this included current risk from wildfire, climate change, water loss due to anthropogenic actions, and demographic effects from these risks factors, as well as the reduction in range. However, these were not analyzed in the model. All of these factors affect the resiliency of AUs for the lower Colorado River basin roundtail chub DPS.

For roundtail chub in the lower Colorado River basin, at least 43 percent of the historical range remains and no more than a 57 percent of the range has been reduced from the historic range. Nonnative aquatic species occupy almost all currently occupied chub streams, and we analyzed impacts to these streams and AUs through the model. Nonnative aquatic species and chubs have coexisted for some time in several of these streams, but the reasons for this are unclear. There are three streams occupied by the lower Colorado River basin roundtail chub DPS that are currently free of nonnative aquatic species into which nonnatives could expand or be introduced.

In the model, we analyzed the stream length as a measure of water availability. This provided a current condition of the amount of water in a stream at the driest time of year. This captured climate change and anthropogenic actions (surface water diversions and groundwater pumping) impacts to the stream. Wildfire is not analyzed in the model, but we did consider impacts from wildfire. Currently, wildfire could occur almost anywhere within the range of the DPS and impact one or more streams or entire AUs. However, impacts to the lower Colorado River basin roundtail chub DPS are dependent on the severity, location, and timing of the fire, as well as the size of the stream.

Since roundtail chub developed as a result of multiple independent hybridization events over time (Rinne 1976; Rosenfeld and Wilkinson 1989; DeMarais *et al.* 1992; Dowling and DeMarais 1993; Minckley and DeMarais 2000; Gerber *et al.* 2001; Schwemm 2006; Schönhuth *et al.* 2014), it is important to maintain the DPS independently to preserve the unique genetic variation (Dowling *et al.* 2008, p. 2). The genetic diversity of the lower Colorado River basin roundtail chub DPS is within populations, meaning there is more similarity between populations across its range and connectivity among AUs may be more of an issue.

There is a moderate to high level of uncertainty regarding the newly established populations of roundtail chub in the lower Colorado River basin. Of the four newly established populations of roundtail chub in the lower Colorado River basin, only one, Blue River, has demonstrated reproduction. This could be related to the size of the site, as Blue River is much larger than the other three sites, but this is not clear.

The renovation effort in Fossil Creek for roundtail chub in the lower Colorado River basin (and headwater chub) has proven successful, but such an effort requires a large commitment of resources including funding and personnel.

III. Finding for Lower Colorado River Basin Roundtail Chub DPS

Our review found that 15 AUs currently exist within the historical range of the lower Colorado River basin roundtail chub DPS across five drainage basins. To assess the current condition of these populations, we analyzed the impact from nonnative aquatic species, loss of water, and chub population structure. In addition, we considered wildfire, additional impacts from climate change, and demographic impacts from these factors, as well as reduction in range. We defined the minor risk category as a 0 to 5 percent current chance of extirpation, the low risk category as a 6 to 30 percent current

risk of extirpation, the moderate risk category as a 31 to 60 percent current risk of extirpation, and the high risk category as greater than 60 percent current risk of extirpation. The model output resulted in one AU as minor risk, seven as low risk, six as moderate risk, and one as high risk.

Eight AUs are projected as currently having minor or low risk of extirpation. This provides the resiliency (greater than 50 percent of the AUs are considered resilient enough to withstand stochastic events), redundancy (the AUs exist across the historical range, although some are small or have large nonnative aquatic species impacts, to withstand catastrophic events), and representation (multiple populations continuing to occur across the range of the DPS to maintain ecological and genetic diversity).

We consider AUs within the minor to low risk categories to have sufficient resiliency at the present time. We consider these resilient because the risks from nonnative aquatic species and water availability, as well as wildfire, climate change, and genetics, are not having population-level effects to multiple AUs at this time. While the majority of streams occupied by chubs have nonnative aquatic species, there is little direct evidence of extirpation or significant population reductions of chubs from nonnative aquatic species currently; however, for Arizona and New Mexico native fish in general, this has been documented. Further, while the mechanism is unknown, currently there are several streams within multiple AUs containing chubs that have maintained populations in the presence of one or more of these nonnative aquatic species.

While impacts from climate change are likely currently impacting chub populations at some scale, these do not appear to be having population-level impacts at this time. Climate model predictions suggest that climate will entail: An increase in the frequency and duration of droughts, alteration in the timing and amount of spring and fall flows due to changes in precipitation, and increased temperatures resulting in increased evaporation. All of these effects are likely to negatively affect chub populations. However, these projections are for midcentury (around 2046). The current and ongoing threats are not likely to impact all remaining populations significantly in the near term because these risks, such as climate change, move slowly across the landscape. Projected climate change impacts discussed in this proposed rule are at mid-century (~2046) and are likely to exacerbate water loss, reduction in hydrological connectivity, nonnative aquatic species, and species interactions (impacting demographics) is not projected until 2046.

We consider the DPS to have sufficient redundancy and representation, and sufficiently large populations, that the DPS is able to withstand stochastic events. The AUs are currently spread over a large geographical area such that all the AUs are highly unlikely to experience a catastrophic event that would impacts all AUs now. Further, the current range of the DPS includes AUs that represent the known diversity of ecological settings and genetic materials for the roundtail chub in the lower Colorado River basin . The current and ongoing threats are not likely to impact all remaining populations significantly in the near term because these risks, such as climate change, move slowly across the landscape, and demographic impacts take time to impact a population. The increase or spread of nonnative aquatic species moves faster than climate change or demographics, but it will likely take a few years for a nonnative aquatic species to expand in a currently occupied stream or become established in a new stream. Wildfire is likely to have immediate impacts, but it is highly unlikely that wildfire will impact all AUs at the current time. As a result, it is unlikely that a single stochastic event (*e.g.,* drought, wildfire) or catastrophic event will affect all known extant populations equally or simultaneously now; therefore, it would require several stochastic events or catastrophic events over a number of years to bring the roundtail chub in the lower Colorado River basin to the brink of extinction due to those factors.

This estimate of the condition and distribution of populations provides sufficient resiliency, representation, and redundancy for the DPS. The primary threats to the DPS (nonnative aquatic species, water availability, and climate change) are not currently having population-level effects to all AUs across the range of the lower Colorado River basin roundtail chub DPS. The threats are not currently impacting multiple populations across the DPS's range. Catastrophic or stochastic events in the present are not likely to have population-level impacts to multiple AUs. Consequently, the risk of extinction is sufficiently low that the DPS does not meet the definition of endangered under the Act. Based on the above information, we conclude that the lower Colorado River basin roundtail chub DPS does not meet the definition of an endangered species under the Act.

Threatened Species Throughout Range

Having found that the lower Colorado River basin roundtail chub DPS is not endangered throughout its range, we next evaluated whether this DPS is threatened throughout its range.

I. Standard

Under the Act, a threatened species is any species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The foreseeable future refers to the extent to which the Secretary can reasonably rely on predictions about the future in making determinations about the future conservation status of the species (U.S. Department of Interior, Solicitor's Memorandum, M–37021, January 16, 2009). A key statutory difference between an endangered species and a threatened species is the timing of when a species may be in danger of extinction, either now (endangered species) or in the foreseeable future (threatened species). The foreseeable future refers to the extent to which the Secretary can reasonably rely on predictions about the future in making determinations about the future conservation status of the species.

II. Foreseeable Future

To assist us in evaluating the status of the species in the foreseeable future, we evaluated the risk factors that we found may have potential population-level effects over time. This included nonnative aquatic species, water availability, and conservation actions, which we assessed in our model. In addition, we considered the future risk from wildfire, water loss due to future anthropogenic actions, and demographic impacts from these risk factors, as well as reduction in range. In considering the foreseeable future, we forecasted the future status of the lower Colorado River basin roundtail chub DPS as described by the future condition of the AUs. This projected future condition was based on the risk factors and conservation actions affecting the DPS, and the uncertainties associated with these factors and actions. We consider 30 years from now a reasonable time to reliably predict the future conservation status of the DPS.

The best available information indicates that we have a high level of certainty out to 30 years for climate change risks, which is an essential consideration for the foreseeable future. Therefore, our analysis of the status of the DPS to the foreseeable future uses a timeframe of 30 years. The outputs of Jaeger *et al.*'s (2014, entire) downscaled

climate forecasting models project climate scenarios to midcentury (approximately 2050) (IPCC 2014; Jaeger *et al.* 2014, entire). Jaeger *et al.* (2014, entire) focuses on the Verde River Basin in Arizona over current (1988–2006) and midcentury (2046–2064) time periods. This study was useful because the lower Colorado River basin roundtail chub DPS occurs in the Verde River Basin and the study focuses on impacts to native fish. Since the potential effects of climate change on flowing regions within streams and connectivity within and among streams, and the exacerbated impacts from nonnative aquatic species and demographics (*i.e.,* age structure and genetics) due to climate change, were primary considerations in our status assessment, we considered climate change predictions essential in the foreseeable future. However, we did not extend our forecasting beyond the midcentury due to uncertainty in the climate change models and in the response of the DPS beyond approximately 2046.

III. Evaluation

To assist us in evaluating the status of the DPS, we evaluated the risk factors that we found may have potential population-level effects over a 30-year time period. This included nonnative aquatic species, water availability, and conservation actions, which we assessed in our model. In addition, we considered the future risk from fire, additional climate change, future anthropogenic actions, and demographic effects from these risks factors, as well as reduction in range; however, these were not analyzed in the model. We evaluated impacts from these additional risks to each AU and the DPS as a whole.

Chubs are affected not only by the quantity and quality of water, but also by the timing and spatial distribution of water. In the model, we analyzed the reduction in stream length as an impact from climate change. However, climate change models project that over the next 50 years: (1) Future water levels and stream base flows are expected to continue to decrease in the Verde River in the lower Colorado River basin; (2) the frequency of stream drying events in the Verde Valley is expected to increase; (3) the length of the remaining flowing reaches of streams in the Verde Valley (or region) will be reduced; and (4) network-wide hydrologic connectivity for native fishes will be reduced (both over the course of the year and during spring spawning months). Climate change is also projected to alter the timing and amount of snowmelt and monsoon rains, and the frequency and duration of droughts. Climate change will also increase temperature, resulting in increased evaporation. Climate change is also likely to exacerbate water loss, reduction in hydrological connectivity, nonnatives, and species interactions (impacting demographics). All of these factors reduce the resiliency of AUs for the lower Colorado River basin roundtail chub DPS. However, the certainty of the model projections decreases as the projected timeframe increases. Further, the severity of climate change impacts depicted in climate models varies depending on the scenario being evaluated, with some projecting low changes (*e.g.,* increased temperature and decreased rainfall) in carbon dioxide and others projecting high changes. To address this uncertainty, we considered different level of impacts to this DPS under various scenarios. Impacts from climate change are likely to affect all streams and AUs within the range of the lower Colorado River basin roundtail chub DPS over the next 30 years.

In the model, we analyzed the stream length as a measure of water availability. This provided a current condition of the amount of water in a stream at the driest time of year. This captured climate change and anthropogenic action (surface water diversions and groundwater pumping) impacts to the stream. Wildfire is not analyzed in the model, but we did consider impacts from wildfire. Currently, wildfire could occur almost anywhere within the range of the DPS and impact one or more streams or entire AUs. However, impacts to the lower Colorado River basin roundtail chub DPS are dependent on the severity, location, and timing of the fire, as well as the size of the stream.

As part of the foreseeable future, we also considered the likely reduction in water availability as a result of increased human demand for water, resulting in increased surface water diversions and groundwater pumping. Demand for water is highly likely to increase as human populations are predicted to increase, affecting the timing, amount, and distribution of water within streams. However, population growth, and the exact location of that population growth, is uncertain. Further, the timing and amount of water consumed is uncertain. To address this uncertainty, we considered different levels of impacts to a subset of streams or AUs.

Nonnative aquatic species occupy almost all currently occupied chub streams, and we analyzed impacts to these streams and AUs through the model. Nonnative aquatic species and chubs have coexisted for some time in several of these streams, but the reasons for this are unclear. We expect that nonnative aquatic species will continue to persist in most if not all of the streams they currently occupy and that nonnative impacts will increase in a percentage of streams across the range of the DPS. In addition, there are three streams occupied by the lower Colorado River basin roundtail chub DPS that are currently free of nonnative aquatic species into which nonnatives could expand or be introduced.

The projected effects to chubs from nonnative aquatic species are likely to be exacerbated by climate change, but this was not analyzed in the model. However, we do consider this in our analysis. As the available watered segments decrease, the interactions between nonnative aquatic species and chubs increase, with more larvae and young-of-the-year removed from the chub populations dues to predation by nonnative aquatic species. In addition, resources become more limited, and the competition for these resources increases. Further, the reduction in water will likely decrease the water quality (*e.g.,* decreased dissolved oxygen, temperature increases, changes in pH, and nutrient loading), which nonnative aquatic species are likely more capable of adapting to than chubs.

Since the lower Colorado River basin roundtail chub DPS developed as a result of multiple independent hybridization events over time (Rinne 1976; Rosenfeld and Wilkinson 1989; DeMarais *et al.* 1992; Dowling and DeMarais 1993; Minckley and DeMarais 2000; Gerber *et al.* 2001; Schwemm 2006; Schönhuth *et al.* 2014), it is important to maintain the DPS independently to preserve the unique genetic variation (Dowling *et al.* 2008, p. 2). For the lower Colorado River basin roundtail chub DPS, the pattern of more similarity between populations across its range and connectivity among AUs may be more of an issue.

We have a moderate to high level of uncertainty regarding the success of the establishment of new populations. Of the four newly established populations of roundtail chub in the lower Colorado River basin, only one (Blue River) has demonstrated reproduction. One potential factor is the size of the site; Blue River is much larger than the other three sites. The renovation effort in Fossil Creek has proven successful. However, such an effort requires a large commitment of resources including funding and personnel. While attempts at establishing new populations in the future are likely, the success of these

sites is uncertain. In addition, the availability of funds and personnel in renovating another site like Fossil Creek is uncertain. Future scenarios projected in our model include conservation actions (establishment of new populations and securing sites), and the uncertainty of success of these sites.

IV. Finding for Lower Colorado River Basin Roundtail Chub DPS

We used the same categories to categorize the risk of extirpation in the foreseeable future (until 2046) as discussed above. We determined that scenarios 1 and 3 are most likely and therefore most useful in making our determination. The model output for scenario 1 projected 17 AUs due to the high management option projects two newly established populations and two renovated sites. The projected risk of extirpation for the 17 AUs were: Three AUs in minor risk, seven in low risk, six in moderate risk, and one in high risk of extirpation. Scenario 3 projected: 16 AUs in 2046 due to the low management option only projecting one newly established population. The projected risk of extirpation for the 16 AUs were: Two AUs in minor risk, seven in low risk, six in moderate risk, and one in high risk of extirpation.

We consider AUs within the minor to low risk categories to have sufficient resiliency in the future because they contain very few nonnative aquatic species, have long stream length, and have a high chub population structure. All these components increase the AUs' ability to withstand a stochastic event such as wildfire and weather, which are the other risks we considered in our assessment. However, in scenario 1, two of the three AUs in the minor risk category are newly established sites. In scenario 3, one of the two AUs in the minor risk category was a newly established site.

Nonnative aquatic species occur in all but three streams that the lower Colorado River basin roundtail chub DPS occupies. While chubs coexist with nonnative aquatic species in several streams, this does not mean that nonnatives are not impacting chubs. Further, climate change is likely to exacerbate water loss, reduction in hydrological connectivity, nonnative aquatic species, and species interactions (impacting demographics), resulting in increased competition from and predation by nonnatives. Since climate change is likely to affect all streams to varying degrees, it is likely that impacts from nonnative aquatic species will increase in a portion of streams throughout the range of the lower Colorado River basin roundtail chub DPS. The level of increased impacts from nonnative aquatic species is dependent on the condition of the chubs and nonnatives in that AU, and the level of impacts from climate change.

The occurrence of wildfire within the range of the lower Colorado River basin roundtail chub DPS is highly likely. However, the severity, location, and impacts to chubs are uncertain. Over a 30-year period, multiple wildfires could impact multiple AUs. Impacts could range from loss of individuals to loss of streams to loss of AUs. Demand for water is highly likely to increase as human populations are predicted to increase, affecting the timing, amount, and distribution of water within streams. In addition, the synergistic impacts from the increased effects from wildfire, additional impacts from climate change, water loss due to anthropogenic actions, and demographic effects from these risks factors increase the likelihood and severity of stochastic impacts across the range of the DPS.

This projected number of AUs in moderate and high risk (41 percent) existing across the DPS's range is not considered resilient enough to withstand stochastic events in the foreseeable future. These AUs have moderate to high nonnative aquatic species, low to moderate stream lengths, and low to moderate chub abundance. As stated above, the synergistic impacts from the increased impacts from wildfire, additional impacts from climate change, water loss due to anthropogenic actions, and demographic effects from these risks factors increase the likelihood and severity of stochastic impacts across the range of the DPS. This increase in likelihood and severity increases the risk of extirpation for these AUs in the moderate risk category. Over the 30-year period of the foreseeable future, the risk from demographic (change in age structure and recruitment of populations) and environmental stochasticity (wildfire and weather) may have effects to AUs (or populations) in the moderate risk category. While there are seven AUs that ranked in the low risk category, three of these rank closely to the moderate risk category in scenarios 1 and 3. This leaves three AUs that we consider resilient enough to withstand future stochastic events under the most likely scenarios.

In addition, the model projects that three (38 percent) AUs are isolated and only five (62 percent) AUs have some hydrologic connection. There are projected to be six streams approximately 5 km (3 mi) or less in length. These streams are at a higher risk of extirpation due to stochastic and catastrophic events; the loss of these streams from an AU reduces the resiliency of that AU. Further, there is one AU approximately 5 km (3 mi) or less in length. This AU is at a higher risk of extirpation due to stochastic and catastrophic events. Roundtail chub in the lower Colorado River basin DPS are extirpated from several large riverine streams that provided connectivity across most of the historically occupied range. This has resulted in the recent isolation of AUs even within the same drainage basin. Nine AUs (about 60 percent) are isolated and are not able to naturally recolonize. If a catastrophic event such as wildfire or severe drought occurs within the range of these nine populations, they could be extirpated.

The distribution of the AUs in the future could possibly be adequate to support representation and redundancy for the DPS, if a sufficient number of AUs were projected to be resilient. However, AUs that are not resilient cannot reliably contribute to redundancy or representation. Further, the redundancy and representation of the DPS is diminished based on the projected future condition of the AUs, and the potential impacts from wildfire, additional impacts from climate change, and water loss due to anthropogenic factors (*e.g.,* surface water diversion and groundwater pumping), the demographic impacts from these factors, and the inability to rely on conservation measures. Redundancy is reduced because threats could potentially affect multiple AUs across the range of the lower Colorado River basin roundtail chub DPS over the next 30 years and several of these AUs are projected to have diminished resiliency. Consequently, the ability of the DPS to withstand catastrophic events is impaired.

Historically, the lower Colorado River basin roundtail chub DPS had greater connectivity. Maintaining representation in the form of genetic or ecological diversity is important to keep the capacity of the chub to adapt to future environmental changes. The loss of an AU could result in reduced representation due to a loss of genetic diversity. Representation for the lower Colorado River basin roundtail chub DPS is projected to be reduced because of the further reduction in connectivity among streams.

Because this estimate of the condition and distribution of populations in the foreseeable future would not provide sufficient resiliency, representation, and redundancy for the DPS, the risk of extinction is sufficiently high in the foreseeable future to meet the definition

of a threatened species under the Act. We conclude that the lower Colorado River basin roundtail chub DPS meets the definition of a threatened species under the Act.

Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that lower Colorado River basin roundtail chub DPS is threatened throughout all of its range, no portion of its range can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014).

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical and biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation. We designate critical habitat in areas outside the geographical area occupied by a species only when a designation limited to its range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered

or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist:

(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or

(2) Such designation of critical habitat would not be beneficial to the species.

There is currently no imminent threat of take attributed to collection or vandalism under Factor B for either the headwater chub or the lower Colorado River basin roundtail chub DPS, and identification and mapping of critical habitat is not expected to initiate any such threat. In the absence of finding that the designation of critical habitat would increase threats to a species, if there are any benefits to a critical habitat designation, then a prudent finding is warranted. Here, the potential benefits of designation include: (1) Triggering consultation under section 7 of the Act, in new areas for actions in which there may be a Federal nexus where it would not otherwise occur because, for example, it is or has become unoccupied or the occupancy is in question; (2) focusing conservation activities on the most essential features and areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the species. Therefore, because we have determined that the designation of critical habitat will not likely increase the degree of threat to the species/DPS and may provide some measure of benefit, we find that designation of critical habitat is prudent for both the headwater chub and lower Colorado River basin roundtail chub DPS.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act, we must find whether critical habitat for the headwater chub or lower Colorado River basin roundtail chub DPS is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Information sufficient to perform required analyses of the impacts of the designation is lacking, or

(ii) The biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat.

Delineation of critical habitat requires, within the geographical area occupied by the headwater chub or lower Colorado River basin roundtail chub DPS, identification of the physical or biological features essential to the conservation of the species. A careful analysis of the areas that may have the physical or biological features essential for the conservation of the species and that may require special management considerations or protections, and thus qualify for designation as critical habitat, will require a thorough assessment. Additionally, critical habitat can include specific areas outside the geographical area occupied by the species that are determined to be essential to its conservation. While we have some information on the habitat requirements of the species, the analysis of which of the specific features and areas meet the definition of critical habitat has not been completed. Since we have not determined which specific areas may meet the definition of critical habitat, the information sufficient to perform the required analysis of impacts of the critical habitat designation is lacking. Accordingly, we find designation of critical habitat to be ''not determinable'' at this time. When critical habitat is not determinable, the Act allows the Service an additional year to publish a proposed critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for downlisting or delisting, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a

broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands. If the headwater chub and the lower Colorado River basin roundtail chub DPS are listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Arizona and New Mexico would be eligible for Federal funds to implement management actions that promote the protection or recovery of the headwater chub and lower Colorado River basin roundtail chub DPS. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants*.

Although the headwater chub and lower Colorado River basin roundtail chub DPS are only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include land management and any other landscape-altering activities on Federal lands administered by the U.S. Forest Service, Bureau of Land Management, and National Park Service; issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; Bureau of Reclamation activities; and construction and maintenance of roads or highways by the Federal Highway Administration.

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened wildlife. We may also prohibit by regulation with respect to threatened wildlife any act prohibited by section 9(a)(1) of the Act for endangered wildlife. For the headwater chub and lower Colorado River basin roundtail chub DPS, we are requesting information as to which prohibitions, and exceptions to those prohibitions, are necessary and advisable to provide for the conservation of the headwater chub or the lower Colorado River basin roundtail chub DPS pursuant to section 4(d) of the Act.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: For scientific purposes, for the enhancement of propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of species proposed for listing. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations and permit requirements; this list is not comprehensive:

(1) Normal agricultural and silvicultural practices, including herbicide and pesticide use, which are carried out in accordance with any existing regulations, permit and label requirements, and best management practices.

(2) Recreational activities such as sightseeing, hiking, camping, and hunting in the vicinity of headwater chub or lower Colorado River basin roundtail chub DPS populations that do not destroy or significantly degrade their habitats, and do not result in take of headwater chub or roundtail chub.

Based on the best available information, the following activities may potentially result in a violation of section 9 the Act; this list is not comprehensive:

(1) Unauthorized collecting or handling of headwater chub or lower Colorado River basin roundtail chub DPS;

(2) Use of piscicides, pesticides, or herbicides in violation of label restrictions;

(3) Introduction of nonnative fish that compete with or prey upon headwater chub or lower Colorado River basin roundtail chub DPS;

(4) Modification of the channel or water flow of any stream or removal or destruction of emergent aquatic vegetation in any body of water in which the headwater chub or lower Colorado River basin roundtail chub DPS is known to occur;

(5) Destruction or alteration of riparian and adjoining uplands of waters supporting headwater chub or lower Colorado River basin roundtail chub DPS by timber harvest, poor livestock grazing practices, road development or maintenance, or other activities that result in the destruction or significant degradation of cover, channel stability, substrate composition, increased turbidity, or temperature that results in death of or injury to any life-history stage of headwater chub or lower Colorado River basin roundtail chub DPS through impairment of the species' essential breeding, foraging, sheltering, or other essential life functions; and

(6) Release of biological control agents that attack any life stage of headwater chub or lower Colorado River basin roundtail chub DPS.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Arizona Ecological Services

Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

We have determined that there are tribal lands that are occupied by headwater chub or lower Colorado River basin roundtail chub DPS. The lands owned by San Carlos Apache Tribe and White Mountain Apache Tribe contain the largest amount of occupied streams. We have begun government-to-government coordination with these tribes. We sent notification letters in July 2014 to each tribe informing them of our assessment of the species under section 4(b)(2) of the Act. We have engaged in conversations with both tribes about the status assessment. We met with the White Mountain Apache Tribe on September 24, 2014, which Chairman Lupe attended, and had a follow-up call with tribal representatives on October 23, 2014. We met with the Recreation and Wildlife Director of the San Carlos Apache Tribe on July 30, 2014. We also sent letters to the following tribes that may be affected by the proposed listing or future proposed critical habitat: Ak-Chin Indian Community, Chemehuevi Tribe, Colorado River Indian Tribes, Fort McDowell Yavapai Nation, Gila River Indian Community, Hopi Tribe, Hualapai Tribe, Navajo Nation, Pascua Yaqui Tribe, Salt River Pima-Maricopa Indian Community, Tonto Apache Tribe, Yavapai Apache Nation, Yavapai-Prescott Indian Tribe, and Zuni Pueblo. We will continue coordinating with these tribes and any other interested tribes.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Arizona Ecological Services Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by adding entries for ''Chub, headwater'' and ''Chub, roundtail'' in alphabetical order under FISHES to the List of Endangered and Threatened Wildlife in to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Chub, headwater	*Gila nigra*	U.S.A. (AZ, NM)	Entire	T	.....	NA	NA
*	*	*	*	*	*	*	
Chub, roundtail ..	*Gila robusta*	U.S.A. (AZ, CO, NM).	The Lower Colorado River and its tributaries downstream of Glen Canyon Dam, including the Gila and Zuni River basins in New Mexico.	T	.....	NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	

* * * * *

Dated: September 18, 2015.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–24900 Filed 10–6–15; 8:45 am]

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FEDERAL REGISTER

Vol. 80 Wednesday,
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Part III

The President

Federal Register
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Wednesday, October 7, 2015

Presidential Documents

Title 3—

The President

Proclamation 9340 of October 2, 2015

Fire Prevention Week, 2015

By the President of the United States of America

A Proclamation

Each year, fires leave tremendous hardship and devastation in their wake. They claim too many lives, destroy too many communities, and take too much of a toll on our economy—and many incidents can be avoided with simple preventive measures. During Fire Prevention Week, we pledge to take precautionary steps to stop fires before they start, and we honor the sacrifices made by our Nation's courageous first responders who risk their lives to beat back these threats.

Whether residential or wild, fires can ignite anytime and anywhere and we can all play a role in preventing them. I urge all Americans to routinely test their smoke alarms, develop and practice fire evacuation plans at work and at home, and create family emergency communication plans in order to quickly locate loved ones in the event of any emergency. Additionally, I encourage everyone to act responsibly to prevent forest fires when outdoors, and to immediately report any signs of fire to their local fire department. More ways to avoid and respond to fires can be found at www.Ready.gov.

My Administration remains committed to aiding in efforts to responsibly respond to fires wherever they occur. This year, we called on the Congress to fix the way we pay for wildfire costs so we can more appropriately invest our resources in forest restoration and resilience—making our land and infrastructure less vulnerable to fires in the first place.

Each of us can do our part to practice fire safety and to support the dedicated volunteers and professionals who risk everything to protect our homes and communities. This week, let us pay tribute to the heroes who have lost their lives fighting fires, let us stand beside all who continue to serve in our firehouses, and let us rededicate ourselves to doing everything in our power to stop tragedies before they strike.

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 October 4 through October 10, 2015, as Fire Prevention Week. On Sunday, October 4, 2015, in accordance with Public Law 107–51, the flag of the United States will be flown at half-staff at all Federal office buildings in honor of the National Fallen Firefighters Memorial Service. I call on all Americans to participate in this observance with appropriate programs and activities and by renewing their efforts to prevent fires and their tragic consequences.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of October, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–25738
Filed 10–6–15; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9341 of October 2, 2015

Child Health Day, 2015

By the President of the United States of America

A Proclamation

As a Nation, we have a commitment to ensuring our daughters and sons live better lives than we did. They deserve every chance to reach for the brightest futures they can imagine, and with a solid foundation and a clean environment, they can grow up strong, healthy, and prepared to write the next great chapters in the American story. On Child Health Day, we recommit to helping our children make healthy life choices and to providing them with the resources to lead happy and productive lives.

My Administration remains wholly committed to investing in the safety and well-being of our Nation's kids. First Lady Michelle Obama's *Let's Move!* initiative is bringing together community-based, faith-based, and private sector organizations, along with government at all levels, to provide quality, nutritious food to students, empower parents to make healthy choices, and encourage our youth to become more physically active. We are working at every level to combat bullying so students across our country can live and learn free from fear or intimidation. Under the Affordable Care Act, young people can now stay on their parents' health plans until age 26—a provision that has already helped millions of young Americans. And the law prohibits insurance companies from denying coverage to individuals with pre-existing conditions, which has already brought greater peace of mind to the parents of up to 17 million children.

Keeping our children healthy takes more than promoting good lifestyles today—it also rests on leaving them with a stable world to live in tomorrow. That is why my Administration is taking on the critical work of safeguarding our planet from the devastating effects of a changing climate by forging an America with cleaner air, cleaner water, and cleaner energy. We have taken ambitious steps to limit our Nation's carbon emissions, wean ourselves off of foreign energy sources, and preserve our planet for generations to come. With the potential for greater incidence of asthma attacks and infectious diseases that can impact growth and learning during critical formative years, we owe it to all who come after us to confront this imminent threat. We are also continuing to encourage Federal agencies to collaborate toward achieving these goals by identifying priority risks to the well-being of our young people and developing strategies to combat them.

Our most profound obligation is to our Nation's most vulnerable citizens: our children. As we mark Child Health Day, let us reaffirm our commitment to that responsibility by supporting and modeling healthy, active lifestyles, by equipping our youth with the tools and resources they need to seize every opportunity, and by working to leave behind a sustainable planet so our children—and theirs—can know a future worthy of their limitless potential.

The Congress, by a joint resolution approved May 18, 1928, as amended (36 U.S.C. 105), has called for the designation of the first Monday in October as Child Health Day and has requested that the President issue a proclamation in observance of this day.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim Monday, October 5, 2015, as Child Health

Day. I call upon families, educators, health professionals, faith-based and community organizations, and all levels of government to help ensure America's children are healthy.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of October, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–25739
Filed 10–6–15; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9342 of October 2, 2015

Honoring the Victims of the Tragedy in Roseburg, Oregon

By the President of the United States of America

A Proclamation

As a mark of respect for the victims of gun violence perpetrated on October 1, 2015, in Roseburg, Oregon, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, I hereby order that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, October 6, 2015. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of October, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–25743
Filed 10–6–15; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Executive Order 13709 of October 2, 2015

National Security Medal

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

Section 1. *Policy.* In order to more appropriately recognize distinguished achievements and outstanding contributions in the field of national security, Executive Order 10431 of January 19, 1953, is amended as follows:

(a) Section 2 is amended to read as follows: ''The National Security Medal may be awarded to any person, without regard to nationality, including members of the Armed Forces of the United States, for distinguished achievement or outstanding contribution made on or after July 26, 1947, in the field of national security through either exceptionally meritorious service performed in a position of high responsibility or through an act of heroism requiring personal courage of a high degree and complete disregard of personal safety.''; and

(b) By inserting at the end:

''7. Any individual having personal knowledge of the facts of a potential recipient's exceptionally meritorious service or act of heroism, either as an eyewitness or from the testimony of others who have personal knowledge or were eyewitnesses, may recommend the potential recipient as a candidate for the award to the Executive Secretary of the National Security Council. Any recommendations shall be made with the concurrence of the department or agency employing the proposed recipient, if appropriate, and be accompanied by complete documentation, including, where necessary, certificates, affidavits, or sworn transcripts of testimony. Each recommendation for an award shall show the exact status, at the time of the rendition of the service on which the recommendation is based, with respect to citizenship, employment, and all other material factors of the person who is being recommended for the National Security Medal. Each recommendation shall contain a draft of an appropriate citation to accompany the award of the National Security Medal.

''8. Upon a determination by the Executive Secretary of the National Security Council that the National Security Medal is warranted, and following approval by the President, the Executive Secretary shall notify the Office of the Director of National Intelligence, which will then process the award recommendation, prepare the National Security Medal, with any appropriate devices, and deliver the National Security Medal to the National Security Council for presentation to the recipient.''

Sec. 2. This order supersedes the regulations governing the award of the National Security Medal issued with Presidential approval on January 19, 1953, and published with Executive Order 10431.

Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
October 2, 2015.

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